

ZONING BOARD OF ADJUSTMENT

P.O. BOX 227

FREEDOM, NH 03836

Freedom Zoning Board of Adjustment: **January 25, 2022**

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

Absent: Jeff Fongemie (A), Jacob Stephen,

Public: William Larson, Rose Larson, Robert Rafferty, Jane Rafferty and Jim Rines.

During this meeting the following cases will be heard:

Application 19-8-22 William Larson Trust

Application 24-13-22 DJH Investments Trust

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.

Karl made the motion, seconded by Craig to accept the minutes of the November meeting with the following amendments:

Pg. 10 the votes for the Footit application for the votes should reflect 5-0 because Scott Lees returned to the table as a voting member. The attendance was reviewed and is stated correctly.

Pg. 13 second paragraph second line correct the spelling "steak" to "stake".

PUBLIC HEARING

Chairman Lees invited Application # **19-8-22 William Larson Trust**

Applicant wishes to add a second story to the main house. There will be no disturbed land associated with this project and the footprint of the home will not change.

Applicant seeks the following Variances:

Article 9, Section 906.2 The expansion or extension shall not violate the side yard setback or rear yard setback requirements for the district in which the lot is located.

Article 9, Section 906.3 No portion of the enlargement may exceed the height of the existing non- conforming structure.

Map 19 Lot 8

Located at 1031 Ossipee Lake Rd.

Zone: Shorefront General Residential

Chairman Lees stated Tim could have input on the application but he would not be voting on this application. He is sitting in for John Krebs who will recuse himself on the next application.

The owners Mr. and Mrs. Larson came before the board to present their application. Mr. Larson explained their family is growing and they would like to add a second story to give them more bedroom space. They were able to come up with a plan that will not expand the existing footprint for this non-conforming lot. The height of the building at the peak will be 27'. Points discussed:

- The Larsons are in the process of updating the septic system and a new well will be installed removing them from a shared well with their neighbors.

Chairman Lees asked if there were any abutters who would like to speak.

Robert Rafferty 1018 Ossipee Lake Rd. addressed his concerns before the board. He explained he is a direct abutter on right hand side looking at the lake he has a twelve-foot path between the Larson's and the Barbone's. He owns a house on the other side of the street and a vacant lot diagonal to the Larson's. He had a conversation with Mr. Larson and explained to him his concern that the addition will interfere with his view of the lake. He stated that he lives here full time and there are a couple of spots where people like to stop and take pictures and snowmobiles snowmobile through his back yard and stop to take pictures and he stated the Larson's proposal is taking a non-conforming lot and making it more non-conforming. Mr. Rafferty provided pictures to the board taken from his house across the road to give them an idea of his concern. Mr. Rafferty also disagreed with the Larson responses on their application that their proposal would not infringe on the rights of others. He also did not think they proved a hardship.

Mr. Rafferty stated he would support an addition on the garage to give them more space.

Chairman Lees asked if there was anything the Larson's would like to add. Rose Larson responded that house will sit lower than any of the trees referred to in the picture and Mr. Rafferty's house is located across the street from their next-door neighbor and the next house down. Rose did not think their proposed project was within Mr. Rafferty's view shed. He would have to look to the side to see the addition and Mr. Larson added that most of the addition would be hidden by the existing trees. The Larsons meet the roadside and shoreline setbacks it's the sideline setbacks and increasing the height that need the variance.

Chairman Lees asked if the public had anymore comments. Mr. Rafferty believes there is no hardship. They bought the house knowing the size of the house and the lot. Mr. Larson responded the request is based on their family is expanding and would like to spend time together at the house. Niiler asked if they have considered expanding the footprint in a single story instead of going up? Mr. Larson stated it would be more costly due to heating and adding a foundation. Rose added they would also need a shoreline permit and because of the septic and well locations going up seemed the way to go.

Chairman Lees suggested they could add on to the back of the house facing the road without going up and meet the setback requirements that exist. Denny remarked that by expanding on the lot coverage is would create more of a runoff issue than going up but he is sensitive to views he did not think the proposal would impede the view significantly. He supports the vertical approach. John agrees with Denny. Ogren also supports going up instead of spreading it out over the footprint, but he can't visualize what it would look like. Its hard to say how it would impact the view from the pictures. Niiler is tipping toward not supporting the project though increasing coverage on a lot is not good he is sensitive to impeding the neighbor's view. One of the lots disadvantages is that it is very narrow. He is also struggling with visualizing how the addition would affect the neighbor's view. Both Chairman Lees and Niiler feels there may be another option without asking for a variance. Lees also struggles with the environmental impact.

Mr. Rafferty wanted to know what the hardship is and feels he has the right to the view of the lake whether it is straight ahead or to the side. After a brief discussion around the math on the plan, if it was correct the board elected to vote.

The board elected to review the Variance worksheet for **Article 9, Section 906.2 :**

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 4-1.**
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 4-1.**
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.**

Conditions:

1. **Per Plan William Larson Trust dated 9/15/2021**

Findings of Facts:

1. **Expansion will be vertical and will not increase the footprint.**

Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Variance from Article 9, Section 906.2 for side and rear setback 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 Variance worksheet for Article 9, Section 906.3:

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. **3 Carried 2 Defeated .**
2. The spirit of the ordinance is observed if the variance is granted. **3 Carried 2 Defeated .**
3. Substantial justice is done by granting the variance. **2 Carried 3 Defeated**

Reason: There is a location on the property where the building could be enlarged to meet the zoning requirements.
4. The value of surrounding properties is not diminished if the variance is granted. **2 Carried 3 Defeated.**

Reason: By adding a second story the view shed of a neighboring abutter would be negatively impacted.
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

2 Carried 3 Defeated.

Reason: By increasing the height of the building, a diminution of the value to an abutters property due to blocking views of the lake.

(ii) The proposed use is a reasonable one.

Carried 4 Defeated 1.

B. If the above criteria for unnecessary hardship cannot be established, an unnecessary hardship will be deemed to exist if, and only if, owing the special conditions of the property that distinguish it from other properties in the area:

(i) the property cannot be reasonably used in strict conformance with the ordinance, and

1 Carried 4 Defeated.

Reason: An addition can be added to the property that meets zoning requirements.

(ii) a variance is therefore necessary to enable a reasonable use of the property.

0 Carried 5 Defeated

Reason: For the reasons outlined above the property can be used without a variance.

Chairman Lees explained to the Larsons they successfully obtained a variance for the sideline but did not grant a variance for the height. Chairman Lees explained the 30-day appeal process.

It was explained to the Larsons that if they feel the board made an error, they can ask for a rehearing via a letter to the board within 30 days and point out what the board failed to consider that may have changed their minds. The other option is to come back with a different plan. The board did not have a problem with the rear/sideline setbacks just the height. The board struggled with how the addition would affect the neighbor's view. Denny suggested confirming the 27' on the plan where it is being measured from.

Chairman Lees invited Case # 24-13-22 DJH Investments Trust

Applicant wishes to move the previously approved home 4.8 feet further from the shoreline, increasing the setback from the approved 8.1 feet at the closest point to 12.9 feet at the closest point and install two retaining walls adjacent to the two wetlands on-site.

Applicant seeks the following Special Exception and Variance:

Special Exception Article 3, Section 304.6.3 Erosion Control

Variance Article 3, Section Table 304.5

Map 24 Lot 13

Located at 173 Haverhill St.

Zone: SF and General Residential

John Krebs recused himself and stepped away from the table as a voting member. Tim Cupka sat in for John Krebs as a voting member.

Jim Rines from Horizons Engineering (formally known as White Mountain Engineering) came before the board to present this application. Jim referred to the map to show the proposed location of the new house, and because

fill was brought in, they are proposing retaining walls adjacent to the two wetlands on-site to maintain the grades where the foundation is located to keep the fill out of the wetland. There is a wetlands restoration plan that has been approved by the NHDES wetlands for the work and Jim has applied for an amended shoreland permit for moving the building back and placement of the retaining walls. Other points discussed:

- The old driveway has been blocked off with stones.
- There was a discrepancy in the tree count. It was found to be higher than previously thought which is a benefit to the public and the applicant.
- The Conservation Commission has reviewed this application and have not submitted any feedback.
- Craig asked if the retaining walls are a part of the restoration plan, Jim clarified that they have been submitted to DES and that the wetlands people just want the wetlands restored back so, that any fill that is in the wetlands is take out. The wall will be outside the wetlands.
- The wall at the highest spot is 4.18' and the wetlands is 4.14'.

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:
 - 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.**

Conditions:

1. Per Plan titled Zoning Board of Adjustment application plan for DJH Investment Trust dated January 6, 2022.
2. This approval is for the new house location and retaining walls
3. Approval is based on applicant obtaining amended Shoreland Permit.
4. A footing survey needs to be done by a licensed land surveyor if existing footings are replaced.

Findings of Facts:

1. At the original hearing it was discussed moving the house further back from the lake.
2. The approval covers the new house location and retaining walls to protect the wetlands.

Motion: Chairman Lees made a motion that, based on the foregoing findings of fact, the requested Variance from Article 3, Section Table 304.5 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 and the variance expires on 1/25/24.

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

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 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 conditions. Karl seconded the motion; Motion carried 5-0.

Conditions:

- 1. At the original hearing it was discussed moving the house further back from the lake.**
- 2. The approval covers the new house location and retaining walls to protect the wetlands.**

Chairman Lees explained the 30-day appeal period and the Special Exception expires 01/25/24.

Miscellaneous

It was discussed coming up with a standard language for conditions when an application is approved. Stacy will work on a worksheet with a menu.

Ogren opened discussion on setbacks. He wants to see anyone who is asking for relief for a boundary line that a licensed land surveyor certify the boundary lines and the same for foundation and footings. Per plan was discussed and what if the plan is wrong.

John is also in favor whenever a sideline or rear setback is being granted relief that it be surveyed by a licensed land surveyor to show where the line is located. These proposals can't be proposed this year, it would have to wait until next year. Denny was not completely sold on the proposal. He thinks it would be a burden to the homeowner who is doing small projects.

