

**Moultonborough Zoning Board of Adjustment  
P.O. Box 548  
Moultonborough, NH 03254**

(603) 476-2347

**Minutes**

February 4, 2009  
Regular Meeting - 7:30 PM  
Moultonborough Town Offices

**Present:** Members: Ralph Carrasco, Bob Stephens Jerry Hopkins,  
Russell Nolin, Bob Bernstein – Arrived at 7:47 PM  
**Excused:** Alternates: Nicol Roseberry

**I. Call to Order**

Mr. Carrasco called the meeting to order at 7:30 PM, and introduced the members of the board to the public. Mr. Carrasco noted that there were only four board members present this evening.

**II. Pledge of Allegiance**

**III. Approval of Minutes**

**Motion:** Mr. Stephens moved to approve the Zoning Board of Adjustment Minutes of January 21, 2009.  
Mr. Hopkins Seconded.  
**Motion Carried** - Unanimously.

**IV. New Applications**

None submitted.

**V. Hearings**

**1. Thomas A. & Barbara G. Mason, Trustees (71-6)(451 Governor Wentworth Highway)  
Continued Special Exception for Commercial Use Article VI Paragraph D & E**

Mr. Carrasco noted that there were only four members present this evening and that the applicant is entitled to a full board of five members. Mr. Carrasco questioned if the applicant was willing to proceed with a board of four, noting if they choose proceed with a board of four, then they forfeit their right to request a rehearing on a basis of a board of four. Mr. Carrasco noted the applicant may request a continuance to the next available date.

Mr. Mason discussed this with his attorney and surveyor. At the same time a call was placed to board member Bob Bernstein. Mr. Bernstein stated that he had his evenings mixed up and would be able to be present in about ten minutes. The board took a recess to allow time for Mr. Bernstein to arrive.

Mr. Carrasco noted that this was a continued hearing for an application for a special exception.

Attorney Andrew Livernois from Ransmeier & Spellman P.C. was present to represent Thomas and Barbara Mason. Present this evening was Tom Mason, Jr., Fred Bickford, Hydrogeologist, Jim Hambrook, LLS, and Norm Roberge. Those present in the audience were Brad Mason, Ward & Ginny Bird, Chris Ireland, Chip Bollinger and Herb Farnham.

Mr. Livernois stated that they were seeking a special exception under Article VI of the Zoning Ordinance to allow Lakes Region Water Company to use the parcel of land for use as a well field for their utility, to allow them to draw water out of the site to service their customers in Balmoral and Suissevale. Lakes Region Water Company (LRWC) is a public utility regulated by the Public Utilities Commission. LRWC has over 1700 residential customers in the Lakes Region and over 700 residential customers in the Balmoral and Suissevale area, who they are required to service with water. They are currently under a mandate by the state to increase their capacity so that they can provide additional water to their customers. LRWC has a well field which is located behind Skelley's Market that is currently being used to service those customers. The purpose of the request for this well field is for an additional or supplemental water source for those customers. The plan for the property is to use it for a well field. When the project is done, there will be a series of wells on the site, drawing water, underground lines pumping it to the storage tank, from there to the customers. There will be a small building, approximately 12' x 16' which will house the pumping equipment. When this is up and running it will be very unobtrusive. The parcel is 40 plus acres, with the vast majority of it remaining undeveloped. When it is done the only thing on the site will be the wells, artesian wells. All you'll see is a well casing that sits a couple of feet above ground level.

Mr. Livernois provided the board with a small map showing the location of the property in relation to the area. The location of the wells is well off Route 109 and is completely shielded from view. The locations of the wells are over 900' from the closest abutting dwelling, and approximately 150' from the abutting property line. As part of the process of getting approval from the state for a large water withdrawal, there is a lengthy process to go through with NH DES. Test wells will be drilled and then pumping tests done to determine the amount of water the wells can produce. As part of the testing process there is a requirement to monitor other wells in the area, including the neighboring wells to make certain the pumping activity does not adversely impact the neighbors. As part of the licensing process, the state will monitor this and make sure that this does not adversely impact the neighbors. In addition there is a hearing process at the state level where the abutters can be heard as well.

Mr. Livernois addressed each of the criteria for the granting of a special exception. Mr. Livernois feels that they meet each of the criteria. Mr. Livernois answered any questions from the board or public.

Mr. Hopkins noted that the protective well radius exceeds the property boundary lines and asked Mr. Livernois to speak to any restrictions this may impose, or does impose on any abutters. Mr. Bickford stated there are four wells in. They are proposing to test well TW4. It is the fourth well that has been drilled on the property. TW4 is not shown on the plan, but its protective radius laps over to the south on property of the Lakes Region Conservation Trust. There is no consequence of the protective radius overlapping in that area. The main concern with DES is that they maintain a radius within which nothing happens other than activity related to maintenance and operation of the well. They are concerned about contaminants threats. They do not want to see any gasoline being used in that area, or anything else that could cause a problem in terms of water quality.

Mr. Hopkins questioned if the wells depicted as TW1 and TW2 that overlap onto the boundary to the North will not be used. Mr. Bickford stated that is correct. Mr. Bickford stated the radius for the well is based on the yield of the well. Mr. Hopkins questioned does this propose restrictions where it overlaps, does it impose any kind of change to the abutting land owner. If so are they required to get a well release or easement from the property owner in which the radius extends onto. Mr. Livernois noted they will be seeking an easement so there would be no activity that would affect the well radius.

Mr. Stephens questioned if the radius shown was a standard 75' well radius. Mr. Bickford stated no, the radius varies depending on the permitted flow rate. The higher rate they go for, the bigger the radius. It was noted the radius shown on the plan is 400'.

