

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

Freedom Zoning Board of Adjustment: **May 25, 2021.**

Present: Chairman Scott Lees, Vice Chairman Craig Niiler, Karl Ogren, John Krebs, Denny Anderson (A), Zoning Officer Gary Williams, Recording Secretary Stacy Bolduc.

Absent: Jacob Stephen, Jeff Fongemie (A)

Public: Mark McConkey, Jim Rines, Caroline Collins, Chuck Watson, Peter Hoag, Eugene Lawnicki, Denise Lawnicki, Steve Spodick, Bob Tafuto of Ammonoosuc Survey, Harriet Fishman, Meg Hussey Cooper, Jeff Nicoll, Sue Hoople, Scott Johnson.

During this meeting the following cases will be heard:

Case 47-8-21 Caroline Collins
Case 49-3-21 Stephen & Kathleen Spodick
Case 31-27-21 The Scott C. Johnson Rev. Living Trust
Case 25-10-21 The Caitlin C. Sackman Revocable Trust
Case 31-21-21 William E. & Cheryl D. Taylor
Case 22-75-21 William & Marianne Burgess
Case 26-4-21 Eugene W. & Denise M. Lawnicki

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

Chairman Lees introduced the Board to the Public.

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

John made the motion, seconded by Denny to accept the minutes of the April 27, 2021 meeting with the following amendments:

Pg. 1, 5th paragraph from the bottom correct the spelling of "Markh" to "March" and again after Case #01-01-21 Continued from correct the spelling "Markh" to "March".

Pg. 1 Denny recused himself for Case# 01-01-21 Bolduc. Jeff sat at the table for Denny who was sitting in for Craig.

Pg. 4 Denny came back to the table and Jeff F. stepped down for Case # 45-12-21 Haskell.

Pg. 5 Case #24-13-21 Red Top Realty Trust/ DJH Investment Trust, Jake, and John recused themselves and Jeff F. sat at the table in their place.

Pg. 6 Case # 30-7-1-21 McCarriston Jeff stepped down and John and Jake came back to the table.

Motion passed unanimously.

PUBLIC HEARING

Case #24-13-21 Red Top Realty Trust / DJH Investments Trust Continued until June.

Applicant seeks an appeal for a Variance under Article 3, Section 304.5 as it pertains to waterfront setback, a Variance under Article 4, Section 406 as it pertains to wetland setback, a Special Exception under Article 3, Section 304.6.3 as it pertains to erosion control, and a Special Exception under Article 3, Section 304.6.5 as it pertains to cutting and removal of trees and natural vegetation in the Shorefront District. The applicant wishes to remove existing structures and replace them with a new structure inside the depicted building envelope at Map 24, Lot 13, at 173 Haverhill Street.

John recused himself from this case.

Craig made a motion, seconded by Karl to continue Case # 24-13-21 until June. Motion passed Unanimously.

Chairman Lees invited **Case # Case 47-8-21, Caroline Collins**

Applicant seeks an appeal for a **Special Exception under Article 3, Section 304.6.5.2** Cutting within 75' of a reference line Map 47 Lot 8 at 27 Swasey Rd.

John came back to the table.

Chairmen Lees read a letter from the Freedom Conservation Committee (FCC) into the record (see attached). Peter Hoag (agent) came before the board and explained the plan for the trees that Collins would like to cut. After a brief presentation, Chairman Lees asked if the board had any concerns?

Questions from the Board: None.

Chairmen Lees asked if the abutters had any questions or concerns.

Questions from the Public: None.

The board elected to review the Special Exception worksheet for Article 3, Section 304.6.5.2

A- 5-0 motion carried	J- 5-0 motion carried
C- 5-0 motion carried	K- 5-0 motion carried
H- 5-0 motion carried	L- 5-0 motion carried

Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Special Exception from Article 3 , Section 304.6.5.2 of the Town of Freedom Zoning Ordinance be granted with conditions. Karl seconded the motion; Motion carried 5-0.

Conditions:

- 1. Per Plan titled Tree Location Plan Property of Caroline W. Collins.**
- 2. Tree Roots must remain in place.**

Finding of Facts:

- 1. FCC letter was read into the minutes.**
- 2. Stumps may be ground but root systems must remain in place.**
- 3. All grids will have point values in excess of 100 remaining.**

Chairman Lees explained the 30- day appeal period and the Special Exception expires 5/25/23.

Chairman Lees invited **Case # Case 49-3-21, Stephen & Kathleen Spodick**

Applicant seeks an appeal for a **Special Exception under Article 7, section 702.3.1-** construction that impacts more than 1,500' and 900' of impervious surface area and **Special Exception under Article 3, section 304.6.5.1** tree cutting within 75' of a reference line. Map 49 Lot 3, 49 Loon Lake Rd.

Bob Tafuto of Ammonoosuc Survey agent, and Steve Spodick came before the board to present their case.

Chairmen Lees read a letter from the FCC outlining their concerns and the letter was given to Agent Bob Tafato. Chairmen Lees asked if the board if the application is complete? The board wanted a bigger plan. The Recording Secretary had an extra map for the board. John explained the criteria for submitting plans to the ZBA regarding font size. The application is complete.