Also discussed is granting a foundation permit before issuing a building permit.

The Lawnicki Plan that Mark McConkey dropped off at the office was reviewed for the surveyor's boundary line statement.

Stacy presented a spreadsheet reviewing the cost vs. revenues. It was discussed to increase the application fee to \$100.00 and the abutter fee to \$15.00 also discussed was having the applicant provide mailing three sets of mailing labels.

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 9:00 p.m.

Respectfully Submitted,
Stacy Bolduc,
Recording Secretary

DO NOT WRITE IN THIS SPACE

APPLICATION # _____

DATE FILED _____

FEE PAID _____

RECEIVED BY _____

**APPLICATION TO ZONING BOARD
OF ADJUSTMENTS
FREEDOM, NEW HAMPSHIRE 03836**

Name of Applicant(s) WILLIAM & ROSE LARSON

Mailing Address 142 FAIRWAY DR ATTLEBORO, MA 02703

Telephone Number(s) 508-431-1092 (H) 508-243-1675 (WC) 508-230-6885 (RC)

Property Owner(s) WILLIAM E. LARSON TRUST & ROSE G. LARSON TRUST

(If same as applicant, write "Same")

Mailing Address 142 FAIRWAY DR ATTLEBORO, MA 02703

Location of Property: Tax Map # 19 Lot # 8 Zoning District SHOREFRONT G.R.

Physical Address of Property 1031 OSSIPEE LAKE RD

Name, Address and Map/Lot of all abutters whose property adjoins or is directly across the street or stream from the property of the applicant. Additional pages may be added.

MAP#/LOT#

NAME and ADDRESS

<u>19/9</u>	<u>ROBERT P. & JANE E. RAFFERTY</u>	<u>3 BANK ST. WOBURN, MA 01801-169</u>
<u>19/7</u>	<u>BERNICE & WILLIAM INGHAM</u>	<u>1027 OSSIPEE LAKE RD, FREEDOM, NH</u>
<u>19/13</u>	<u>TIMOTHY E. & DEBORAH L. PAINE</u>	<u>1024 OSSIPEE LAKE RD FREEDOM, NH</u>
<u>19/10</u>	<u>KATHY BARBONE</u>	<u>OLR REALTY TRUST 6 HERITAGE LN</u> <u>ATKINSON, NH 03811</u>

This application has been completed in accordance with the Zoning Ordinance of the Town of Freedom.

Date: 12-28-2021

Signed: [Signature]
Owner (If agent, owner must still sign)

Date: 12/27/2021

Signed: Rose G. Larson
Owner (If agent, owner must still sign)

Date: _____

Signed: _____
Owner (If agent, owner must still sign)

Also continue to Page 6; submit a Plot Plan – see page 7.

OR

Section 3. APPEAL FOR VARIANCE

A variance is requested from Article 906 Section 2 of the zoning ordinance to permit A SECOND FLOOR ADDITION ON A NON-CONFORMING LOT. No BUILDING FOOTPRINTS WILL BE CHANGED.

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public interest because:

AN IMPROVEMENT TO PRIVATE PROPERTY WILL NOT INJURE THE PUBLIC RIGHTS OF OTHERS

2. If the variance were granted, the spirit of the ordinance would be observed because:

THE USE OF THE LAND WILL NOT BE CHANGING, THE FOOTPRINT OF THE HOME WILL NOT BE CHANGING, AND THE HOME WAS BUILT BEFORE THE CURRENT SETBACK & LOT SIZE REQUIREMENTS WERE INSTITUTED. WE ARE WILLING TO MOVE THE BACK PORCH STEPS TO MAKE THE STRUCTURE LESS NON-CONFORMING.

3. Granting the variance would do substantial justice because:

WE WOULD LIKE TO EXPAND OUR HOME TO ACCOMMODATE OUR GROWING FAMILY. NEIGHBORING HOMES HAVE ALREADY BEEN EXPANDED AND THE CHARACTER OF THE AREA WILL NOT BE NEGATIVELY IMPACTED BY A SECOND FLOOR ADDITION.

Application
Page 5

NOTE TO APPLICANT AND ZONING BOARD REGARDING THE UNNECESSARY HARDSHIP TEST: If the above criteria for unnecessary hardship cannot be met, then the Zoning Board can still find unnecessary hardship if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, (a) the property cannot be reasonably used in strict conformance with the ordinance, and (b) a variance is therefore necessary to enable a reasonable use of the property. See VARIANCE WORKSHEET and RSA 674:33,I(b).

Also continue to **Page 6**; submit a **Plot Plan** - see page 7.

OR

Section 4. APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

An Equitable Waiver of Dimensional Requirements is requested from Article _____
Section _____ of the Zoning Ordinance to permit:

1. Does the request involve a dimensional requirement, not a use restriction?
() Yes () No If you answer "No" you are not entitled to an equitable waiver of dimensional requirement. These waivers may not be granted from use restrictions.
2. Explain how the violation has existed for 10 years or more with no enforcement action, including written notices, being commenced by the town or by any person directly affected:

PLOT PLAN GUIDELINES

A) Submit a plan, drawn to scale, 1" = 20', font must be at least 8pt, showing a minimum of the following:

- ☒ 1. Property lines and distances
- ☒ 2. Setbacks for front, side and rear yards
- ☒ 3. Show all existing and proposed buildings
- ☒ 4. Wells
- ☒ 5. Septic tank and leach field
- ☒ 6. Indicate building dimensions to overhang
- ☒ 7. Height of buildings 27' PROPOSED HEIGHT
- ☐ 8. Indicate all structures with dimensions including but not limited to:
 - Porches
 - Sheds
 - Decks
 - Garages
 - Stoops
 - Retaining walls
 - Patios
 - Impervious surfaces within 150' of the shoreline
 - Unique features
- ☐ 9. Water reference line (Ossipee Lake elevation 407')
- ☐ 10. Road names
- ☐ 11. Abutters names in proximity to property

B) If seeking special exception or variance in the shorefront district you must include:

- ☐ Fill – Temporary or Permanent
- ☐ Cut – Temporary or Permanent
- ☐ Tree removal
- ☐ Erosion control
- ☐ Docks
- ☐ Stairs
- ☐ Contours – Temporary or Permanent
- ☐ Retaining walls – Temporary or Permanent
- ☐ Lake level (Ossipee Lake elevation 407')

C) Lots under 5 acres:

Total area of lot in square feet 24,425

Square feet of lot coverage (including all structures) 2634 (INCLUDES OVERHANGS)

% of lot covered 10.4

D) In addition to the list above it is your option to submit:

Photographs
Abutter's letters

1031 Ossipee Lake Rd
Neighborhood Views

Two story house next door
View from street side



View from lake side



1031 Ossipee Lake Rd
Neighborhood Views

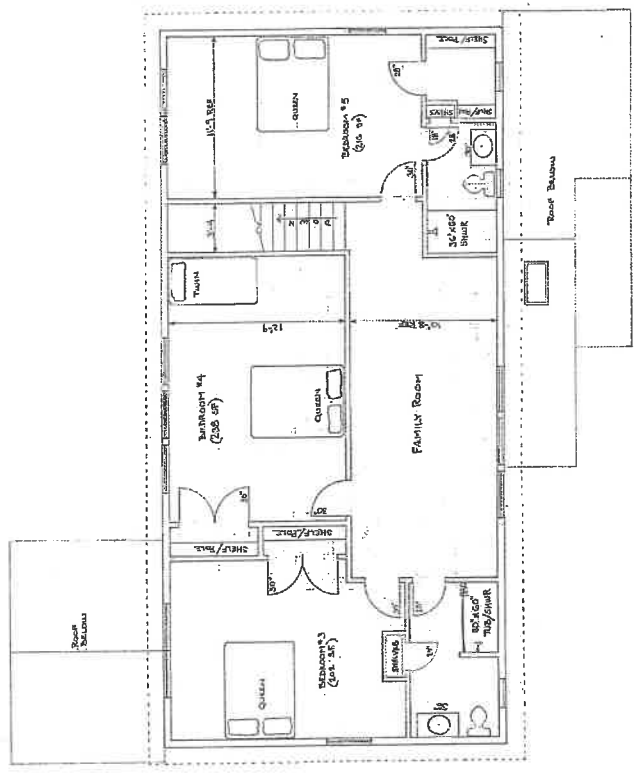
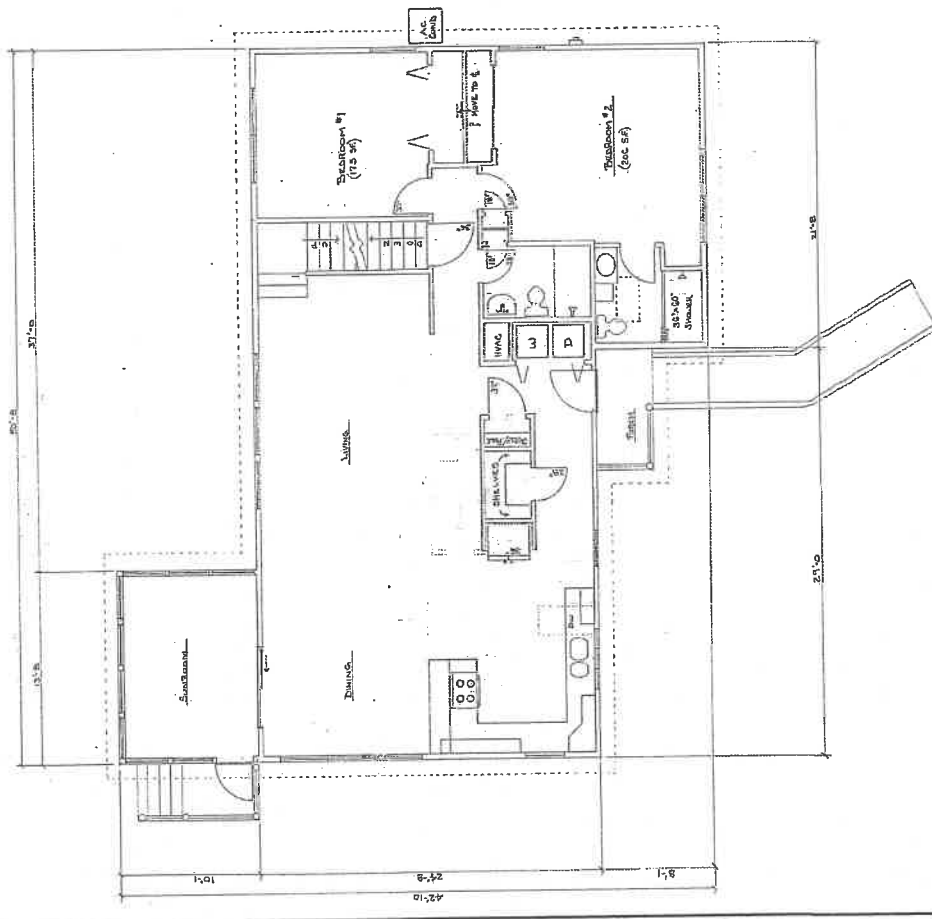
House and two story garage across the street (uphill)



