

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

Freedom Zoning Board of Adjustment: **August 26, 2014**

**Members Present:** Vice-Chairman Craig Niiler; Karl Ogren; Tim Cupka; Jake Stephan; John Quigley, Alternate. John Quigley will be sitting in for Scott Lees.

Others Present: Linda Farinella, Recording Secretary

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

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 Ogren, seconded by Quigley to accept the minutes of the July 22, 2014 meeting as written. The motion passed.

During the meeting the following cases were heard:

**Case #24-6-1-14 Paul and Elizabeth Pappas**

**Case #23-7-14 Mark and Susan Goldstein**

**Case #27-13-14 Wayne M. Wenzel**

**Case #4-34-1-14 Stanley J Rines Rev Trust of 2003**

Vice-Chairman Niiler invited **Case #24-6-1-14 Paul and Elizabeth Pappas** to approach the board with a request for a special exception under Article 3 Section 304.6.3.1 and a variance under Article 3 Table 304.5 of the zoning ordinance to install stone wall, replace stones at beach, replace brick patio, and add stepping stones all within the setbacks and requiring erosion control at 121 Haverhill Street.

The Freedom Conservation Commission concerns were reviewed.

Mr. Pappas explained he had placed stepping stones on the sides of the home down towards the beach and on the slope of the beach there were rock piled on soil that had slid down. The rocks were removed, and crushed stone was put in place with rocks replaced. These improvements were made to correct areas that were muddy and caving.

Vice-Chairman Niiler noted that there was no cease and desist on this property, but it was done without the proper permits obtained. Ned Hatfield, Zoning Officer, required the applicant to apply. Mr. Pappas stated he did not know permits were required.

Ogren asked if the project is complete. Mr. Pappas responded no, he would like to place stepping stones and bark mulch with shrubs. Vice-Chairman Niiler asked if there were any further plans. Mr. Pappas stated he would like to put crushed stone between the flagstones and a barbeque pit near the house; all the yard work is done.

Vice-Chairman Niiler asked that Mr. Pappas had for a plan to keep the mulch in place. Mr. Pappas responded that he has rain gardens installed that will take plenty of run-off.

The board requested from the applicant an engineered plan showing the plan for erosion control and detail of what is currently in place on the property; including but not limited to details for silt fence, and how storm water will be managed to protect neighbors and lake. The board made note that the plan should include requirements for the state as the board will require all necessary permits be obtained.

Mr. Pappas asked if he can continue his project and put crushed stone in the joints of the flagstones. Vice-Chairman Niiler responded he cannot see a problem as long as the stone is kept loose. Ogren commented that the applicant could eventually be required to do more.

Ogren asked the applicant if the building had been added on to. The applicant responded no.

Motion by Vice-Chairman Niiler, seconded by Ogren to continue this application to the October 28<sup>th</sup> meeting, with a submittal date of October 14<sup>th</sup>. The motion passed unanimously.

Vice-Chairman Niiler invited **Case #23-7-14 Mark and Susan Goldstein** to approach the board with a request for a special exception under Article 3 Section 304.6.3.1 and a variance under Article 3 Table 304.2 of the zoning ordinance to replace existing stone retaining wall including relocating, reorganizing and replacing stones and stairs within the setbacks and requiring erosion control at 28 Sunset Road.

The Freedom Conservation Commission concerns were reviewed.

Mr. Mark Goldstein with his landscaper Fred Parks explained to the Board the project and they are here because of a cease and desist from Ned Hatfield, Zoning Officer. Mr. Parks stated that all work has been done by hand so no permits were necessary. Silt fence was installed and because the rip rap has sunk into the bank each stone was hand carried out, the pitch corrected and stones were re-laid with no dimension or elevation change. Mr. Goldstein noted that there is only 1/3<sup>rd</sup> left to do.

Mr. Goldstein stated that Selectman Boyle came by the site and all three selectmen said to continue the project.

The steps were removed and were replaced. New granite steps were laid on ¾" washed stone on fabric; it was done by hand with a dolly. Any material that has been brought in is matching.

Vice-Chairman Niiler asked how much material was added. Mr. Parks responded approximately 6 yards of ¾" stone and 3 yards of basketball size stones. The driveway and walks were done with permeable material, nothing new was created and this was approved with a previous application.

Stephan asked why there is no plan associated with this application. Mr. Parks responded that the project was done in kind so the applicant felt it wasn't necessary. Vice-Chairman Niiler noted that the stairs and the pitch of the stones are changing.

The applicant was asked to submit a new plan. The plan shall include the work done and planned along with the stone fill and large stones.