Bob explained there are about six trees that need to be cut. A couple of them are large pines and the site for the proposed barn is already a cleared grassed area. He went on to explain the only place where there will be some excavation is where the overhang is located on the plan closest to the roadside. The proposed barn is 40 x 60. There will be no bedrooms but they would like to add a bathroom for convenience. The septic line will be diverted as necessary and will go into the existing tank for the house. Bob explained further that he understands that putting huge buildings on lakefront property detracts when they are piled on top of one another but this is a 13-acre lot and 193' from the shore.

Craig clarified a Special Exception is not needed to cut trees beyond 75' if your lot is sloping towards the lake at less than 12.5%. If the slope is more than 12.5% a tree cutting grid would need to be provided showing what trees will be cut. Discussion ensued around the slope of the bank toward the lake. The updated plan will show the silt fence detail and the tree grid showing the trees to be cut with point value calculations.

Chairmen Lees asked if the public had any questions or concerns?

Questions from the public: None

The board agreed to combine the Special Exceptions into one vote.

The board elected to review the Special Exception worksheet for Article 7, Section 702.3.1 for construction impacting more than 1500' square feet and Article 3 Section 304.6.5.1 for tree cutting 75' of a reference line:

A- 5-0 motion carried	J- 5-0 motion carried
C- 5-0 motion carried	K- 5-0 motion carried
H- 5-0 motion carried	L- 5-0 motion carried

Motion: Chairman Lees made a motion, that, based on the foregoing findings of fact, the requested Special Exception from Article 7 Section 702.3.1 and Article 3, Section 304.6.5.1 of the Town of Freedom Zoning Ordinance be granted with conditions. Karl seconded the motion; Motion carried 5-0.

Conditions:

- 1. Per Plan titled Proposed Barn and Erosion Protection Plan Property of: Stephen & Kathleen Spodick dated 5/8/21.**

2. Erosion Control shall be installed prior to any earthmoving and shall remain in place until the site is stabilized.
3. Applicant must provide an updated plan showing erosion control installation detail and tree's to be cut with point value calculations.

Findings of Facts:

1. FCC letter was read into the record.
2. Impact area is mostly cut and flat, closet corner to the lake is 193'

Chairman Lees explained the 30-day appeal process. These Special Exceptions expire 5/25/23.

Chairman Lees invited Case # 31-27-21 The Scott C. Johnson Rev. Living Trust

Applicant seeks an appeal for a **Special Exception under Article 3, Sections 304.6.5, 304.6.5.3 and 304.6.3** The owner plans to remove an existing home and replace it with a new home that will require removal of trees on a lot sloping toward the lake at greater than 12.5%; the installation of a new sewage disposal system and foundation requiring erosion control. Map 31 Lot 27, 38 North Broad Bay.

Chairmen Lees read a letter from the FCC expressing their concerns (see attached). He then asked the board if they agreed the application is complete. The board agreed the application was complete and Jim Rines (agent) came before the board to present on behalf of The Scott C. Johnson Rev. Living Trust.

Jim introduced himself and explained the applicant would like to remove the existing non-conforming home with no stormwater mitigation and replace it with a new, fully conforming home which includes stormwater mitigation and a new sewer system. This will require that the property owner remove seven trees beyond the 75-foot setback, but because the average slope of the land exceeds 12.5% a special exception is needed.

The impervious lot coverage in the proposed plan will be 18.3% which is less than the maximum 25% maximum coverage allowed. The proposed structure coverage will be 9.6% which is also below the 15% allowed by Article 3, Section 304.6.7.3 of the zoning ordinance.

Craig stated it looks like the trees that have to be removed are within the building envelope or behind it. Jim said there is one within the 75' line. John asked if the stone steps are going to the back of the garage? He wanted to make sure they are not going to make a 90° angle. The access to the deck is on the other side. It looks like the steps go nowhere on the plan. Jim explained they are at the elevation of the walkout basement. Jim stated he is not the architect but believes the stairs go under the deck.

John would like the plan revised to show a silt sock instead of a silt fence. The silt sock installed over the stone steps during construction would address the FCC's concern about the steps and he would like the spelling of the retaining wall corrected in the lower left-hand corner of the plan currently, it shows as one word.

Chairmen Lees asked if anyone from the public would like to comment.

Public: Paul Olzerowic of 58 North Broad Bay Rd. spoke in favor of the project.

Chairman Lees asked if the board could combine the Special Exceptions into one vote. Everyone agreed to combine the special exceptions into one vote.

Special Exceptions- The special exception requests for Article 3, section 304.6.5 and 304.6.5.3 are combined in one vote.

- | | |
|--------------------------------|-------------------------------|
| A - 5 -0 motion carried | H- 5-0 motion carried |
| B- 5-0 motion carried | J - 5-0 motion carried |
| C - 5-0 motion carried | K- 5-0 motion carried |
| | L- 5-0 motion carried |

Chairman Lees made a motion, That, based on the foregoing findings of fact, the requested Special Exceptions from article 3, section 304.6.5 and Article 3 section 304.6.5.3 of the Town of Freedom Zoning Ordinance be granted, motion seconded by Karl; motion passed 5-0-0.