View from lake - mix of single and multiple story homes

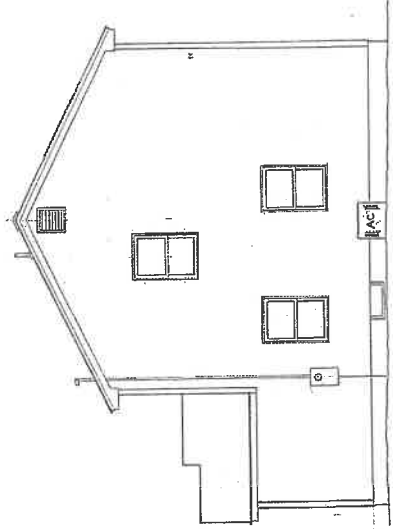
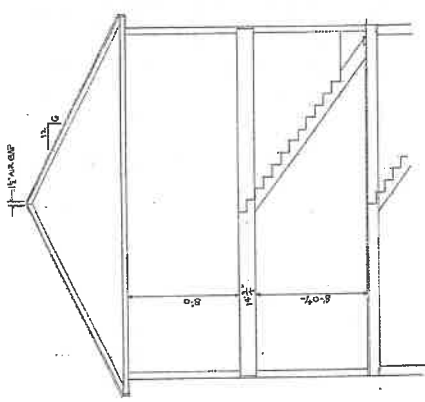


14' NIBO 7'3" x 15' x 7'3"

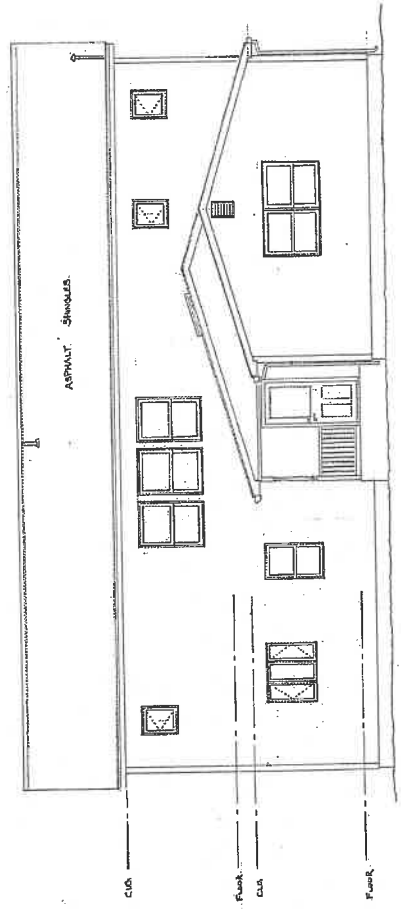


SPACE CALCULATIONS:
TOTAL AREA = 8'0" x 14'0" = 112' + 15' x 7'3" = 109'

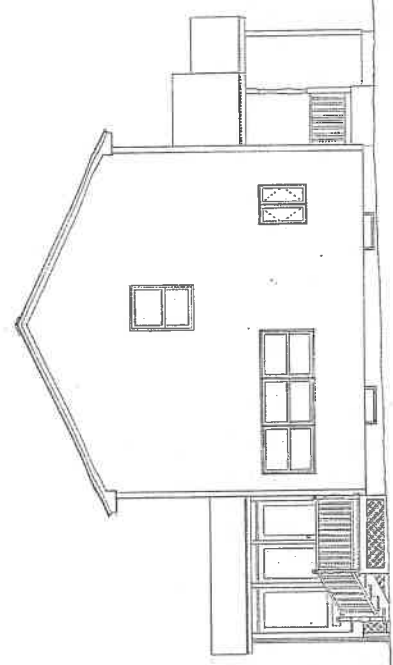
REVISION	
DATE	REVISION
LEONARD BUILDERS	
BUILT ROSE LARSON - RESIDENCE	
FLOOR PLANS	
DRAWN BY: J. L. LEONARD CHECKED BY: J. L. LEONARD DATE: 12-11-11 SCALE: 1/8" = 1'-0" PROJECT NO.: 11111	



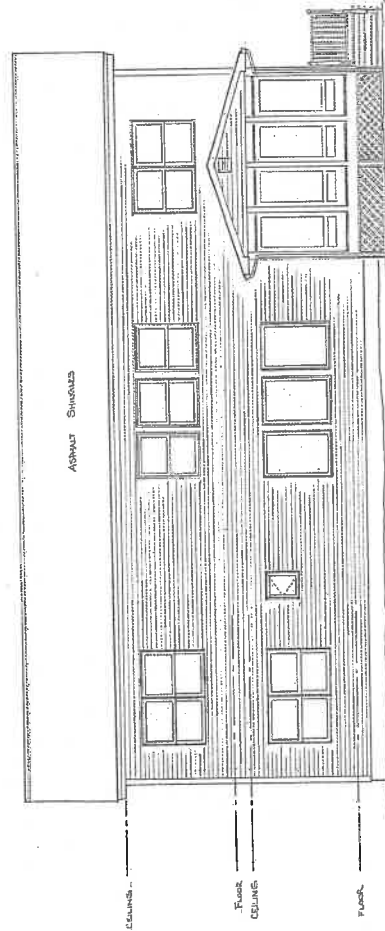
WEST ELEVATION



NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION

LEONARD BUILDERS

DATE	10-10-10	PROJECT NO.	1001
BY	J. L. L.	CLIENT NAME	Mr. & Mrs. L. L. L.
PROJECT NAME	1001 COASTAL LANE RD. PROJECT		
PROJECT TYPE	RESIDENCE		

NOT FOR CONSTRUCTION

Denial Letter Map 19 Lot 8 Name Larson

- ☐ 304.5 TABLE "SF" SHORE FRONT DISTRICT for Lakes & Ponds over 10 acres & Ossipee River
- ☒ House _____
- ☐ Garage _____
- ☐ Other _____
- ☐ 304.6.3. Special Exception Standards for Erosion Control
- ☐ 304.6.5.1 Tree Cutting: Any cutting or clearing of trees within seventy-five (75) feet of the reference line in the shorefront district shall require a special exception from the Zoning Board of Adjustment. and shall be subject to the provisions of Article 7 Shoreland Protection, section 703.
- ☐ 305.6.5.3 For lots in the floodplain or lots sloping toward the lake at greater than a 12.5% grade, any cutting between seventy-five (75) and three hundred (300) feet of the reference line shall also require a cutting or clearing plan to be approved by the Zoning Board of Adjustment. The cutting plan shall meet the intent of this ordinance as stated in Section 701 and using a methodology similar to that set out in Section 703 augmented for the larger area involve
- ☐ Section 406 Septic Tank or Leach Field Setback No Septic Tank or Leach Field may be constructed or enlarged closer than one hundred twenty-five (125) feet to any wetland. In the case of a failed system, the septic tank may be a minimum of (50) feet from any wetland providing all joints are sealed and approval of Water Supply & Pollution Control Division is obtained to the extent required by law.
- ☐ 704.3 As required in section 310.1.6, structures cannot exceed 15% of the total area of a lot of record.
- ☐ Section 906 Expansion of Non-Conforming Structure A structure which is nonconforming as to one or more dimensional requirements (setback and height limit or either) may be enlarged or expanded with the following conditions:
- ☐ 906.1 No portion of the enlargement or expansion of a structure shall further encroach on the front yard setback beyond the existing overhang of the main structure
- ☒ 906.2 The expansion or extension shall not violate the side yard setback or rear yard setback requirements for the district in which the lot is located the main structure
- ☒ 906.3 No portion of the enlargement may exceed the height of the existing non-conforming structure.
- ☐ Section 907 Expansion of Pre-Existing Non-Conforming Seasonal Dwellings 907.1 Purpose and Intent It is the purpose section to acknowledge the existence of non-conforming seasonal dwellings, the use of which pre-dates the original adoption of these zoning ordinances in 1987. It is further the purpose of this section to permit the continued use of these non-conforming dwellings within the requirements enumerated in Article 5; to permit expansion of certain non-conforming seasonal dwellings to year-round use under limitations enumerated in Section 907.4; and to prohibit expansion to year-round use of more than one (1) seasonal dwelling per lot, while limiting their pre-existing use to their continuous, uninterrupted and unenlarged seasonal nature, as enumerated in Sections 907.3 and 907.5. It is the purpose of these ordinances to regard the temporal expansion of more than one (1) non-conforming seasonal dwelling per lot to year-round use as a substantial change in use such that the vested right to the non-conforming use is discharged and the lot and its use must conform to current requirements of these ordinances.
- ☐ Other _____

Zoning Officer Decision

The zoning officer is required to deny an application under Section 2303, if:

- The application is for a use that requires a special exception
- The application requires a variance

Only the ZBA is the body that can grant either of the above.

