

**ZONING BOARD OF ADJUSTMENT  
P.O. Box 227  
FREEDOM, NH 03836**

Freedom Zoning Board of Adjustment: **January 22, 2013**

Present: Chairman Scott Lees; Craig Niiler; Jake Stephan; Tim Cupka; Alternate John Quigley

Others Present: Linda Farinella, Recording Secretary

Chairman Lees called the meeting to order at 7:00 pm.

During this meeting the following cases will be heard:

**Case #3-2-12 Freedom Village Condominiums**  
**Case #35-09-13 Linda Salafia Werner**  
**Case #09-26-13 Raymond and Susan Desharnais**

Notification of this meeting was published in the Conway Daily Sun and posted at the Freedom Town Office and the Freedom Post Office.

Chairman Lees introduced the Board to the public.

Motion by Cupka, seconded by Chairman Lees to accept the minutes of the December 18, 2012 as written. The motion passed unanimously.

Chairman Lees invited **Case #3-2-12 Freedom Village Condominiums** to approach the board with a continued request for a special exception under Article 3 Section 304.6.3.1 and a variance under Article 1 Section 103 to repair a boat ramp that requires erosion control measures.

Michael Gaudette, property manager, explained to the Board that he has been newly hired and is collecting paperwork regarding this application. Mr. Gaudette asked to have the application continued.

The Board agreed to continue the hearing to the March meeting. A new application and appointment of agent needs to be filed. Fees to notify the abutters will be due, but the application fee will be waived. Motion by Chairman Lees, seconded by Cupka to continue this hearing to the March meeting. The motion passed unanimously.

**Case #35-09-13 Linda Salafia Werner** ó Applicant seeks special exception under Article 3 Section 304.6.5.2: Cut and cleared trees within 75ø of the reference line in the Shoreland district.

The Freedom Conservation Commission expressed a recommendation that the stumps on the property remain.

Barry Keith of BH Keith and Associates, agent for the applicant, submitted an appointment of agent form. Mr. Keith explained that the applicant is here because the Zoning Officer received a complaint of trees cut. The applicant immediately began the process of hiring BH Keith to submit the necessary permits.

Mr. Keith presented plans that showed a color code of red stumps and green trees. The plan also reflected the area that is greater than 12.5% grade. In quadrant 1 there are a total of 189 points. In quadrant 2 there are a total of 169 points. With only a requirement of 100 point per quadrant the requirements have been met.

Mr. Keith presented pictures of the property. There were pitch pines that were leaning over the deck. When removed the trees crashed into other trees causing the other to be damaged and removed. The stumps remain and shall remain. There have been no erosion issues.

Chairman Lees asked if Mr. Keith knew who cut the trees. Mr. Keith responded no. Chairman Lees asked if he could find out. Mr. Keith stated yes.

There were no public or abutters present for this case.

Chairman Lees closed the hearing to public comment.

The board reviewed the special exception worksheet for Article 3 Sections 304.6.5.2 and 304.6.5.3:

- A. 5-0
- C. 5-0
- H. 5-0
- J. 5-0
- K. 5-0
- L. 5-0

Motion by Chairman Lees seconded by Cupka that based on the forgoing findings of fact, the requested Special Exception from Article 3 Sections 304.6.5.2 and 304.6.5.3 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Shall conform to plan titled "Shoreland Cutting Plan of Lands of Linda Salafia Wernerö dated November 3, 2012.
2. Stumps shall remain.
3. Land owner shall submit name of tree cutter.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

**Case #09-26-13 Raymond and Susan Desharnais** ó Applicant seeks an Appeal from an Administrative Decision under Article 3 Section 304 and a variance under Article 3 Table 304.3: To allow access to back lot with less than the required 400ø of frontage.

Chairman Lees noted that he did have a discussion with the applicant about their proposed project. Chairman Lees feels he does not need to recuse himself, but will if any member has concerns. There were no concerns.

Sue and Ray Desharnais approached the board and explained that they would like to subdivide their 26-acre parcel on Scarboro Road. There are two accesses to the property with one being 55ø. Mr. and Mrs. Desharnais would like to use the 55ø portion as access to one of the lots. The owners propose to build a home on the newly created lot and sell the lot with the house already there. There would no additional impact on the road as that 55ø portion is already a deeded access to Lot #27 and has been so for over fifty years. The original intent of the previous owners was to leave that access for just future access to a back lot.

Chairman Lees asked if there were any abutter or public comments. There were none.

Ned Hatfield, Zoning Officer, stated that original configuration of the lot was to always allow access to the back lot; it would be denying a reasonable use of the property. Mr. Hatfield also stated Scott Brooks, Road Agent and contractor, has no concerns about the access.

Chairman Lees noted that currently the rural residential district has a requirement of 400ø of frontage per lot, this lot has a total of 520ø Niiler expressed his concern of hardship questioning if the lot should be divided using some of the frontage from the larger opening, Stephan concurred. Chairman Lees suggested that a condition that the property could only be divided into two lots with no further subdivision. Niiler and Stephan were agreeable.

Chairman Lees closed the hearing to public comment.

The board reviewed the variance worksheet for Article 3 Table 304.3:

1. 5 to 0
2. 5 to 0
3. 5 to 0
4. 5 to 0
- 5Ai. 5 to 0
- 5Aii. 5-0

Motion by Niiler seconded by Stephan that based on the forgoing findings of fact, the requested Variance from Article 3 Table 304.3 of the Town of Freedom Zoning Ordinance be granted with the following condition:

1. Map #9 Lot #26 shall only be divided into two lots.

The motion passed unanimously. The applicant was informed of the 30-day appeal period.

The Board reviewed the "Reforestation Plans dated 12/19/2012" submitted by Infinigy Engineering regarding tree planting at the Cell Tower site on Moulton Road. This review is to satisfy the condition given at the November 27, 2012 hearing; the plans submitted at the December meeting did not have the sizes of the trees at the top and bottom of the site noted on the plan. Five new copies were requested.

Motion by Chairman Lees, seconded by Stephan to accept the plans as presented. The motion passed unanimously. Copies will be sent to the Board of Selectmen, the Planning Board and Mark Lucy of White Mountain Survey and Engineering.

Motion by Chairman Lees seconded by Stephan to continue the discussion of structure. The motion passed unanimously.

The meeting adjourned at 8:08 pm.