

**Zoning Board of Adjustment**  
**P.O. Box 227**  
**Freedom, NH 03836**

Freedom Zoning Board of Adjustment: **January 28, 2014**

**Members Present:** Vice-Chairman Craig Niiler; Karl Ogren; Tim Cupka; Jake Stephan; John Quigley, Alt; Denny Anderson, Alt; Chairman Scott Lees

Others Present: Linda Farinella, Recording Secretary

Vice-Chairman Niiler called the meeting to order at 7:05 pm.

During the meeting the following cases were heard:

**Case #38-3.03-13 Rhonda and Carlton Lane/Berry Bay Condominium Assoc.**

**Case #31-19-14 Gerard Costantino**

**Case #29-30-14 John F. Femino**

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

Vice-Chairman Niiler introduced the Board to the public.

Motion by Cupka, seconded by Ogren to accept the minutes of the November 26, 2013 as written. The motion passed unanimously.

Vice-Chairman Niiler chaired the following hearing. Quigley sat in for Chairman Lees until his arrival.

Vice-Chairman Niiler invited **Case #38-3.03-13 Rhonda and Carlton Lane/Berry Bay Condominium Association** to approach the board with a continued request for a variance under Article 3 Table 304.2 of the zoning ordinance to construct a shed within the side yard setback at 28 Houle Drive.

The applicant sent a letter requesting that their application be continued to the February 2014 meeting. Motion by Ogren, seconded by Cupka to continue this application to the February 25<sup>th</sup> meeting with a submittal date of February 10<sup>th</sup>. The motion passed unanimously.

Vice-Chairman Niiler invited **Case #31-19-14 Gerard Costantino** to approach the board with a request for a variance under Article 3 Table 304.2 of the zoning ordinance to replace an existing garage with an attached 76~~6~~26~~0~~ addition of a garage and 792 square foot accessory dwelling space within the side setback at 41 North Broad Bay Road.

Mark McConkey and Dale McConkey, agents for Costantino, explained that the purpose of this application was to add more storage area and possibly to provide an accessory dwelling for a relative. At 792 square feet, the accessory dwelling will be under the 800 square feet allowed.

The project meets all setbacks with the exception of one sideline. The applicant is looking to relax that from 30ø to 25.48ø from the eve of the building. The structure's peak will be 21ø above grade on a slab.

The lot has recently been merged with another, but still, the applicant will remove 133 square feet of driveway pavement and replace it with a porous surface to meet the 10% rule. There will be four parking spaces; two inside the garage and two in the parking area.

The Board reviewed previous cases for this lot from 2002 and 2004.

Stephan noted that the pavement of the driveway does not need to be calculated in the 10% rule.

Ogren asked why the addition cannot stay at the same distance from the lot line. Anderson noted that the 13ø breezeway could be shortened. Mark McConkey added that the applicant was meeting the ordinance requirement of attached accessory dwelling while making the addition aesthetically pleasing.

The Board discussed the accessory dwelling section of the ordinance related to connecting the addition with a breezeway. Mark McConkey added that the breezeway would be covered so there is commitment to the connection.

Vice-Chairman Niiler confirmed that there will be no trees removed.

There were no abutters or public present. Three abutters contacted the Board in favor of the project; Greg Roberts, Scott Johnson and North Broad Bay Land Trust.

The board reviewed the variance worksheet for Article 3 Section 304.2:

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

Motion by Vice-Chairman Niiler seconded by Ogren that based on the forgoing findings of fact, the requested Variance from Article 3 Section 304.2 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Based on plan dated 01/07/2014 and titled "ZBA Plot Plan For: Gerard Costantino 41 North Broad Bay Road, Freedom, NH 03836, Tax Map 31 Lot 19ö.
2. Removal of pavement not required.

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

Chairman Lees joined the meeting to chair the following case. Quigley stepped down.

Chairman Lees invited **Case #29-30-14 John F. Femino** to approach the board with a request for a special exception under Article 3 Section 304.6.3.1 of the zoning ordinance to replace foundation of existing boathouse, in kind and in place, requiring erosion control at 405 Huckins Road.

Mark McConkey and Dale McConkey, agents for Femino, explained that the applicant owns one of the only boathouses on the lake. The foundation is failing and plans are to replace it by raising the boathouse straight up, replace the foundation in kind and lower the boathouse back down.

The project has received approval from DES: 2013-03368. The work will be done in dry conditions; hay bails and silt fence will be used. There will be no trees removed. The foundation will be the same size with a slab, same elevation, no dredging and not raising height.

Chairman Lees asked what will happen to the concrete from the removed foundation. Mark McConkey responded it will be all taken off site.

Chairman Lees noted that an erosion control detail was not submitted with the application.

Chairman Lees asked if there were any questions from the Board. Niiler asked if the retaining walls are going to be left alone. Mark McConkey responded yes; the applicant will be coming back in the future for more work.

There were no abutters or public present.

The board reviewed the special exception worksheet for Article 3 Section 304.6.3.1:

- 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 Section 304.6.3.1 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Details of erosion control to be submitted.
2. Per Plan titled "Erosion Control Plot Plan Plot Plan: John F. Femino Map 29 Lot 30" dated 01/07/2014.
3. Erosion control shall be installed prior to any site disturbance and remain in place until site work is complete and site is stabilized.
4. Work shall be done in the dry, work shall cease if lake level rises into the work area.
5. Peak of boathouse shall not change in elevation from existing.

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

The Board received a carbon copy response from Ned Hatfield, Zoning Officer, regarding **Case#30-1-2-12 Walbridge**. A letter will be sent to Mr. Walbridge from the Board with a deadline of December 2014 as the time frame to submit proof of meeting the conditions.

The letter dated January 5, 2014 from the Planning Board regarding tree cutting was reviewed.

Meeting adjourned at 8:13 pm.