Approved _____ Date _____ Zoning Officer _____

Denied ✓ Date 12-30-21 Zoning Officer [Signature]

Reason for denial _____

If the zoning officer denies the application, the applicant may appeal this decision to the Zoning Board of Adjustment. Please use the Zoning Board Application at <https://townoffreedom.net/wp-content/uploads/2019/03/ZBA-APPLICATION.pdf>

ZBA Tips:

- Application and Appointment of Agent Form must be completed and signed by all owners of the property.
- Abutter letters go directly to ZBA at PO Box 227, Freedom, NH 03836
- The applicant is responsible to fulfill all requirements from the ZBA and provide the necessary information. The applicant is responsible for reading the regulations. The Zoning Officer's role is to help the applicant complete the application if the applicant requests help.
- To be considered by the ZBA, an application must be significantly different from a previous application which the ZBA has previously denied.
- If the ZBA approves the special exception or variance, the application will come back to the zoning officer for action. The zoning officer will determine that the applicant has met all conditions imposed by the ZBA and sign below.
- The ZBA approval can be appealed within 30 days of the decision.

Once the zoning officer has signed the application, it can go to the Building Department.

FOR USE IF THE APPLICANT'S ORIGINAL APPLICATION IS DENIED AND THE ZBA HAS APPROVED THE PROPOSED PROJECT

Approval below signifies that the applicant has submitted proof that they have met all conditions listed by the zoning board of adjustment.

Approved _____ Date _____ Zoning Officer _____

Per ZBA decision dated: _____



**WHITE MOUNTAIN SURVEY & ENGINEERING, INC.
A DIVISION OF HORIZONS ENGINEERING, INC.**

1270 ROUTE 16, POST OFFICE BOX 440
OSSIPPEE, NH 03864-0440
TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912
WEB ADDRESS: www.whitemountainsurvey.com

Via Hand Delivery

To: Town of Freedom
Zoning Board of Adjustment

Date: January 10, 2022

Re: DJH Investments Trust
Variance & Special Exception Applications
173 Haverhill Street – Tax Map 24, Lot 13

Enclosed, please find the following:

No. of Copies	Date	Description of Item
1	01/10/2022	Check # 1029 for \$113.00 (application fees)
12	01/10/2022	Cover Letter
12	05/11/2020	Appointment of Agent
12	01/10/2022	Special Exception and Variance Application w/ supplemental sheets
12	01/06/2022	Zoning Permit Application
12	01/06/2022	Zoning Officer Decision (Denial)
12	01/10/2022	Abutters List
3 sets		Mailing Labels to Each Abutter
12	01/06/2022	Zoning Board of Adjustment Application Plan (11" x 17")
12	01/10/2022	Zoning Board of Adjustment Application Plan (full size plots)
12	12/30/2021	Restoration Approval #2021-02547 for Wetland Restoration

Sincerely,
White Mountain Survey & Engineering, Inc.
A Division of Horizons Engineering, Inc.

James F. Rines, PE, LLS, CPESC
VP Land Surveying Group

ZONING BOARD OF ADJUSTMENT (ZBA)

**Town of Freedom
PO Box 227
Freedom, NH 03836
603-539-6323**

**INSTRUCTIONS AND FORMS FOR APPLICANTS
APPEALING TO ZBA
SEE ALSO ZBA RULES OF PROCEDURE DATED 01/25/2011**

**To view Freedom's Zoning Ordinance, please visit:
www.townoffreedom.net**

INSTRUCTIONS TO APPLICANTS APPEALING TO THE BOARD OF ADJUSTMENT

Important: Read carefully before filling out and submitting an application. Please note that all four types of appeal require you to attach a completed plot plan.

The ZBA strongly recommends that, before making any appeal, you become familiar with the zoning ordinance, and also with New Hampshire Statutes *RSA Chapters 672-677*, covering planning and zoning. Copies of such are available at the Town Office Building.

Four types of appeals can be made to the ZBA:

- 1. APPEAL FOR AN ADMINISTRATIVE DECISION**
- 2. APPEAL FOR SPECIAL EXCEPTION**
- 3. APPEAL FOR VARIANCE**
- 4. APPEAL FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS**

1. APPEAL FOR AN ADMINISTRATIVE DECISION

If you have been denied a building permit or are affected by some other decision regarding the administration of the Freedom Zoning Ordinance, and you believe that **the decision was made in error** under provisions of the ordinance, you may appeal the decision to the ZBA. The appeal will be granted if you can show that the decision was indeed made in error.

When you are **appealing an Administrative Decision**, a copy of the decision appealed from must be attached to your application. Complete *Section 1: Appeal from an Administrative Decision*. Review section of **General Conditions** for all appeals. Attach completed **Plot Plan**.

2. APPEAL FOR SPECIAL EXCEPTION

Certain sections of the zoning ordinance provide that a particular use of property in a particular zone, will be permitted **by special exception** if the specified conditions are met. The necessary conditions for each special exception are given in the ordinance. Your appeal for a special exception will be granted if you can show that the conditions stated in the ordinance are met.

When you are submitting an application for an **APPEAL FOR SPECIAL EXCEPTION**, you will probably need a site plan or subdivision approval, or both, from the planning board. Even in those cases where no planning board approval is needed, presenting a site plan to the planning board will assist in relating the proposal to the overall zoning. This should be done **before** you apply for a special exception to the ZBA. When applying for a **special exception**, you must have some form of determination that your proposed project is not permitted without a special exception. Most often, this determination is denial of a zoning permit. A copy of the determination must be attached to your application. Complete *Section 2: Appeal for Special Exception*. Review section on **General Conditions** for all appeals. Attach completed **Plot Plan**.

Describe your property: Submit twelve copies of plot plan; see page 7 for a list of requirements.

3. APPEAL FOR VARIANCE

A variance must be obtained from the ZBA for a use of your property not listed in the Zoning Ordinance for the Zoning district in which your property is located. In addition a variance must be obtained if your proposed use will not meet the setback/yard requirements, minimum lot size or any other dimensional requirements.

When applying for a **variance**, you must have some form of determination that your proposed use is not permitted without a variance. Most often, this determination is denial of a zoning permit. A copy of the determination must be attached to your application. Complete *Section 3: Appeal for a Variance* as well as **Facts Supporting Appeal for Variance**. Review section on **General Conditions** for all appeals. Attach a completed **Plot Plan**.

For an appeal to be legally granted, **you must show** that your proposed use meets all five of the following conditions:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed if the variance is granted.
3. Substantial justice is done by granting the variance.
4. The value of surrounding properties are not diminished if the variance is granted.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

Describe your property: Submit twelve copies of plot plan; see page 7 for a list of requirements.

4. APPEAL FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

The board may grant an equitable waiver only for existing dimensional nonconformities provided the board makes all of the following findings:

1. The nonconformity was not discovered until after the structure was substantially complete or after a vacant lot in violation had been transferred to a bona fide purchaser;
2. The nonconformity was not an outcome of ignorance of the law or bad faith but was instead caused by a legitimate mistake;
3. The nonconformity does not constitute a public or private nuisance or diminish the value or interfere with the future uses of other property in the area; and
4. The cost of correction would far outweigh any public benefit to be gained.

The owner can meet the requirements in paragraph (1.) and (2.) if the violation has existed for 10 years or more with no enforcement action, including written notices, commenced by the town or by any person directly affected.

Please attach completed **Plot Plan**.

GENERAL INSTRUCTIONS FOR ALL

Please detach and keep instructions

For any appeal, the appropriate section of the attached form must be completely filled out. The form is intended to be self-explanatory, but be sure that you show:

WHO owns the property? All owners must be listed and there must be signatures of all owners in any areas applicable. (If the applicant is not the owner, the owner must authorize the appeal.)

WHERE the property is located? (Give tax map, lot number, and zoning district.)

DESCRIBE the property: Show area, frontage on the road and on the water, side and rear yard setbacks, slopes and natural features if appropriate, vegetation, wells, septic systems, all dimensions and all structures. (Use Plot Plan.)

WHAT do you propose to do? Attach sketches, pictures, construction plans, or whatever may help the proposed use. Include copies of any prior applications concerning the property.

PREPARE A LIST of all names and addresses of all abutting property owners. Have it verified at the town office, and attach it to your application. The accuracy of the printed abutter list is **your** responsibility. If you miss an abutter the ZBA will have to do the procedure again.

COPIES/PHOTOGRAPHS of color or larger than 11x17 require that twelve copies of each be submitted.

MAIL OR DELIVER 12 colated copies of the complete Zoning Application, the completed appeal, with all attachments and plans being folded to 8 ½ x 11 to the clerk of the ZBA or to the office of the Board of Selectmen. The deadline for submission is listed on the ZBA page of the Freedom website, (www.townoffreedom.net) or call the Town office for the date. Deadlines are firm and cannot be extended. A fee is charged sufficient to cover the cost of preparing and mailing the legally-required notices. Make check payable to **Town of Freedom** and remit with your application.

FEES: \$65.00 for residential applications and \$85.00 for all others plus the cost of notifying abutters by Certified Mail at \$8.00 each, minimum of \$25.00.

PUBLIC HEARING: The ZBA will schedule a **public hearing** within 30 days of the receipt of your properly-completed appeal. The ZBA normally meets on the fourth Tuesday of each month at 7:00 PM in the Freedom Town Hall. Public notice of the hearing will be posted and printed in a newspaper. The notice will be mailed to you and to all abutters at least five days before the date of the hearing. You and all other parties are encouraged to appear in person or by agent or counsel to state reasons why the appeal should or should not be granted.

DECISION: After the public hearing, the ZBA will reach a decision. You will be sent a notice of decision. In granting a variance or special exception the ZBA may attach such conditions as safeguard as it deems proper. A decision by the ZBA does not constitute final approval for the project. The applicant must then meet with the Zoning Officer and present proof that they have met the conditions of the ZBA.