1. Per Plan titled Special Exception Application Plan prepared for The Scott C. Johnson, Revocable Living Trust Scott C. Johnson, Trustee dated 5/6/21.
2. Footing and foundation certification certifying that the proposed building is constructed per plan.
3. Remove Silt Fence detail.
4. In the lower left-hand corner of the plan just above the legend correct the spelling of Retaining wall (currently it reads Retainingwall).
5. Obtain any State Permits that need to be obtained.
6. Erosion Control shall be installed prior to any earthmoving and remain in place until construction is completed and the site is stabilized.
7. Lower right-hand corner remove "To Robin Hood Lane".

Findings of Facts:

1. **Proposed construction meets all town setbacks.**
2. **Silt sock must be installed across stone steps during construction.**
3. **Stumps may be removed from the cut trees.**

Chairman Lees explained the 30-day appeal process. These Special Exceptions will expire 5/25/21.

Chairman Lees invited case # Case 25-10-21 The Caitlin C. Sackman Revocable Trust

Applicant seeks a **Special Exception** under **Article 3, Section 304.6.3** to remove an existing non-Conforming home and install a new sewage disposal system and a **Variance under Article 3, Section 304.5** for the removal of an existing home that violates 75-foot shorefront setback and is only 12.3 ' from the northerly boundary line and replace it with a new home that meets the shorefront Setback and is 22.6' from the northerly boundary line. Map 25 Lot 10 at 14 Paulipoint.

Chairman Lees read an e-mail from abutter Elwin and Gwen Richardson supporting the Sackman project. They feel the proposed project would be an enhancement to the neighborhood. They also wish to go on the record to state the following:

" We disagree with the position of the northerly boundary line common with our property as shown on the plan. However, despite this disagreement, the proposed home will be further from the northerly boundary line and further from the lake, and for these reasons, we remain in support of the variance and special exception.

Jim pointed out on the plan where the boundary dispute is and explained the dispute. There is an iron pipe that the Richardson's believed marked their property boundary however, when Wt. Mountain Survey was doing the survey and preparation. The deed research revealed a drill hole that did not match the deed descriptions of the

Sackman's or the Richardson's. There is a 100' discrepancy between the two lots. Jim explained regardless of the discrepancy the Sackman's proposed house is being moved further away from the disputed northerly boundary line. Jim went on to explain he believes White Mountain Survey has accurately reconstructed the boundary lines. It was agreed between both parties that Wt. Mountain Survey will produce a boundary survey showing the disputed property line to be recorded at the Registry of Deeds. The survey will show where the Richardson's believe the boundary line is vs. White Mountain Survey.

Chairmen Lees asked the board if they thought the application is complete? The board agreed that it was complete. Jim continued with the presentation. He explained the property owner would like to remove the existing non-conforming home and replace it with a more conforming home. This proposed home will comply with the 75-foot shoreline setback, but due to the configuration of the lot, the northerly boundary line setback will be 22.6' versus the required 30 feet triggering the need for a variance relief from the side yard setback contained in Article 3, Table 304.5. The specifics are as follows:

Shoreline Setbacks

Existing home 46.3'

Proposed Home 78.1'

Sideline Setbacks

Existing Home 12.3"

Proposed Home 22.6'

Presently, there is 1,141 SF of structure forward of the waterfront setback and 422 SF within the side yard setback. Proposed will have 0 SF forward of the waterfront setback and 101 SF within the side yard setback. There will be no tree removal within 75 feet of Ossipee Lake.

Other points discussed:

- The proposed home is further away from the lake.
- The average slope of this lot is less than 12.5%
- A new septic design.
- New structure coverage is 7%
- Lot coverage is reduced because the driveway will be reduced in length.
- Jim reiterated that even if White Mountain Survey is wrong about the boundary line, the project is still an improvement over what is currently there because they are moving further away from the northerly boundary line.
- The proposed well location.
- The legend needs to be updated to show the construction fence and silt fence.

Chairmen Lees asked if the board had any other questions.

Questions from the board:

None.

Questions from the abutters or public:

None.

The board elected to review the Variance worksheet for Article 3, Section 304.5:

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

- 1. The variance will not be contrary to the public interest. **Carried 5-0.**
- 2. The spirit of the ordinance is observed if the variance is granted. **Carried 5-0.**
- 3. Substantial justice is done by granting the variance. **Carried 5-0.**
- 4. The value of surrounding properties is not diminished if the variance is granted. **Carried 5-0.**
- 5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 - A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:
 - i. No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and **Motion Carried 5-0.**
 - (ii) The proposed use is a reasonable one. **Motion carried 5-0.**

Karl wanted it made clear what the board is voting on regarding the variance request. Based on the plan presented if the northerly boundary line moves the variance will not be in compliance. Jim said if another surveyor comes in and proves the boundary line wrong then an equitable dimensional waiver would be appropriate and the Sackman’s can come back for another variance.

Conditions:

- 1. **Per Plan titled Variance Application plan prepared for The Caitlin C. Sackman Revocable Trust Caitlin C. Sackman, Trustee dated 5/10/2021.**
- 2. **Proposed driveway be shown on the plan.**
- 3. **Silt fence and construction fence be labeled and legend corrected.**
- 4. **Update the plan to show the location of the well discussed in the meeting.**
- 5. **Add to the legend what CB means.**
- 6. **Footing and foundation certification performed by a licensed NH land surveyor, certifying the building is constructed in location shown on the plan.**

Findings of Facts:

- 1. **Northern Boundary is disputed by the abutter.**
- 2. **Proposed construction is less non-conforming.**
- 3. **The proposed house location is approved on the lot, if a subsequent survey determines the lot line is incorrect, the house location is still approved.**

Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Variance from Article 3, Section 304.5 of the Town of Freedom Zoning Ordinance be granted with conditions. Karl seconded the motion; Motion carried 5-0.