Motion by Ogren, seconded by Quigley to continue the hearing to the September meeting. The applicant will submit a new plan, including erosion control and obtain in writing from the Selectmen and the Zoning Officer that it was okay to continue the project. The motion passed unanimously.

Vice-Chairman Niiler invited **Case #27-13-14 Wayne M. Wenzel** to approach the board with a request for a special exception under Article 3 Section 304.6.3.1 and a variance under Article 3 Table 304.5 of the zoning ordinance to construct a garage within the shorefront setback requiring erosion control at 494 Pequawket Trail.

Mr. James Rines, Owner of White Mountain Survey and Engineering, and Mr. Wayne Wenzel, applicant, explained to the Board the request for a garage. The garage would be used to house vehicles and other equipment and remove the need to rent a storage unit.

Mr. Rines explained that the location of the garage was chosen as it did not require tree removal, would not cause erosion, would not loose tree screening and would not effect the turn-around used by neighbors and the Town road crew. The location is beyond the 50ø requirement of the State at 65ø back and it also meets all other setback requirements. The space above the garage will not be inhabitable.

It was noted that the road layout was found to be from the year 1750 or 1780 for Old Eaton Road.

Cupka asked for the height of the garage. Mr. Rines stated it will be at a level of 435.5 which is approximately 20ø high.

There were not public or abutter comments.

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 Stephan 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. Shall conform to plan titled "Shoreland Redevelopment Worksheet for Wayne M. Wenzel" dated 08/11/2014.
2. Necessary state permits shall be successfully obtained.
3. Erosion control shall be installed prior to any site disturbance and remain in place until site work is complete and site is stabilized.

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

The board reviewed the variance worksheet for Article 3 Table 304.5:

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 Table 304.5 of the Town of Freedom Zoning Ordinance be granted with the following conditions:

1. Shall conform to plan titled "Shoreland Redevelopment Worksheet for Wayne M. Wenzelö dated 08/11/2014.
2. Necessary state permits shall be successfully obtained.
3. There shall be no living space in the garage.

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

Vice-Chairman Niiler invited **Case #4-34-1-14 Stanley J Rines Rev Trust of 2003** to approach the board with a request for a variance under Article 3 Table 304.4 and Article 7 Sections 706.2 and 706.3 and an equitable waiver of dimensional requirements under Article 3 Table 304.4 of the zoning ordinance to construct a roof over existing home, ramp and stairs within the setback at 127 Porter Road.

Mr. James Rines, Agent and owner of White Mountain Survey and Engineering explained the reason for the proposed project; the applicant can no longer get around without a wheeled walker. This project brought to light the need for an equitable waiver of dimensional requirements. It was discovered that when the original garage and ramp were built they were in the setback. The error was never noticed by anyone. The variance request would be for a new shed type roof that would connect the house and garage at its closes of 22ø from the lot line.

Stephen asked if it would be enclosed. Mr. Rines responded just a possible wind screen in the winter. Vice-Chairman Niiler asked if there is going to be a change in living space. Mr. Rines responded no, only the roof line will change.

Vice-Chairman Niiler asked if there were any public or abutter comments. Mrs. Jean Marshall, resident, asked for the variance request to be explained. Mr. Rines was asked to do so and satisfied Mrs. Marshall's request.

The board reviewed the variance worksheet for Article 3 Table 304.4 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 Table 304.4 and Article 7 Sections 706.2 and 706.3 of the Town of Freedom Zoning Ordinance be granted with the following condition:

1. Shall conform to plan titled "Variance Application Plan prepared for Stanley J. Rines Revocable Trust of 2003".

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

The board reviewed the equitable waiver worksheet for Article 3 Table 304.4:

1. 5 to 0
2. 5 to 0
3. 5 to 0
4. 5 to 0

Motion by Vice-Chairman Niiler seconded by Ogren that based on the forgoing findings of fact, the requested equitable waiver from Article 3 Table 304.4 of the Town of Freedom Zoning Ordinance be granted. The motion passed unanimously. The applicant was informed of the 30-day appeal period.

The board was reminded of their meeting on September 18<sup>th</sup>, 2014 with the Freedom Planning Board to discuss proposed zoning changes.

The board reviewed a letter from the Planning Board dated August 26<sup>th</sup>, 2014 in response to the ZBA's letter regarding tree cutting in the shorefront district. The board liked the A & G directions and discussed item (b) *Work along the shoreline* as a sticking point of conversation. The Board's biggest question is how the measurement should be determined, done with a tape measure along the shore or straight; property with a lot of points or curves could be considered with square footage.

The board reviewed the proposed changes by Ned Hatfield regarding the zoning ordinance. The board would like to see changes to the 10% rule and feel that a definition of structures needs to be addressed.

Meeting adjourned at 8:26 pm.