APPEAL ZBA DECISION

If you believe the ZBA decision is wrong, you have the right to appeal. The selectmen, or any party affected, have similar rights to appeal the decision in your case. To appeal, you must first ask the ZBA for a rehearing. The motion for rehearing must be in the form of a letter to the ZBA. The motion must be made within 30 days of the ZBA's decision, and must set forth all the grounds on which you claim the decision was unlawful or unreasonable.

The ZBA may grant such a rehearing if, in its opinion, a good reason is stated in the motion. The board will not reopen a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested one before you can appeal to Carroll County Superior Court. When a rehearing is held, the same fees and procedure is followed as for the first hearing, including public notice and notice to abutters. (See RSA Chapter 677 for more details on rehearing and appeal procedures.)

The ZBA will decide on the motion for rehearing within 10 days. If the motion is denied you must file your appeal with the Carroll County Superior Court within 30 days of the denial.



**WHITE MOUNTAIN SURVEY & ENGINEERING, INC.
A DIVISION OF HORIZONS ENGINEERING, INC.**

1270 ROUTE 16, POST OFFICE BOX 440
OSSIPPEE, NH 03864-0440
TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912
WEB ADDRESS: www.whitemountainsurvey.com

January 10, 2022

Via Hand Delivery

W. Scott Lees, Chairman
Freedom Zoning Board of Adjustment
P.O. Box 227
Freedom, NH 03836

Re: DJH Investments Trust
Variance & Special Exception Applications
173 Haverhill Street
Tax Map 24 Lot 13

Dear Scott and Members of the Board:

Enclosed you will find a revised plan and application package for the above referenced property that received the latest approval on September 28, 2021.

This variance application is being filed to address the relocation of the approved home, moving it 4.8 feet further from the shoreline due to concern that they could not dig a full foundation in the approved location. It was previously approved at 8.1 feet from the shoreline at the closest point and will now be 12.9 feet at the closest point. We are simultaneously seeking a special exception for erosion control because of the need to install two retaining walls adjacent to the two wetlands on-site.

Although not specifically part of this application, there will be future restoration of on-site wetlands due to impacts that occurred on site during the construction process. That wetland restoration was approved by NHDES under file number 2021-02547 dated December 30, 2021.

While there is no additional tree removal requested with this new application, I had my survey crew locate the trees that remain on-site now that all the clearing has occurred. I am embarrassed to point out that we apparently missed a few trees during the initial tree inventory and our descriptions were not as accurate as they should have been. By locating all the trees which exist on the site now, and through more careful measurements by my survey crew member who has a forestry degree, some trees previously identified at the cut-off points of 3", 6", and 12", were found to fall into the next higher category which resulted in a higher tree count than previously approved. While this is good for both the public and the applicant, it deserved an explanation here.

There is no change requested relating to the sewage disposal system septic tank that was previously approved.

LAND SURVEYING & PLANNING · CIVIL ENGINEERING · EXPERT TESTIMONY · SEPTIC DESIGN
Providing Professional and Courteous Service Since 1977



Regarding the Special Exception application for the erosion control, based upon the requirements contained in Section 306.B, for projects for erosion control and vegetation removal, we only need to address 306.1, A, C, H, J, K, and L. I will now go through those criteria to demonstrate our conformance with these requirements allowing the request to be granted.

306.1 A. The character of the area in which the proposed Special Exception use will be placed shall not be adversely affected by the proposed Special Exception use.

The proposed use is a permitted use in this zone. Therefore, the character of the area will not be adversely affected. Since we are increasing the shoreline structure setbacks while installing stormwater mitigation where none presently exists, there is no expectation that this request will have an adverse effect. We will also be installing new plantings along the northerly and southerly boundaries as part of our amended shoreland impact permit.

306.1 C. The proposed Special Exception shall not adversely affect Town services and facilities.

The proposed use will not have any adverse impact to town services and facilities since the property is serviced by on-site sewage disposal and on-site well.

306.1 H. There shall be adequate access from the public highway and sufficient maneuvering room on the lot for fire, police, and emergency vehicles. The applicant shall also provide information as to plans for fire protection.

The old driveway has been closed off with rocks and the new driveway was approved by the town Road Agent. The lake is available for fire suppression if needed, in addition to the water they would presumably arrive on site with on their trucks.

306.1 J. Provisions shall be made for handling water drainage on the lot to prevent flooding of the lot or of another property.

With the construction of the stormwater mitigation, we are managing the stormwater runoff where none presently exists and the lot drains toward the lake and not toward the abutters.

306.1 K. On-site lighting shall be designed to assure adequate illumination for the safety of vehicles and pedestrian travel. Exterior lighting shall be installed and operated in such a manner that adjacent residential uses are not adversely affected. Such lighting shall not shine onto roads and public highways to interfere with the operation of motor vehicles.



The lighting for the proposed structure will be typical residential style lighting. It will not shine onto roads, public highways nor interfere with the operation of motor vehicles.

306.1 L Adequate Landscaping.

The existing landscaping meets or exceeds the Freedom requirements.

With the addition of the included variance and special exception material, I believe you will find the application self-explanatory, and we look forward to presenting these revised plans at your January 25, 2022, hearing.

In thanking you for your attention to this matter, I remain

Sincerely,
White Mountain Survey & Engineering, Inc.
A Division of Horizons Engineering, Inc.

James F. Rines, PE, LLS, CPESC
VP Land Surveying Group

TOWN OF FREEDOM ZONING PERMIT APPLICATION

1. Owner Information

Owner DJH Investment Trust : David and Jennifer Hayes, Trustees Date: 01/06/2022
4540 N. Ocean Drive; Apt. 602
Permanent Address: Lauderdale By The Sea, FL 33308 Phone # _____
E-mail Address: dhayes@hireminds.com Cell# 617-504-3631

2. Property Information

Property Address: 173 Haverhill Street Phone: 617-504-3631
Map# 24 Lot# 13 Lot Size (acres) 1.19 Ac Zoning District SF and GR
You can find the first 3 items on your tax bill. Check zoning district with zoning officer.

Is this property non-conforming by area? (Section 803)

Yes ☒ No

Zoning District	Min. Lot Size	Zoning District	Min. Lot Size
Village Residential (VR)	1 acre	Residential/Light Commercial (R/LC)	5 acres
General Residential (GR)	2 acres	Shorefront GR	2 acres
Rural Residential (RR)	1 acre	Shorefront RR	1 acre

Does the property have town water or a private well? Private Well

What class road does the property border on? Class V Town Road - Haverhill Street

See page 10 for a list of town roads to find this information.

Are there any easements or rights of way on the property? Yes ☒ No

Does this property lot have a tax exemption because part/all acreage is in current use? Yes ☒ No

If there are prior zoning applications concerning the property, include the application and a Plot Plan

Is this property on a corner—i.e., borders on two different streets? (Section 803) Yes ☒ No

Are there wet areas or wetlands on the property? (Section 403 to 306, Article 6) Yes ☒ No

Is the property 0.5 acres or less? Section 310.1.7 Yes ☒ No

Is the property in the floodplain? See Floodplain Ordinance <https://townoffreedom.net/regulations/> Yes ☒ No *

* Not in the redevelopment area

3. Current Property Use—check all that apply

Residential (existing home) 7 # of current bedrooms Accessory buildings only Raw Land
In Current Use Commercial Camp/Campground Home Occupation: Minor Major
Other Specify

4. Proposed Project

Describe **all parts** of the proposed project (new construction, removals, replacements, new rooms, etc.)

Relocate the primary dwelling further from the shoreline than the plan approved on September 28, 2021, construct
two retaining walls to keep fill from wetlands to be restored, and Proposed start date Winter 2021/22 -Spring 2022
address northerly wetland culvert pipe in accordance with NHDES restoration approval #2021-02547 dated 12/30/21.

Is this use permitted or does it require a special exception? Permitted X Special exception _____
See page 11-12 for a list of permitted and special exception uses by district

Will the height of any structures be altered? Section 308.3.1 _____ Yes No *

Will the total footprint of all structures exceed 15% lot coverage? Section 310.1.6 _____ Yes No *

Will the project expand a non-conforming structure? By what %? Section 906 _____ Yes No *

Does the project comply with all parking requirements? Section 1104.1 _____ Yes No

If the proposed building a manufactured home, does it meet the requirements? Section 1107 _____ Yes No N/A

Is the property adjacent to a stream Section 602-603 _____ Yes No

See table of streams on page 13.

If yes, provide a stormwater management plan. (See pages 14-18).

Will any additional water flow off the site to an abutter's property or town road (Section 602-3) _____ Yes No

If yes, provide a stormwater management plan (See pages 14-18)

* - Signifies no change from previously approved plans in terms of heights, footprints and expansion of nonconforming structures.

5. Present and Proposed Construction

Boundary lengths (in feet). If you have a surveyed plot plan, please use that data. If not, go to <https://townoffreedom.net/tax-maps/> to select your tax map, then find your lot number for the data.
(shoreline)

Lot road frontage: 198.6' Left boundary: 253.3' Right boundary: 267.6' Rear boundary: 206'

List the setbacks for building(s) **presently** on your property? Include all building overhangs in your measurements. (Tables 304.1 to 304.6)

Building name	Front (on road)	Right boundary	Left boundary	Rear boundary
Required setback	50 feet	30 feet	30 feet	40 feet Shorefront 75 feet
Rec Hall/Bunk Hse	171.8'	-4.3'	151.5'	49.8'
Cottage	193.5'	105.5'	44.4'	8.1'
Garage	94.0'	77.5'	87.1'	123.7'
Shed	189.1'	60.4'	125.9'	53.4'

What are the setbacks for the **proposed** structure(s)?