The board elected to review the Special Exception Worksheet for Article 3, Section 304.6.3:

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|------------------------------|------------------------------|
| A- 5-0 motion carried | J- 5-0 motion carried |
| C- 5-0 motion carried | K- 5-0 motion carried |
| H- 5-0 motion carried | L- 5-0 motion carried |

Conditions:

1. **Per Plan titled Variance Application plan prepared for The Caitlin C. Sackman Revocable Trust Caitlin C. Sackman, Trustee dated 5/10/2021.**
2. **Erosion control and construction fence be installed prior to any earthmoving and stay in place until site is stabilized.**

Findings of Facts:

1. **The Board prefers the use of a silt sock.**

Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Special Exception Article 3 Section 304.6.3 of the Town of Freedom Zoning Ordinance be granted with conditions. Karl seconded the motion; Motion carried 5-0.

Chairman Lees explained the 30-day appeal process. Variance and Special Exception expire 5/25/23.

Chairman Lees invited case # Case 31-21-21 William E. & Cheryl D. Taylor

Applicant seeks an appeal for a **Special Exception under Article 3, Section 304.6.3 and 305.6.5.3** to construct a detached garage that will result in the removal of three trees on a lot that has an average slope greater than 12.5% toward the water and to install erosion control for the project. The applicant also seeks a **Variance under Article 3, Section 304.5** applicant wishes to construct a Two- car garage within the side and front setback. Map 31 Lot 21 at 64 North Broad Bay Rd.

After reviewing the application, the board agreed the application was complete.

Jim Rines, the agent presented on behalf of the applicant. He explained the Taylor's wish to construct a detached two-car garage, but due to the location of their home, buried propane tank, and recently installed sewage disposal system, they are seeking relief from the sideline setback and the road front setback contained in Article 3 Table 304.5.

Points discussed:

- The impervious lot coverage in the proposed condition will be 24.6% which is less than 25% max allowed.
- The proposed structure coverage will be 8.6% which is below the 15% allowed.
- The average slope is greater than 25% toward the lake. A tree inventory has been provided revealing three trees that will need to be removed, but the removal of these three trees will still retain 391 points in the grid.
- Proposed silt fence.
- The proposed garage is in the proposed location because of an underground storage tank and they do not want to block their view and it would allow for vehicular access.

The board struggled with the location of the garage; it is 8.7' from the sideline. Jim responded its consistent with the neighborhood. Chairman Lees stated that's preexisting non-conforming and would like to see the garage pushed further from the property line. Jim pointed out that means the garage would have to go in front of the

house and then there is no access to the house for emergency vehicles and deliveries and if it goes the other way it will be on the leach field.

Denny suggested if the line to the house has to be moved then remove the underground tank so the building could be turned straight giving more distance from the property line. The tank could be underground or above ground. The previous variance the applicant requested was reviewed and discussed. The variance was for the other side of the house and was for 9.5'. The plan itself was not available to review. John came to the same conclusion as Denny to remove the tank.

Chairmen Lees asked if there were any abutter who would like to speak.

Robert Smart of 58 North Broad Bay Rd stated he lives on the north side of the construction and has reviewed the plans and has no problem with the proposal.

Paul Olzerowic also of 58 North Broad Bay Rd stated he was struggling to understand what the board was suggesting. John invited Paul up and clarified using the plan to explain what the board was proposing regarding the tank and well.

Jim requested a continuance for next month. The plan from the last variance request will be available for the next meeting. John asked Jim to include a clear depiction of the driveway and a slab elevation.

Chairmen Lees made a motion to continue Case# 31-21-21 until June 22, 2021, motion seconded by Craig; Motion passed unanimously.

Chairmen Lees invited case # Case 22-75-21, William & Marianne Burgess

Applicant seeks a **Variance** under Article 4, Section 406 as it pertains to wetlands setbacks for installing a septic. Septic System to be closer than 125' to wetlands. Map- 22 Lot 75 at Pine St.

Chairman Lees asked the board if the application is complete. The board agreed it was complete. Mark explained the applicant is proposing to build a conforming home and driveway and a septic system on the property. Chairmen Lees read a letter from the FCC outlining their concerns with seasonal runoff. This application was pretty straightforward. Karl asked if we know where the neighbor's septic system is located. Mark did not know. There was a previous approval for a septic on file that has expired. No comment from abutters or the public. The board had no problems with the application.

The board elected to review the Variance worksheet for Article 4, Section 406:

The ZBA has the power to authorize, upon appeal in specific cases, a variance from the terms of the zoning ordinance if:

1. The variance will not be contrary to the public interest. **Carried 5-0.**
2. The spirit of the ordinance is observed if the variance is granted. **Carried 5-0.**
3. Substantial justice is done by granting the variance. **Carried 5-0.**
6. The value of surrounding properties is not diminished if the variance is granted. **Carried 5-0.**
7. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
 - A. Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:

- ii. No fair and substantial relationship exists between the general public purposes of the zoning ordinance provision and specific application of that provision to the property, and **Motion Carried 5-0.**

(ii) The proposed use is a reasonable one. **Motion carried 5-0.**

Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested from Article 4, Section 406 of the Town of Freedom Zoning Ordinance be granted with conditions. Karl seconded the motion; Motion carried 5-0.

