

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

Freedom Zoning Board of Adjustment: **April 22, 2014**

**Members Present:** Vice-Chairman Craig Niiler; Tim Cupka; Jake Stephan; Todd Desmarais, Alternate

**Others Present:** Linda Farinella, Recording Secretary

Chairman Lees called the meeting to order at 7:02 pm.

During the meeting the following cases were heard:

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

**Case #32-33-14 Wittrock Revocable Trust**

**Case #21-1-14 Camp Cody, Inc.**

**Case #23-57-4-14 Elise Pydynkowski**

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. Niiler stated that the Board is a 4-member board this evening. Applicants are entitled to a 5-member board and a continuance will be granted if such board is requested by the applicant or applicant's agent.

Motion by Cupka, seconded by Vice-Chairman Niiler to accept the minutes of the February 25, 2014 as written. The motion passed with Desmarais abstaining.

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.

A letter from the applicant requesting that their application be withdrawn was received. Motion by Vice-Chairman Niiler, seconded by Cupka to accept the withdrawal without prejudice. The motion passed unanimously.

Vice-Chairman Niiler invited **Case #32-33-14 Wittrock Revocable Trust** to approach the board with a request for a special exception under Article 3 Section 304.6.5.3 and a variance under Article 4 Section 406 of the zoning ordinance to replace a failed septic within 125' of a wetland and tree cutting in the shorefront district at 37 East Danforth Road.

Mark McConkey, Agent, explained that at present there is an existing cesspool that is deep in the ground and not functioning properly. The owners would like to replace it as a step toward moving here in the future. There is a drilled well on the property, which is located 60.2' away. The site is sloped with the only level place at the parking area.

It will be necessary to remove twelve trees that are not within the 75ø shorefront. Without great expense the owner is unable to meet the 125ø requirement.

The Board reviewed the recommendation from the Conservation Commission that included:

- FCC would like to see point system shown
- What are the plans for root and stump removal?
- Safe erosion control practices must be adhered to
- Consider putting leach field on other side of house thereby increasing the distance from water

McConkey responded to the above points explaining that the tree removal is not within 75ø of the shore, the stumps need to be removed as that is where the septic system will be placed, there will be erosion control place in two locations and if the field is moved it will cause an issue with the well.

Stephan asked if the percentage the grade on the property was greater than 12.5%. McConkey responded yes. Stephan noted that a tree cutting plan is required for 75ø to 300ø if the grade is greater than 12.5%.

Desmarais noted that McConkey's comment about the expense of a system that could work should not be taken as a hardship. McConkey added that there would still be a well issue.

McConkey stated that the leach field will be 119ø from the wetland and the tank will be 50ø away. The system proposed to be installed will be a Presby tube system.

Motion by Vice-Chairman Niiler, seconded by Stephan to continue this application to the May meeting with tree cutting information in the quadrant effected to be submitted by the May 12<sup>th</sup> submission deadline.

Vice-Chairman Niiler asked if there were any abutter or public comments. There were none.

The motion to continue passed unanimously.

Vice-Chairman Niiler invited **Case #21-1-14 Camp Cody, Inc.** to approach the board with a request for special exceptions under Article 3 Sections 304.6.3.1 and 304.6.5.2 of the zoning ordinance to relocate five cabins from the existing location at 30ø to 50ø from the lake to a distance greater than 200ø from the lake with erosion control and tree removal at 9 Cody Road.

James Rines, Agent, from White Mountain Survey and Engineering, Inc., explained that this project went before the Planning Board on April 17 for Site Plan review and was conditionally approved. The camp is anxious to relocate the cabins before the camp season begins to improve supervision of the shorefront.

The Board reviewed the recommendations from the Conservation Commission that included:

- Use Best Management Practices for Erosion Control
- Board agrees with the tree cutting but stumps and roots must stay intact
- Alternate plan to retain 24ö oak tree between cabin #10 and 11

Mr. Rines explained that five cabins will be relocated from their present location at 30øó 50ø from the shoreline to no closer than 200øto the shoreline. The cabins are set on piers so there will be little earth disturbance. A haul road will be built to move the cabins like a train to their new location.

There will be the necessary removal of one tree, a 24ø red oak, to allow for the moving of all the cabins. There will still be the required 100 points left in that quadrant even with the removal of the tree. The stump can remain. The underground utilities will be abandoned. Silt fence will be installed down slope from the project. The area will be loamed and seeded after completion.