Building name	Front (on road)	Right boundary	Left boundary	Rear boundary
Required setback	50 feet	30 feet	30 feet	40 feet Shorefront 75 feet
House	192.9'	105.5'	40.1'	12.9'
Garage	74.9'	38.3'	106.6'	139.5'

Address the following if property in the shorefront district

Any proposed structures within 300' of reference line? Table 304.5 _____ Yes No

Will the project require any earth work? Section 304.6. _____ Yes No

Is there a need for erosion control? Section 304.6.3 _____ Yes No

Is there any tree cutting within 75'? Section 703.4 and Section 304.6.5 _____ Yes No

Is there tree cutting beyond 75' with a grade of 12.5% or greater? Section 305.6.5.3 _____ Yes No

Do the impervious surfaces on the lot exceed 25%? Section 704 _____ Yes No

Is any State shoreland approval needed? _____ Yes No

Follow the link below for instructions and to download form at bottom of page if needed:

<https://onlineforms.nh.gov/app/#/formversion/282248b1-10d0-4046-9d49-e85d148c09a3>

PLOT PLAN

Date: 01/06/2022

Map 24 Lot 13 Property Address: 173 Haverhill Street

Owner Name(s): DJH Investments Trust

Phone: 617-504-3631

In the space below draw (to scale)

1. The boundaries and shape of your lot and mark the boundary distances
2. Show all present and proposed buildings in their correct location and indicate dimensions (in feet).

Orient your drawing so the road is at the bottom of the diagram. A survey of your property may be required as part of this application.

(See Attached Plan)

SIGNATURES

The undersigned owner hereby requests a zoning permit for the above use, to be issued based on the representations contained herein. Permit is void in the event of misrepresentation and/or not being in compliance with the zoning ordinance, site plan review, subdivision regulations (if applicable) and other applicable state and town laws and regulations. Construction is not authorized until a building permit is issued.

This application must be submitted by and signed by all owners of the property listed on this application.

Signature By: James F. Rines Date 01/06/2022
White Mountain Survey & Engineering, Inc., Division of Horizons Engineering, Inc.

Print name James F. Rines, V.P. Surveying Group
Property owner's Agent

Signature _____ Date _____

Print name _____
Property owner

Signature _____ Date _____

Print name _____
Property owner

Signature _____ Date _____

Print name _____
Property owner

If you are using an agent for this application, provide the information below:

Designation of agent

I designate the person listed below as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made based on such representations.

Agent Wht. Mtn. Survey & Engineering, Inc., Division of Horizons Engineer'g, Inc. Telephone # 603-539-4118

Address PO Box 440; Ossipee, NH 03864-0440

Owner's signature _____ (See Attached Appointment of Agent Form)

Owner's signature _____

Owner's signature _____

Owner's signature _____

Zoning Officer Decision

The zoning officer is required to deny an application under Section 2303, if:

- The application is for a use that requires a special exception
- The application requires a variance

Only the ZBA is the body that can grant either of the above.

Approved _____ Date _____ Zoning Officer _____

Denied ✓ Date 1-6-2022 Zoning Officer 

Reason for denial see attached

If the zoning officer denies the application, the applicant may appeal this decision to the Zoning Board of Adjustment. Please use the Zoning Board Application at <https://townoffreedom.net/wp-content/uploads/2019/03/ZBA-APPLICATION.pdf>

ZBA Tips:

- Application and Appointment of Agent Form must be completed and signed by all owners of the property.
- Abutter letters go directly to ZBA at PO Box 227, Freedom, NH 03836
- The applicant is responsible to fulfill all requirements from the ZBA and provide the necessary information. The applicant is responsible for reading the regulations. The Zoning Officer's role is to help the applicant complete the application if the applicant requests help.
- To be considered by the ZBA, an application must be significantly different from a previous application which the ZBA has previously denied.
- If the ZBA approves the special exception or variance, the application will come back to the zoning officer for action. The zoning officer will determine that the applicant has met all conditions imposed by the ZBA and sign below.
- The ZBA approval can be appealed within 30 days of the decision.

Once the zoning officer has signed the application, it can go to the Building Department.

FOR USE IF THE APPLICANT'S ORIGINAL APPLICATION IS DENIED AND THE ZBA HAS APPROVED THE PROPOSED PROJECT

Approval below signifies that the applicant has submitted proof that they have met all conditions listed by the zoning board of adjustment.

Approved _____ Date _____ Zoning Officer _____

Per ZBA decision dated: _____



TOWN OF FREEDOM APPLICATION FOR BUILDING PERMIT

Tax Map # _____ Lot # _____
Application Date _____
Permit # _____ Fee: _____
By _____

See building permit fee schedule on page 8 and building code requirements on page 9

1. Owner Information

Owner _____ Date: _____
Permanent Address: _____ Phone # _____
E-mail Address: _____ Cell# _____

2. Property Information

Property Address: _____
Map# _____ Lot# _____ Lot Size (acres) _____ Phone _____
NH Septic Approval# _____ Date _____ # of Bedrooms _____
NH Energy Code Approval# _____

3. Contractor/Builder Name: _____ Company: _____
Address: _____ State/Zip _____ Phone _____

4. Reason for Permit ☐ New Structure ☐ Addition ☐ Remodel ☐ Alteration ☐ Change of Use
☐ Res ☐ Comm ☐ Ind Type of Business _____ Type of Mfg. _____
Of Stories _____ ☐ Frame ☐ Metal ☐ Masonry ☐ Other _____
Size of Building Width _____ Length _____

<u>Foundation</u>	<u>Basement</u>	<u>Exterior Walls</u>	<u>Insulation</u>	<u>Interior finish</u>	<u>Heating</u>
<input type="checkbox"/> Concrete	<input type="checkbox"/> Full	<input type="checkbox"/> T-111	<input type="checkbox"/> Blanket	<input type="checkbox"/> Drywall	<input type="checkbox"/> Electric
<input type="checkbox"/> Cement Block	<input type="checkbox"/> Finished	<input type="checkbox"/> Clapboard	<input type="checkbox"/> Wall Roof	<input type="checkbox"/> Paneling	<input type="checkbox"/> Oil
<input type="checkbox"/> Other	<input type="checkbox"/> Other	<input type="checkbox"/> Other	<input type="checkbox"/> Other	<input type="checkbox"/> Other	<input type="checkbox"/> Wood*

*Fire Department Permit Required

I hereby agree to comply with the town subdivision regulations, Freedom growth management regulation, flood plain ordinance, state shoreland protection act, selectmen's town road specifications, fire codes, state air and water pollution permits (sewage etc.), state building codes and any other requirements in effect in the town of Freedom.

I hereby certify under penalty of perjury that the estimated cost of construction, alteration, or remodeling (including labor and material) is \$ _____

Date: _____ Owner/Agent Signature: _____

Code Officer: _____ Owner/Agent Print Name: _____

Valid for (1) One Year from Date Issued. Owner Address: _____

Denial Letter Map 24 Lot 13 Name DJH

☐ 304.5 TABLE "SF" SHORE FRONT DISTRICT for Lakes & Ponds over 10 acres & Ossipee River

☒ House See back

☐ Garage

☐ Other

☐ 304.6.3. Special Exception Standards for Erosion Control

☐ 304.6.5.1 Tree Cutting: Any cutting or clearing of trees within seventy-five (75) feet of the reference line in the shorefront district shall require a special exception from the Zoning Board of Adjustment. and shall be subject to the provisions of Article 7 Shoreland Protection, section 703.

☐ 305.6.5.3 For lots in the floodplain or lots sloping toward the lake at greater than a 12.5% grade, any cutting between seventy-five (75) and three hundred (300) feet of the reference line shall also require a cutting or clearing plan to be approved by the Zoning Board of Adjustment. The cutting plan shall meet the intent of this ordinance as stated in Section 701 and using a methodology similar to that set out in Section 703 augmented for the larger area involve

☐ Section 406 Septic Tank or Leach Field Setback No Septic Tank or Leach Field may be constructed or enlarged closer than one hundred twenty-five (125) feet to any wetland. In the case of a failed system, the septic tank may be a minimum of (50) feet from any wetland providing all joints are sealed and approval of Water Supply & pollution Control Division is obtained to the extent required by law.

☐ 704.3 As required in section 310.1.6, structures cannot exceed 15% of the total area of a lot of record.

☐ Section 906 Expansion of Non-Conforming Structure A structure which is nonconforming as to one or more dimensional requirements (setback and height limit or either) may be enlarged or expanded with the following conditions:

☐ 906.1 No portion of the enlargement or expansion of a structure shall further encroach on the front yard setback beyond the existing overhang of the main structure

☐ 906.2 The expansion or extension shall not violate the side yard setback or rear yard setback requirements for the district in which the lot is located the main structure

☐ 906.3 No portion of the enlargement may exceed the height of the existing non-conforming structure.

☐ Section 907 Expansion of Pre-Existing Non-Conforming Seasonal Dwellings 907.1 Purpose and Intent It is the purpose section to acknowledge the existence of non-conforming seasonal dwellings, the use of which pre-dates the original adoption of these zoning ordinances in 1987. It is further the purpose of this section to permit the continued use of these non-conforming dwellings within the requirements enumerated in Article 5; to permit expansion of certain non-conforming seasonal dwellings to year-round use under limitations enumerated in Section 907.4; and to prohibit expansion to year-round use of more than one (1) seasonal dwelling per lot, while limiting their pre-existing use to their continuous, uninterrupted and unenlarged seasonal nature, as enumerated in Sections 907.3 and 907.5. It is the purpose of these ordinances to regard the temporal expansion of more than one (1) non-conforming seasonal dwelling per lot to year-round use as a substantial change in use such that the vested right to the non-conforming use is discharged and the lot and its use must conform to current requirements of these ordinances.