Conditions:

1. Per Plan titled Zoning Plat for William & Marianne Burgess dated 5/5/21.
2. NHDES subsurface approval.

Finding of Facts:

1. **Letter from FCC was read into the minutes.**
2. **Proposed system meets State standards.**

Chairman Lees explained the 30-day appeal process. Variance expires 5/25/21.

Chairman Lees invited Case # Case 26-4-21 Eugene W. & Denise M. Lawnicki

Applicant seeks a **Special Exception** under Article 3, Sections 304.6.5 as it pertains to tree cutting within 75' of the reference line and tree cutting of 75' to 300' of a reference line greater than 12.5% and 304.6.3 as it pertains to erosion control. Applicant also seeks a **Variance** under Article 3, Sections 304.5 as it pertains to a setback to a ref line for a retaining wall as shown on the plan as B and C and the bathhouse, deck and patio and side setbacks for a retaining wall as shown on the plan as A and B also the house and the patio the Map 26 Lot 4, at 380 Pequawket Trail.

Mark McConkey (agent) presented on behave of the Lawnicki's. Chairmen Lees asked about the five questions that are stated on the application to be in the packet. Mark did not know if they got submitted. Chairmen Lees asked the board if the application is complete. Chairmen Lees stated he has received calls at home on this application regarding the five questions. Mark handed out the answers to the five questions to the board that were not in the packet. Chairmen Lees asked the board if the application was complete? The board decided the application was not complete but they will hear the presentation. Chairmen Lees the board would hear the application but would like everyone to realize this application will come back next month and it could look very different based on tonight's presentation. The board also wanted to hear from the abutters.

Mark presented the two plans and explained that one plan is existing and the other is proposed. He reviewed the details and explained there are a collection of homes in this area that are pre-existing non-conforming. The project started the folks wanted to replace the existing stairs and decks that lead to the water. The bathhouse may shift on the plan. The footpath is on the plan and Mark has read the letter expressing concerns about the footpath. Pictures were handed out to show what the lot looks like from the water another picture showing what it looks like from the top of the hill. The applicant's goal when designing the project with the architect was to move the house inside the zoning envelope so there was no request for a variance, however, moving the house forward, a variance is still needed for the house, garage, and breezeway for 1.2' that does not fall inside the envelope. The owners and Mark were under the impression this would not be an issue as long as the majority of the project stayed in the foot print. It has come to Mark and the owner's attention that the footpath that runs through the property is a point of

contention with the neighbors. With that knowledge, Mark knew they would be coming back with a new proposal to get away from the variance request. They would most likely pull the structure and the patio back to get back to a reference line of 75' removing a need for a variance from the water.

FCC letter was read for the minutes. A copy of the letter was given to Mark.

Board members questions:

None they wanted to hear from the public.

Abutters opposed:

Meg Cooper- Read a letter outlining her family's (Hussy Family Trust) opposition to the project (see attached for details). She stated she has not seen the answers to the five questions in the application.

Ted Hennessy- 384 Pequawket- Stated he hopes the Lawnicki's get to build their home. The problem he has is the site of the house. There are two major factors he wanted to state:

1. The community path that runs along the top of the bank that gets continuous use will be obstructed.
2. The extreme slope of the bank. The sand may not hold a structure and the use of large machinery will destabilize the bank for everyone along it. He feels there is enough room to pull the house back into the existing area available to them within the setbacks and have a lovely house.

Harriet Fishman- 384 Pequawket explained her argument was more emotional than intellectual. Her neighbor to the left is Marcia Forrest who is now ninety years old. She came to the property at the age of six. She played on the bank and pathway and still tells stories about her growing up there and now uses walking sticks to walk the path. The Moore's another neighbor has been there for 75 years. Older people use the community path using scooters and walking sticks. She feels this proposal takes all of that away.

John commented that if there is no easement across the property then he is not sure what this board can do to preserve it. Chairman Lees mentioned prescriptive rights.

John would like to see the driveways coming and going on the plan for the next meeting and any easements that may be attached to the property.

Mark thanked the abutters for their input and said he will take in all their concerns and would like to come back next month. If he can't make next month, he will let Stacy know.

Chairman Lees made a motion to continue Case 26-4-21 next month, motion seconded by Karl; Motion passed unanimously.

Chairmen Lees informed the public they will not get another notification by mail for the next meeting but it will be posted on the website.

Miscellaneous

Chairman Lees informed the board that Chair of the Board Jeff Nicoll will go back to the FCC to see if they would like to meet with the ZBA regarding what they are looking for when sent a ZBA application.

- **Communication and miscellaneous.**

There was no mail.

There being no new business to come before the board, the Motion by Chairman Lees, seconded by Karl that this meeting adjourns; Motion passed unanimously.

The meeting adjourned at 10:00 p.m.

