

**Zoning Board of Adjustment**  
**PO Box 227**  
**Freedom, NH 03836**

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

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

John Quigley will be sitting in for Scott Lees.

Others Present: Linda Farinella, Recording Secretary; Ned Hatfield, Zoning Officer

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

During the meeting the following cases were heard:

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

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

**Case #36-3-1-14 Edward J Hennessy and Harriet J Fishman**

**Case #31-24-14 Linda Kelley**

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

Vice-Chairman Niiler introduced the Board to the public.

Motion by Cupka, seconded by Quigley to accept the minutes of the June 24, 2014 meeting as written. The motion passed.

Vice-Chairman Niiler invited **Case #32-33-14A Wittrock Revocable Trust** to approach the board with a request for a special exception under Article 3 Section 304.6.3 of the zoning ordinance to replace a failed septic within 125ø of a wetland requiring erosion control at 37 East Danforth Road.

This application is required because the Article 3 Section 304.6.3 for erosion control was not requested with Case #32-33-14. Erosion control is shown as hay bales and silt fence on the plan along with the detail.

The board reviewed the special exception worksheet for Article 3 Section 304.6.3:

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

Motion by Vice-Chairman Niiler seconded by Cupka that based on the forgoing findings of fact, the requested Special Exception from Article 3 Section 304.6.3 of the Town of Freedom Zoning Ordinance be granted with the following condition:

1. Per plan titled δWittrock Rev Trustδ dated May 11, 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 continued 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.

Agent Mark McConkey presented a plan to the Board showing the project with less than 10% lot coverage and a retaining wall that will be constructed 30ø from the lot line.

It was noted that abutters had called and asked if anything had been submitted before the meeting and they were told no.

It was decided that Case #23-57-4-14 will be removed from the agenda. A new application for a variance will be submitted if and when the owner feels the need to build a retaining wall within the setbacks or exceed 10% lot coverage.

Vice-Chairman Niiler invited **Case #26-3-1-14 Edward J Hennessy and Harriet J Fishman** to approach the board with a continued request for a special exception under Article 3 Section 304.6.3.1 and variances under Article 3 Section 310.1.5 and Article 7 Sections 706.2 and 706.3 to demolish the existing structure and construct a new home exceeding the 10% allowable lot coverage, increase the height and be within the sideline setback with erosion control at 384 Pequawket Trail.

The applicant has returned with a new plan as requested by the Board at the June meeting. Mr. Hennessy noted that he referenced the survey medallions to show distance and placement of structures on the lot. A signed agreement with the applicantø abutters was presented. The agreement will eventually be an easement allowing the Hennessy-Fishman septic to be partially on the neighborø property.

There were no abutter comments. McConkey, public, asked if the application exceeds the 10% rule. Vice-Chairman Niiler responded yes. The application involves using the historic building envelope for a tear down and moving it further from the lake.

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 Vice-Chairman Niiler seconded by Ogren 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 condition:

1. Based on plan signed and dated 07/22/2014 titled "Hennessy-Fishman Lot 26-3-1 Plot Plan ZBA 7/22/14".

The motion passed unanimously. The applicant was informed of the 30-day appeal period. The Board opted to review the variances at one time together.

The board reviewed the variance worksheet for Article 3 Section 310.1.5 and Article 7 Sections 706.2 and 706.3:

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 310.1.5 and Article 7 Sections 706.2 and 706.3 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Per plan titled "Hennessy-Fishman Lot 26-3-1 Plot Plan ZBA" dated 07/22/14.
2. Per Folsom Design Group Letter and plan signed and dated June 5, 2014.
3. Septic easement to be completed and recorded at the Carroll County Registry of Deeds before issuance of building permit.

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

Vice-Chairman Niiler invited **Case #31-24-14 Linda Kelley** to approach the board with a request for variances under Article 7 Sections 702, 706.2 and 706.3 to demolish an existing non-conforming garage and construct a new garage within the setbacks with height increase at 46 North Broad Bay Road.

Mark McConkey, Agent, explained the proposed project to the board. The existing garage will be removed. The height will go from 10 to 14 with an open shed roof for storage. Only one abutter would have any degradation and McConkey submitted a letter of approval from Gerard and Kerri Costantino, abutters.

McConkey explained that the project meets the 10% rule and there is a pocket approval for a new septic. There are not many places to put a garage on the lot due to underground lines.

Vice-Chairman Niiler read the letter from the Conservation Commission. It recommended that the roof not be increased as it could allow for more living space. McConkey stated there was no intention of living space, strictly for storage.

There is no need for an erosion control special exception as the project is far enough away from the lake as not be a problem, but silt fence and hay bales are shown on the plan.

The board reviewed the variance worksheet for Article 7 Section 702, 706.2 and 706.3:

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 Stephan that based on the forgoing findings of fact, the requested Variances from Article 7 Sections 702, 706.2 and 706.3 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Natural ground cover to remain and be maintained on the down slope.
2. Garage may not be used for living space, storage only.
3. To be built per plan titled "Replacement Garage and New Roof Line Linda Kelley" dated 06/3/2014.
4. Garage to be no closer than 10' to lot line.

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

Mark McConkey, public, commented that the Planning Board did a great meeting on July 13<sup>th</sup>. He'd like zoning changes regarding the 10% rule, septic at 125' from wetlands, and the requirement that in-law apartments be attached to main dwelling all be considered. Another suggestion is to not require the building inspector to approve septic plans before they go to the State.

The Board had a short discussion regarding suggested zoning changes proposed by Ned Hatfield.

Meeting adjourned at 8:26 pm.