Other

Rebocate the primary Dredging Further from the shoreline
then the plan approved on Sept 28, 2021. Construct two
retaining walls to keep fill from wetlands to be restored,
and address northerly wetland pipe culvert pipe in accordance
with NHDGS restoration approval # 2021-025277 dated 12-30-21

DO NOT WRITE IN THIS SPACE

APPLICATION # _____

DATE FILED _____

FEE PAID _____

RECEIVED BY _____

**APPLICATION TO ZONING BOARD
OF ADJUSTMENTS
FREEDOM, NEW HAMPSHIRE 03836**

Name of Applicant(s) DJH Investment Trust

Mailing Address 4540 N. Ocean Drive; Apt 602; Lauderdale By The Sea, FL 33308

Telephone Number(s) (617) 504-3631

Property Owner(s) Same as above

(If same as applicant, write "Same")

Mailing Address _____

Location of Property: Tax Map # 24 Lot # 13 Zoning District General Residential
Shorefront Overlay

Physical Address of Property 173 Haverhill Street

Name, Address and Map/Lot of all abutters whose property adjoins or is directly across
the street or stream from the property of the applicant. Additional pages may be added.

MAP#/LOT#

NAME and ADDRESS

SEE ATTACHED SHEET

This application has been completed in accordance with the Zoning Ordinance of the
Town of Freedom.

Date: 1/10/22

Signed: _____

Owner (If agent, owner must still sign)

Date: 1/10/22

Signed: _____

Owner (If agent, owner must still sign)

Date: _____

Signed: _____

Owner (If agent, owner must still sign)

Application
Page 2

New Hampshire State law requires the ZBA to hold a hearing within 30 days of the filing of this application unless the applicant agrees to extend that period. The undersigned hereby waives the 30-day time limit with the understanding this application will be heard within 60 days of the date of filing.

Signed: _____ Signed: _____

Signed: _____ Signed: _____

Attach Plot Plan: Specify **ALL** dimensions, locate wells, septic system, label abutters and all structures.

Note: Attach copy of **Zoning Officers denial** as well as the **Plot Plan**. This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate.

Complete Section 1, 2, 3 or 4.

Section 1. APPEAL FROM AN ADMINISTRATIVE DECISION

Relating to the interpretation and enforcement of the provision of Article _____
Section _____ of the Zoning Ordinance in question describe decision of the officer to be reviewed:

NOT APPLICABLE

Also submit a **Plot Plan** – see page 7.

OR

Section 2. APPEAL FOR SPECIAL EXCEPTION

Describe proposed use requiring a special exception from Article 3 Section 304.6.3
of the Zoning Ordinance:

Article 3, Section 304.6.3: Erosion Control

Also continue to **Page 6**; submit a **Plot Plan** – see page 7.

OR

Section 3. APPEAL FOR VARIANCE

A variance is requested from Article 3 Section Table 304.5 of the zoning ordinance to permit The owner to move the previously approved home 4.8 feet further from the shoreline, increasing the setback from the approved 8.1 feet at the closest point to 12.9 feet at the closest point.

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public **interest** because:

(See Attached Sheet)

2. If the variance were granted, the **spirit** of the ordinance would be observed because:

(See Attached Sheet)

3. Granting the variance would do substantial **justice** because:

(See Attached Sheet)

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:

(See Attached Sheet)

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary **hardship** because:

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

(See Attached Sheet)

and:

- ii. The proposed use is a reasonable one because:

(See Attached Sheet)

B. Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

N/A

Application
Page 5

NOTE TO APPLICANT AND ZONING BOARD REGARDING THE UNNECESSARY HARDSHIP TEST: If the above criteria for unnecessary hardship cannot be met, then the Zoning Board can still find unnecessary hardship if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, (a) the property cannot be reasonably used in strict conformance with the ordinance, and (b) a variance is therefore necessary to enable a reasonable use of the property. See VARIANCE WORKSHEET and RSA 674:33,I(b).

Also continue to **Page 6**; submit a **Plot Plan** - see **page 7**.

OR

Section 4. APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

An Equitable Waiver of Dimensional Requirements is requested from Article _____
Section _____ of the Zoning Ordinance to permit:

NOT APPLICABLE

1. Does the request involve a dimensional requirement, not a use restriction?
() Yes () No If you answer "No" you are not entitled to an equitable waiver of dimensional requirement. These waivers may not be granted from use restrictions.
2. Explain how the violation has existed for 10 years or more with no enforcement action, including written notices, being commenced by the town or by any person directly affected:

-OR-

If the violation has not existed for 10 years without enforcement action, you must:

- A. Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser, and
- B. Explain how the nonconformity was not an outcome of ignorance of the law or bad faith but was instead caused by a legitimate mistake:

A. _____

B. _____

Also, you must:

- 3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area:

- 4. Explain how the cost of correction far outweighs any public benefit to be gained:

PLOT PLAN GUIDELINES

A) Submit a plan, drawn to scale, 1" = 20', font must be at least 8pt, showing a minimum of the following:

- ☒1. Property lines and distances
- ☒2. Setbacks for front, side and rear yards
- ☒3. Show all existing and proposed buildings
- ☒4. Wells
- ☒5. Septic tank and leach field
- ☒6. Indicate building dimensions to overhang
- ☒7. Height of buildings Compliant with Zoning Requirements
- ☒8. Indicate all structures with dimensions including but not limited to:
 - Porches
 - Sheds
 - Decks
 - Garages
 - Stoops
 - Retaining walls
 - Patios
 - Impervious surfaces within 150' of the shoreline
 - Unique features
- ☒ 9. Water reference line (Ossipee Lake elevation 407')
- ☒10. Road names
- ☒11. Abutters names in proximity to property

B) If seeking special exception or variance in the shorefront district you must include:

- ☒ Fill – Temporary or Permanent
- ☒ Cut – Temporary or Permanent
- ☒ Tree removal
- ☒ Erosion control
- ☒ Docks
- ☒ Stairs
- ☒ Contours – Temporary or Permanent
- ☒ Retaining walls – Temporary or Permanent
- ☒ Lake level (Ossipee Lake elevation 407')

C) Lots under 5 acres:

Total area of lot in square feet 51,703 SF

Square feet of lot coverage (including all structures) 5,771 SF Existing/6,060 SF Proposed

% of lot covered 11.2% Existing; 11.7% Proposed

D) In addition to the list above it is your option to submit:

Photographs
Abutter's letters

I assume full responsibility for the accuracy of all plans and supporting information submitted with this application. I understand that I may be required to move/remove any improvement if an exact determination of any aspects of this application are found to be false or inaccurate.

I am aware that a state shoreland permit is required prior to initiating many types of construction, excavation or filling activities within the protected shoreland and any variance granted by the Freedom ZBA is contingent on approval and issuance of a permit from the NHDES (if applicable). The approved permit needs to be supplied to the Freedom Zoning Officer prior to any activity.

White Mountain Survey & Engineering, Inc.

By:

Property Owner/ Authorized Agent

01/10/2022

Dated

Property Owner/ Authorized Agent

Dated

Property Owner/ Authorized Agent

Dated

Property Owner/ Authorized Agent

Dated

Before planning or undertaking any construction, excavation or filling within the protected shoreland, contact NHDES:

Visit the DES web site below to determine if your property comes under the protection of the Comprehensive Shoreland Protection Act (CSPA). Read DES fact sheet, water bodies Under the Protection of the CSPA.

NH Department of Environmental Services
Wetlands Bureau
603-271-2147
www.des.nh.gov



**WHITE MOUNTAIN SURVEY & ENGINEERING, INC.
A DIVISION OF HORIZONS ENGINEERING, INC.**

1270 ROUTE 16, POST OFFICE BOX 440

OSSIPEE, NH 03864-0440

TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912

WEB ADDRESS: www.whitemountainsurvey.com

APPLICATION FOR A VARIANCE

A variance is requested from Article 3 Section Table 304.5 of the zoning ordinance to permit: the owner to relocate the previously approved home further from the shoreline, but still within the waterfront setback.

Facts to support this request:

1. Granting the variance would not be contrary to the public *interest* because:

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated March 2021 states that:

"For the variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?"

By this test, the requested variance will not violate the basic zoning objectives, nor will it alter the essential character of the neighborhood. As expressed in the Objective section of Article 3, Table 304.5, *"The following restrictions are applicable to land within the designated Shore Front District. They are designed to protect and enhance water quality, prevent overcrowding of shore land in the interest of public health and safety, and to preserve the natural beauty and wildlife habitat of the waterfront areas in the Town."*

During the process of construction, it was determined the grandfathered location was too close to the shoreline for excavating the full foundation, so it was moved 4.8 feet further from the shoreline. When accounting for the existing conditions prior to the start of construction and the prior ZBA approvals, and by moving the structure further from the lake, we are bringing the lot into greater compliance with the Zoning Ordinance for this project. Additionally, stormwater mitigation will be installed where none presently exists. We will fully comply with all other setbacks.

Therefore, the granting of the variance will not be contrary to the public interest.

2. If the variance were granted, the *spirit* of the ordinance would be observed because:

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated March 2021 states this regarding public interest and spirit of the ordinance:



"As held in *Farrar v. Keene*, 158 N.H. 68 [2009], the two elements are related. For a variance to be contrary to the public interest and inconsistent with the spirit of the ordinance, its grant must violate the ordinance's basic zoning objectives. There are two methods to answer this question:

- 1. Examine whether granting the variance would alter the essential character of the neighborhood; or**
- 2. Examine whether granting the variance would threaten the public health, safety, or welfare.**

It is our opinion that, based on these two tests that the courts have used to make the decision of whether the spirit of the ordinance is observed, the essential character of the neighborhood will not be altered as expressed in the paragraph above nor will the granting of the variance threaten the public health, safety, or welfare.

3. Granting the variance would do substantial *justice* because:

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated March 2021 states that:

Any loss to the individual which is not outweighed by a gain to the general public is an injustice.

If the applicant were not allowed to move the home further from the lake to permit the construction of the basement, due to denial of this variance, it is clear that the loss to the applicant would not be outweighed by any gain to the general public. Therefore, granting the variance would do substantial justice. In fact, moving the home further from the lake is a benefit to the public as well.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

Because we are not altering the essential character of the neighborhood or jeopardizing the health, safety, or welfare of the public; and because will be enhancing the water quality by implementation of stormwater mitigation where none presently exists and improving boundary line setbacks from the previously existing conditions, granting the variance request will have no negative impact on the surrounding property values.