Respectfully Submitted,
Stacy Bolduc,
Recording Secretary

Town of Freedom

From: James Rines <jrines@whitemountainsurvey.com>
Sent: Friday, May 21, 2021 4:03 PM
To: crichardson@milesconst.com; Town of Freedom
Cc: Ted Wright; nedsackman@yahoo.com
Subject: Richardson/Sackman Matter

Hi Cary:

Thank you for taking my call today and discussing the Richardson/Sackman boundary issue.

I have let Ned know that you would be speaking with your parents about the idea of sharing in the cost of the production of a boundary survey of the Sackman property that would be recorded at the Carroll County Registry of Deeds that shows the boundary lines as we have reconstructed and the boundary where the Richardson's believe it to be with the disputed area

hatched and identified as "area in dispute". I understand that once you speak with your parents you will then be contacting N to discuss their thoughts.

If agreeable to your parents, you will then prepare an email to be sent to the Zoning Board indicating your support for the project, but you dispute the position of the northerly boundary line.

Below is a suggested sample of an email as you requested that would let the Zoning Board know your position.

office@townoffreedom.net

Chairman Lees and Members of the Zoning Board

We are abutters to the proposed Sackman project, Case 25-10-21 for a variance and special exception. The purpose of this email is to let the board know that we believe the Sackman project as proposed will be an enhancement to the neighborhood. We also wish to go on record that we disagree with the position of the northerly boundary line common with our property as shown.

on the plan. However, despite this disagreement, the proposed home will be further from the northerly boundary line and further from the lake and for these reasons, we remain in support of the variance and special exception.

Sincerely,

If you need to discuss this matter further Cary, please don't hesitate to reach out to me.

Thanks again.

Jim Rines

James F. Rines, P.E., L.L.S., C.P.E.S.C.
President

White Mountain Survey & Engineering, Inc.

1270 NH Route 16
PO Box 440

Town of Freedom

From: Edward Sackman <nedsackman@yahoo.com>
Sent: Saturday, May 22, 2021 10:11 AM
To: Cary Richardson
Cc: James Rines; Town of Freedom; Ted Wright
Subject: Re: Richardson/Sackman Matter

Jim,
We are also in agreement with the below. Let us know when you plan to do the boundary survey. Thank you for your efforts on this.
Ned

Sent from my iPhone

On May 21, 2021, at 6:19 PM, Cary Richardson <crichardson@milesconst.com> wrote:

Jim,

Thank you for your solution oriented approach to the situation. I have spoken with my parents and with Ned and we are in agreement with the process you have outlined below. My parents will submit an email of support for the variance noting our disagreement with the property. I will split the costs of the production and recording of the boundary survey noting the area in dispute.

I appreciate your help in finding a path forward, enjoy your weekend!

Cary Richardson
V.P. Business Operations
Office: 775-984-4392
Mobile: 775-230-6009

Town of Freedom

From: Elwin Richardson <richgwen@icloud.com>
Sent: Sunday, May 23, 2021 8:57 AM
To: office@townoffreedom.net; Caitlin Sackman
Subject: Sackman project Case 25-10-21

Chairman Lees and Members of the Zoning Board

We are abutters to the proposed Sackman project, Case 25-10-21 for a variance and special exception. The purpose of this email is to let the board know that we believe the Sackman project as proposed will be an enhancement to the neighborhood. We also wish to go on record that we disagree with the position of the northerly boundary line common with our property as shown on the plan. However, despite this disagreement, the proposed home will be further from the northerly boundary line and further from the lake and for these reasons, we remain in support of the variance and special exception.

Sincerely, Elwin and Gwen Richardson

May 24, 2021

Dear Boardmembers,

The undersigned provide this letter in opposition to the proposal of Eugene and Denise Lawnicki for the re-build on their property at 380 Pequawket Trail. The many variances requested represent individual decisions for the Zoning Board of Adjustment, many of which may not seem extreme, but, taken together, the project represents a severe disruption, not only to the physical lakeshore, but to the community of which the Lawnicki's are a part.

The Lawnicki property is a part of the Ossipee lakeshore known as the Steep Banks. Not only is this a notable physical feature, but it is a community of summer camp residents. In the 1920s and 1930s, ten lots were purchased by families and friends from Boston's North Shore. Since that time, most of those properties have been transferred within the families of the original purchasers. The Lawnicki property is one of six that was purchased in the 1920s and the other five have been held by relatives of the Moore family. The Lawnicki's, while not blood relatives have been good friends and neighbors and in many ways have been absorbed as a part of the larger family. Gene and Denise have shared with us birthdays, holidays, weddings and the day-to-day activities taking place on the Steep Banks for dozens of summers.

When made aware of the Lawnicki's plans last week, the universal reaction of the undersigned was surprise, disappointment and sadness. Allowing the construction of the summer camp rebuild as proposed will establish a physical barrier in the middle of the Steep Banks community and interfere with the neighbors' enjoyment of this unique setting.

Since the 1920s, all of the camps on the Steep Banks have been built 15-50 feet back from the edge of the steep pitch of the bank. These were practical decisions recognizing the reality that the steep, sandy bank was fragile and would be subject to erosion if disrupted with construction. But, more important, and a foundation for our opposition, is that the space between the edge of the bank and the front of each camp has been a continuously used path that connects us all as friends and family. Each of the camps has a porch or deck that faces the lake, to take advantage of the views and the breezes, but also as an invitation for neighborly visits. For more than 90 years, we have passed along the top of the bank to visit our friends and family. Every summer day this takes place dozens of times. Children have been able to freely play and enjoy each other's company along a path that is safe from the water and the road. There has never been a question about the free movement between the camps using that space along the edge of the bank. The construction of a new camp that will obstruct that path is truly unimaginable.