Mr. Rines stated that the applicant will be applying to the state but needs ZBA approval first. There will be a new septic system relocated a good distance away from the lake.

Vice-Chairman Niiler asked about the erosion control and found it satisfactory. Desmarais and Stephan expressed their concern for re-vegetation of the haul road and effected areas.

Vice-Chairman Niiler asked for abutter or public comments. There were none.

The board reviewed the special exception worksheet for Article 3 Sections 304.6.3.1 and 304.6.5.2:

- A. 4-0
- C. 4-0
- H. 4-0
- J. 4-0
- K. 4-0
- L. 4-0

Motion by Vice-Chairman Niiler seconded by Cupka that based on the forgoing findings of fact, the requested Special Exception from Article 3 Sections 304.6.3.1 and 304.6.5.2 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Stumps may be ground but must remain in place.
2. Erosion control must be installed before øhaul roadø is created and remain in place until site it stabilized and grass is growing.
3. Shall conform to plan titled øSite Plan for Camp Codyø dated 03/27/2014 with a revision date of 04/22/2014.

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

Vice-Chairman Niiler invited **Case #23-57-4-14 Elise Pydynkowski** to approach the board with a request for a variance under Article 3 Section 310.1.5 of the zoning ordinance to build a house, garage, shed and porous porch covering more than 10% of the lot on Deer Run Road.

Mark McConkey, Agent, and Elise and Kevin Pydynkowski presented to the board their proposed project for a new home on a vacant lot. The applicant proposes to build a house with garage, shed and patio within the setback but with lot coverage exceeding the 10% allowed. There is a pending septic design. Gary Flaherty, Wetland Scientist, has determined that this lot is not in the wetlands.

Mr. McConkey explained that the patio will be porous and is not counted in the lot coverage. The applicant is showing their proposed plan in its entirety up front as to avoid future applications to the Board. Mr. McConkey spoke to the letter submitted explaining the special health circumstances necessitating a level area because of potential future mobility issues.

Mr. McConkey explained that he feels the request for 14% lot coverage is reasonable as it has been allowed within the neighborhood and town for good reason in the past.

Desmarais asked why the need for a three-car garage. Mr. Pydynkowski explained that they would be for Mrs. Pydynkowski's vehicle, an antique car and boat storage. Desmarais asked how access will be gained into the garage. Mr. McConkey stated that a wide swing area in the driveway will be constructed, contained all on the property. Desmarais asked if a retaining wall would be necessary because of the slope of the land. Mr. McConkey responded possibly.

Vice-Chairman Niiler asked for any abutter comments.

Gary Simmons, abutter, at 118 Deer Run Drive, expressed his opposition to exceeding the 10% lot coverage. Mr. Simmons stated that he followed the guidelines allowed by the town and the applicant should too. There is a standard in the neighborhood that should be kept. Mr. Simmons conveyed his concerns regarding the water table and the need for a three-car garage.

Joan and Scott Gower, abutters, at 117 Deer Run Drive, expressed their opposition to lot coverage of 14%. Their concerns included the water and the cosmetic look, adding they would be looking directly at their three-car garage.

There were no comments from the public.

Glenn Fogarty, abutter, at 123 Deer Run Drive, submitted a letter that Vice-Chairman Niiler submitted into record that expressed his opposition to the project.

Vice-Chairman Niiler stated he struggles with the lack of hardship in this case, why does the applicant need more than 10%.

Cupka stated that he feels the proposed project as is, is big for the area. Cupka added that Mountview has had some lots allowed to exceed the 10% but they were much smaller lots.

Desmarais noted that if this project was designed more efficiently it could be closer to the 10%.

Vice-Chairman Niiler asked the applicant if they would like to continue this evening or request a continuance to the May meeting and return with a scaled back version of the project.

Mr. McConkey stated they would like to request a continuance.

Motion by Vice-Chairman Niiler, seconded by Cupka to continue this hearing to the May meeting with a May 12<sup>th</sup> submittal date. The motion passed unanimously.

The Board will meet with the Planning Board at their October meeting to discuss structures as it relates to the zoning ordinance.

Meeting adjourned at 8:12 pm.