5. Unnecessary Hardship

A. Owing to the special conditions of the property that distinguishes it from other properties in the area, denial of the variance would result in unnecessary *hardship* because:



In the case at hand, this lot was created and developed prior to the adoption of subdivision regulations or zoning. The existing conditions of the lot, prior to redevelopment violated the present zoning requirements, and the lot was developed for seasonal use. The applicants now wish to make this their primary residence and therefore need a basement. Since the entire footprint of the replacement home was previously approved within the 75-foot waterfront setback, relocation further from the shoreline is a benefit to the applicant and the public.

(i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated March 2021 has this to say about this paragraph:

Is the restriction on the property necessary in order to give full effect to the purpose of the ordinance, or can relief be granted to this property without frustrating the purpose of the ordinance? Is the full application of the ordinance to this particular property necessary to promote a valid public purpose? Once the purposes of the ordinance provision have been established, the property owner needs to establish that, because of the special conditions of the property, application of the ordinance provision to his property would not advance the purposes of the ordinance provision in any "fair and substantial" way.

As stated above, the Objective of the Zoning Ordinance as stated in Article 3, Table 304.5, of the Zoning Ordinance reads: *"The following restrictions are applicable to land within the designated Shore Front District. They are designed to protect and enhance water quality, prevent overcrowding of shore land in the interest of public health and safety, and to preserve the natural beauty and wildlife habitat of the waterfront areas in the Town."*

Based on my reading of the Zoning Ordinance Objective, it is our position that granting the requested relief to move the home 4.8 feet further from the shoreline will not frustrate the purposes of the ordinance provisions and that the application of the zoning restrictions to this parcel will not advance the purposes of the ordinance provision to this property in any fair and substantial way.

Therefore, it is our position that we satisfy this criterion required for the granting of the requested relief.

and:

(ii) The proposed use is a reasonable one because:



DJH Investment Trust
Variance Application
173 Haverhill Street
January 10, 2022
Page 4 of 4

Because the proposed use will remain residential and residential uses are permitted within the SF Zone, the use is reasonable one.

APPOINTMENT OF AGENT

We, David and Jennifer Hayes, Trustees of DJH Investment Trust, hereby appoint and authorize White Mountain Survey & Engineering, Inc., to represent the Trust before such boards and agencies in the Town of Freedom, and the State of New Hampshire as may be necessary to complete applications on its behalf. White Mountain Survey & Engineering, Inc. is further authorized to sign applications as may be required to complete such representations on DJH Investment Trust's behalf.

DJH Investment Trust

Date: 5/11/2020

By:



David Hayes, Trustee

Date: 5/11/20

By:



Jennifer Hayes, Trustee

**DJH Investment Trust
Abutters List
January 10, 2022**

Tax Map/Lot

Owner of Record

24-13 (subject parcel)
24-12
24-19

DJH Investment Trust
David B., Jr. & Jennifer A. Hayes, Trustees
4540 N. Ocean Drive, Apt. 602
Lauderdale By The Sea, FL 33308

24-14

Paul B. & Joy G. Nowak
11 Orchard Lane
Topsfield, MA 01983

24-15

Spofford Family Irrevocable Trust
Douglas J. Spofford & David J. Spofford, Trustees
23 Ocean View Road
Swampscott, MA 01907

1-1-1

Devin Bolduc
Lance Bolduc
765 Ossipee Lake Road
Freedom, NH 03836

Wetland Scientist

Gove Environmental Services, Inc.
8 Continental Drive
Bldg. 2, Unit H
Exeter, NH 03833-7507

Agent

White Mountain Survey & Engineering, Inc.
PO Box 440
Ossipee, NH 03864-0440

Gove Environmental Services, Inc.
8 Continental Drive
Bldg. 2, Unit H
Exeter, NH 03833-7507

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The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner



December 30, 2021

DJH Investment Trust
C/o David B Hayes Jr & Jennifer A Hayes Ttees
4540 N Ocean Dr Apt 602
Lauderdale By The Sea FL 33308

Re: Restoration Plan Approval
Land Resources Management File Number: 2021-02547
Subject Property: 173 Haverhill St, Freedom, Tax Map #24, Lot #13

Dear Mr. & Mrs. Hayes:

On December 28, 2021, the New Hampshire Department of Environmental Services (NHDES) Land Resources Management Program received a proposed site restoration plan (Restoration Plan) for the above-referenced property (Property). The Restoration Plan was in response to an NHDES enforcement action. NHDES hereby approves the Restoration Plan as submitted, subject to the following specific conditions. If there is a conflict between the Restoration Plan and this Restoration Plan Approval, this Restoration Plan Approval will control.

1. **Immediately** install appropriate siltation and erosion controls around all disturbed areas and around any stock piles. These controls shall be maintained and remain until the areas are stabilized.
2. **By January 31, 2022**, remove the foundation drains and pea stone from the bank of the lake and reconstruct the bank to match the adjacent undisturbed banks. The area shall be restored and/or created, monitored, and managed in accordance with the Restoration Plan and all project descriptive details submitted to NHDES on December 28, 2021, by GES, Inc.
3. **By May 31, 2022**, approximately 1,800 square feet of wetlands and stream channel shall be restored and/or created, monitored, and managed in accordance with the Restoration Plan and all project descriptive details submitted to NHDES on December 28, 2021, by GES, Inc.
4. The restoration shall be conducted according to the Restoration Plan and as conditioned by this Restoration Plan Approval. Any changes or alterations to the Restoration Plan must be requested in writing and approved in writing by NHDES prior to implementing any such changes or alterations.
5. All persons involved in restoration activities on the Property shall have read and become familiar with the provisions of the Restoration Plan and this Restoration Plan Approval prior to beginning the activities. A copy of the Restoration Plan and this Restoration Plan Approval shall be kept posted at the Property during the restoration activities.
6. A certified wetland scientist (CWS) or qualified professional shall supervise the restoration activities within RSA 482-A jurisdiction on the Property to ensure that the restoration is accomplished pursuant to this Restoration Plan Approval (Env-Wt 803.04).

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
NHDES Main Line: (603) 271-3503 • Subsurface Fax: (603) 271-6683 • Wetlands Fax: (603) 271-6588
TDD Access: Relay NH 1 (800) 735-2964

7. Siltation, erosion, and turbidity controls shall be installed prior to restoration, shall be maintained during restoration activities, and shall remain until the area is stabilized.
8. All steps shall be taken to ensure that no water quality violations occur on the Property during restoration activities.
9. Silt fence and hay bales shall not be used across streams, channels, swales, ditches, or other drainage ways.
10. Within three days following the last activity in the restoration area or where restoration activities are suspended for more than three days, all exposed soils shall be stabilized by seeding and mulching. In accordance with Env-Wt 307.12(d), mulch used within RSA 482-A jurisdiction shall be natural straw or equivalent non-toxic, non-seedbearing organic material.
11. No machinery shall be used within undisturbed NHDES jurisdictional areas on the Property during the restoration, unless vegetation and soil is not disturbed.
12. All material removed during restoration activities shall be placed out of NHDES' jurisdiction.
13. All material required to be removed during restoration activities shall be removed down to the level of the original hydric soils.
14. Wetland soils from areas vegetated with purple loosestrife (*Lythrum salicaria*) or other state-listed invasive plant species shall not be used in the area being restored (Env-Wt 307.12(e)).
15. Invasive, weedy species such as purple loosestrife and Common Reed (*Phragmites spp.*) shall be controlled by measures agreed upon by the Wetlands Bureau if the species is found in the restoration areas during construction and during the early stages of vegetative establishment.
16. All wetlands restoration areas shall have at least 75% successful establishment of wetlands vegetation after two growing seasons, or the areas shall be replanted until successful establishment has been monitored for at least two growing seasons in accordance with Env-Wt 307.12(f).
17. There shall be no substitutions made for the plant species specified on the approved plan for replanting purposes without prior written approval from NHDES.
18. An initial monitoring report with photographs shall be submitted to NHDES by **June 30, 2022**. The initial monitoring report shall include, but not be limited to, documentation of erosion control deployment, restoration sequencing, restoration activities, and status of restoration at time of initial monitoring report. Photographs shall depict all stages of restoration sequencing. For restoration activities within RSA 482-A jurisdiction, this monitoring report shall be submitted in accordance with Env-Wt 307.18.
19. Subsequent monitoring reports shall be submitted to NHDES by **September 16, 2022** and **September 15, 2023** to document the success of the restoration and outline a schedule for remedial actions if necessary. Such reports shall be submitted to NHDES with photographs demonstrating the conditions on the restoration site, include any necessary remedial actions, and contain a schedule for completing the remedial actions and conducting follow-up inspections.

20. Remedial actions may include, but are not limited to, replanting, relocating plantings, removing invasive species, altering soil composition or depths, deconsolidating soils due to compaction, altering the elevation of the wetland surface, or changing the hydraulic regime.
21. This Restoration Plan Approval does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others.
22. This Restoration Plan Approval does not relieve the owner(s) from the obligations of other local, state, or federal permits or requirements.
23. If restoration has not been completed, transfer of ownership of the Property shall require notification to NHDES and an agreement on transfer of the rights and obligations of this Restoration Plan Approval, prior to such transfer of ownership.

NHDES personnel may conduct future inspections to determine compliance with the provisions of the approved Restoration Plan and all other applicable NHDES statutes and rules.

Following completion of the restoration work, monitoring reports should reference NHDES File Number 2021-02547, and should be addressed as follows:

Jeffrey Blecharczyk
Land Resources Management Program
Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095

Should you have any questions, please contact me at Jeffrey.Blecharczyk@des.nh.gov or (603) 271-4061.

Sincerely,



Jeffrey Blecharczyk
LRM Compliance Supervisor
Land Resources Management Program
Water Division

cc: Freedom Conservation Commission
Freedom Board of Selectmen
Freedom Code Enforcement Officer

ec: Jim Gove, GES, Inc.