Currently, the Steep Banks are a wooded hillside when viewed from the lake. Because each camp is set back from the edge of the bank, there is a buffer of trees between the lake view and

the camp structures, themselves. By building out over the edge of the bank, as the Lawnicki's propose and their tree cutting plan confirms, the hillside will have an obvious break along the otherwise wooded hillside. Not only will this have a significant impact during the day, but at night, what is now a dark, peaceful stand of trees will be broken by bright light, affecting those of us on Steep Banks, and the view from across the lake. An additional factor regarding the physical state of the Steep Banks is that since the return of the Bald Eagle to the Ossipee area, several of this endangered species make daily visits along the bank and often perch among the trees, possible because of the higher vantage that the pines on the bank provide for viewing the lake and potential prey. It is very possible that a disruption of the tree cover along the bank will reduce the opportunities for bald eagles to perch. We ask that the Zoning Board of Adjustment consult with wildlife experts for a determination of the potential for this impact.

The abutters will be most affected by the Lawnicki's proposal. In 1927, Will and Lucilla Moore built the first cottage on Steep Banks, and aptly named it The View. Now owned by their grandchildren, it still has the same big, beautiful screen porch that is a welcoming place for all and takes advantage of the unique, undisturbed view of the vegetated bluff and the lake, as well as the night sky. All of this will be significantly undermined by the Lawnicki's proposal to construct out over the bluff. Moreover, because of the peculiarities of the lot lines in this area, The View is only 10 feet from the Lawnicki's property line, and the proposal is to cut down many of the trees between the Lawnicki's and this line. These impacts will almost certainly affect the property values for the abutting properties. We believe that this factor should be considered in the ZBA deliberations.

It is also important to note that the most recent new building on the Steep Banks was completed in 2003 by the Hussey family and that property abuts the Lawnicki property. That construction was intentionally placed further back from the edge of the bank than others in order to meet the concerns voiced by the Lawnicki's that their view of the lake not be impeded. In 2002, the Zoning Board of Adjustment received the application from the Hussey's noting just that accommodation.

In summary, and to link our concerns with the specific variances requested for this construction, we request the Zoning Board of Adjustment deny the tree cutting along the steep slope between 75 and 150 feet from the lakeshore. We believe the intent of that part of the municipal ordinance is to protect the water quality of the lake and to protect the view along the lakeshore. There is no question that impervious surface replacing tree cover on a steep slope will allow for greater runoff and the potential for erosion of the bank. And as noted, the view from the lake will be altered considerably. Denying this request will necessitate the movement of the proposed structure back from the edge of the bank which will also protect the community members continuing use of the path along the top of the bank as a basis for maintaining the connections that have been so strongly established these past 90 plus years.

The undersigned only became aware of the specifics of the construction plan in the last few days. We are uncertain who will be able to attend the hearing on May 25 or June 22. We will do

our best to ensure participation. Furthermore, we ask that you consider making a site visit before you take any action on this request.

The picture on the next page is a shot north from 384 Pequawket Trail along the path we note in this letter. The existing Lawnicki cabin is visible in white through the trees (the lake is to the left, down 60-70 vertical feet (about 80 steps). The Hussey cabin (382 Pequawket) is not in the picture as it is set back further to the right.

The picnic table in the far background is between 7 and 8 Cone Drive.



We will be glad to provide more photographs and history of the area and its community use, if it would be helpful to your review.

Thank you for considering our request and concerns.

Beverly Heydinger Donald Jones Ken Jones
(The View at Ossipee LLC, 7 Cone Drive, abutters)

Phil Moore Marcia Reed
(8 Cone Drive)

Alan Moore Steve Moore
(376 Pequawket Trail)

John Hussey Joanne Perwak Meg Cooper Lizbeth Hussey Phil Hussey Nancy Hussey
Hussey Family Realty Trust
382 Pequawket Trail

Ted Hennessy Harriet Fishman
(384 Pequawket Trail)

George and Marcia Forrest
(386 Pequawket Trail)

Meg Cooper

Submittal to the Freedom Zoning Board of Adjustment Regarding Case 26-4-21, Eugene W. and Denise M. Lawnick

From the Hussey Family Realty Trust, 382 Pequawket Trail – John Hussey Jr., Joanne Perwak, Nancy Hussey, Lisbeth Hussey, Meg Cooper, and Philip Hussey

Below are our thoughts and comments on the Five Questions included ZBA Application (Response not included in the Lawnicki Application).

Granting the variances will not be contrary to the public interest

Granting the variances is contrary to the public interest, as evidenced by the objections raised by all the residents of the Bluffs. The Shoreland and Water Quality Protection Act is intended to assure a natural woodland buffer in areas adjoining public waters to intercept surface runoff, wastewater, subsurface flow, etc. The proposal requests setbacks to the lake for the patio, two of the retaining walls, and the bath house. These setbacks are important, and granting the variances requested will diminish the woodland buffer and provide additional avenues for surface runoff from the new impervious surfaces located on the bank. While erosion control details are presented to control erosion during construction presumably, there is no information on the cutting into the bank that will occur or the amount of excavation that will take place. In addition, no stormwater plan or system is identified for implementation after the construction is complete. As a result, the project as proposed is contrary to the public interest, even beyond the nearby residents.