Mr. Hopkins noted his concerns about water leaving the town of Moultonborough and that it may impact the community and abutters. A prior board has in the past approved a special exception which is now out of the control of the board which may impact the aquifer of the abutters in the future. Mr. Hopkins questioned if water would be trucked out of town. Mr. Mason stated that LRWC has 17 systems, with 3 in Moultonborough. They load trailers now at the entrance to Balmoral. Mr. Hopkins is looking for some sort of restriction that would prevent this from getting out of hand, going to any other town or system or a utility that may have commercial customers that are pumping. Mr. Mason stated that they average 15 trucks a year. Norm Roberge noted on the worst year they have had, they trucked 50 tankers. They do not want to truck water due to the expense, and the PUC questions why they are trucking water. It would indicate that there is a problem at a particular system and it must be corrected. They spent close to \$300,000 to find a new source and settle that problem. Trucking water is not something they want to do.

Mr. Stephens questioned if this location for LRWC would be a "go to" location for water for other systems of LRWC. Mr. Mason stated yes, as it is their core location.

Chip Bollinger questioned what the actual yields are from the existing wells. Mr. Bickford stated the yields are in the area of 75 gallons a minute and 35 gallons a minute. Mr. Mason noted they are more in the line of 60 and 25 gallons a minute. It was clarified for the record that these were the yields for the existing wells behind Skelley's. They have not tested the two wells now referred to as the Mt. Roberts well field. Mr. Bickford would guess them to be in the area of 60 gallons a minute.

Chris Ireland questioned where the water came from the fill the storage tank. Mr. Mason stated that it was filled from the existing well fields, but that they have pumped in an emergency situation that was approved by DES from the Mt. Roberts well field, but nothing since Labor Day.

Ward Bird questioned how many more wells were planned beyond the four. Mr. Bickford stated that he could not give a definite answer, but guessed that they may do one more.

Mr. Bird questioned if there was any plan on physical abandonment of TW1 and TW2, such as filing with sand and capping. Mr. Bickford stated that they may be kept for monitoring wells. Mr. Bird questioned what provisions are in place to protect his dug well for his lifetime and for his children's lifetime. Mr. Bickford stated that measures are in place with DWES for this and if there is any adverse effect it may include mitigation, drilling them a new well or even putting in a water line for water from LRWC.

The board discussed going into deliberative session to discuss limits and or conditions they may wish to include in a motion if they were inclined to approve the request for special exception.

Mr. Livernois noted in response to the selling of water that they would be in agreement to limit and or not sell water to a third party. It was noted that LRWC as part of a mutual aid does allow for the distribution of water at no charge providing those needing the water provide the trucking.

Mr. Carrasco polled the board to go into deliberative session at 8:41 PM: Mr. Hopkins – Aye; Mr. Nolin - Aye; Mr. Stephens – Aye; Mr. Bernstein – Aye, Mr. Carrasco – Aye.

The issues that the board would like to see included with the motion are that there be no sales of water to be trucked outside of the Town of Moultonborough and that LRWC obtain and easement for any property that the protective well radius extends onto.

Mr. Carrasco polled the board to come out of deliberative session at 9:20 PM: Mr. Hopkins – Aye; Mr. Nolin - Aye; Mr. Stephens – Aye; Mr. Bernstein – Aye, Mr. Carrasco – Aye.

**Motion:** Mr. Hopkins moved to approve the special exception for **Thomas A. & Barbara G. Mason, Trustees (71-6)** for the operation of artesian wells for supplying water to the Lakes Region Water Company franchises, and for distribution at no charge to other public and private water systems, but prohibiting the sale of water to any third party organizations; further that this approval be noted on the site plan along with easements for any abutter impacted by the protective well radius.  
Mr. Stephens Seconded.

The Chairman went over the criteria for the granting of a special exception. The voting members were Jerry, Russ, Bob S., Bob B. and Ralph.

- 1) Affirmative – Unanimously.
- 2) Affirmative – Unanimously.
- 3) Affirmative – Unanimously.
- 4) Affirmative – Unanimously.
- 5) Affirmative – Unanimously.
- 6) Affirmative – Unanimously.
- 7) Affirmative – Unanimously.

Mr. Carrasco called for any discussion on the motion. There was none.

**Motion Carried – Unanimously.**

**VI. Correspondence**

- 1) Planning Board Draft Public Hearing Minutes of January 19, 2009 were noted.
- 2) It was noted that there were not any new submissions submitted this evening.

**Motion:** Mr. Stephens moved to cancel the February 4, 2009 meeting of the ZBA, and to authorize the Chairman to accept any new applications as a committee of one for the scheduling of hearings for March 4, 2009.  
Mr. Hopkins Seconded.  
**Motion Carried – Unanimously.**

**VII. Unfinished Business**

Ms. Whitney noted that the Town Administrator has questioned the need to publish Notice of Decisions made by the Zoning Board of Adjustment in the newspaper. Upon reviewing the statute, there is no requirement to publish it in the paper. In an effort to reduce costs to the taxpayers of the town it was recommended that they stop publishing the Notice of Decisions in the paper effective March 31, 2009. It was the consensus of the board that we no longer publish Notice of Decisions in the paper effective March 31, 2009. It was noted that the decisions will still be posted in the Town Hall, Post Office and on the Town's website.

**VIII. Adjournment**

**Motion:** Mr. Bernstein moved to **Adjourn** at 9:22 P.M.  
Mr. Hopkins Seconded.

**Motion Carried** - Unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Land Use Coordinator

These Minutes have not been formally approved by the Moultonborough Zoning Board of Adjustment. Please contact the secretary after the next regularly scheduled meeting of the Moultonborough Zoning Board of Adjustment to be held on the 1st and 3rd Wednesday of each month, to learn if any corrections, additions or deletions were made.