If the Variances were granted, the spirit of the ordinance would be observed

Granting the variance is not in the spirit of the ordinance as it would allow substantial development within sensitive areas and on a steep bank where disturbance is even less desirable. The proposal destroys an important community feature (a communal path) and the location and scale of the project are inconsistent with neighboring structures. In addition, the proposed development in this area is not reasonable or necessary.

Granting the variances would do substantial justice.

Granting the variances do not do substantial justice, in fact they will likely do substantial harm to the lake and the community. The path along the top of the bank, as mentioned in the letter from multiple nearby residents, is an important element of our local community. The Existing Conditions drawing says that the existing foot path will be restored but the Proposed Conditions drawing doesn't show a way to do that. In fact, it will be eliminated by the proposed structure, cutting of one end of the community from the other. The tree-clearing proposed is substantial and the increase in impervious surfaces on the bank (house roof, patio, retaining walls, etc.) is significant. Impervious surfaced do not appear to be addressed in the application. Both of these factors are likely to increase erosion and runoff. In addition, justice can only be provided if some hardship is present. In this case, the Lawnicki's have other options for the development of their property, specifically in the location of their current cottage.

If the variances were granted, the values of the surrounding properties would not be diminished.

The proposed construction of the Lawnicki home will severely affect our view of the lake, in part because the location of our house back is set back 25 feet from our original proposed position in 2002. Our original proposal was to site our house at approximately the same distance from the bank as our neighbors. However, the abutters, including the Lawnicki's, objected and requested we remove our house from their field of view from the front 2/3 of their homes, including their porches. Based on their objections, we moved the house 25 feet further back from the lake than our abutter's home. This was a significant concession on our part. If their variances are granted, their proposed construction will have a greater impact on us than the original position would have. Their proposal is now to move their house 40.88 feet closer to the lake with a breezeway and garage behind it. Our home will be completely blocked from any view to the west and southwest. It is expected that the diminished site views and the overwhelming nature of the nearby house/garage structure will substantially affect the value of our property.

Unnecessary Hardship.

There are no special conditions of the Lawnicki property that distinguish it from other properties in the area. The Lawnicki property is similar to all the properties along the Bluffs. Therefore, denial of the variances will not result in unnecessary hardship. Zoning restrictions applied to the Lawnicki property do not interfere with their reasonable use of the property and present no unnecessary hardships. The property can be used in conformance with the ordinance and in a manner similar to other properties in the area. The unique setting of the property is its location as waterfront lot. However, that unique setting can be enjoyed from the location of the existing house, extending further back toward the road as necessary. The existing location of the house provides a reasonable use of the property, and their lot extending towards the road provides opportunities for expansion of the house as needed. The Proposed Conditions drawing shows nine variance items. Moving the house back to the location of the current structure could reduce that to one or none depending on the size of the house and its orientation to the lot lines.

Town of Freedom

From: Ellen White <townadmin@townoffreedom.net>
Sent: Monday, May 24, 2021 7:37 AM
To: office@townoffreedom.net
Subject: fw: Re: fw: Lawinski

Good morning,

I don't know if you want to take a look at the ZbA file for this application and see if you can answer some of her questions, or maybe Gary can if he comes in. I think most of them are going to have to be referred to the Zba. I sent her the application and plans to review because she was not going to be able to make the meeting tomorrow night but maybe this can be submitted when they request comment from the abutters...

I will see you around 10 1030 this morning. Feel free to give me a call if you need anything.

Thanks
Ellen

From: "Jody Perwak" <jperwak@gmail.com>
Sent: Sunday, May 23, 2021 11:36 AM
To: townadmin@townoffreedom.net
Subject: Re: fw: Lawinski

Thankyou so much for providing this information. It is very helpful. I have a couple of additional questions.

- Apparently they provided answers to the 5 questions included in the ZBA application in a separate document. Could you possibly provide this document?
- Was a separate Erosion Control Plan submitted? I realize there's depiction of erosion control on the proposed construction plan, but it seems they are required to submit a Plan.
- In Section B of the Plot Plan Guidelines, the box for cut is not checked, nor is any information provided on excavation, cutting or grading, although according to the diagrams and elevations they are clearly proposing cutting into the bank. Is this information provided in the application somewhere else.
- Related to the question above, it appears that they would be required to submit a permit application to NHDES. According to their website, it does not appear that they have done so. Is there any information in their application about their intent to submit the permit or would this occur after the ZBA has ruled on the variances requested.

Thankyou for any information you can provide.

Joanne Perwak (Hussey Family Realty Trust)
Abutter

On Thu, May 20, 2021 at 12:37 PM Ellen White <townadmin@townoffreedom.net> wrote:

Attached please find the plans, zoning permit application, and application to the Zoning Board of Adjustment for the Lawinski property.

Please feel free to contact the town office if you need further assistance.

Kind regards,

Ellen White
Town Administrator

Town of Freedom
[603.539.6323](tel:603.539.6323)
www.townoffreedom.net