

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

(603) 476-2347

Minutes

May 20, 2009
Regular Meeting - 7:30 PM
Moultonborough Town Offices

Present: Members: Bob Stephens Jerry Hopkins, Bob Bernstein,
Russell Nolin, Ray Heal
Excused: Alternates: Nicol Roseberry

I. Call to Order

Mr. Stephens called the meeting to order at 7:30 PM, and introduced the members of the board to the public.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of May 6, 2009.
Mr. Nolin Seconded.
Motion Carried - Unanimously.

IV. New Applications

**1. Mary E. Allain and David A. Muskopf (200-38)(119 Swallow Point Road)
Area Variance from Article III Paragraph B (3)**

This is a request for an area variance from Article III Paragraph B(3) of the Zoning Ordinance, to permit the location of an existing dwelling less than 20' from the property sideline.

The Chairman and the Land Use Coordinator have reviewed the application package and it appears complete for board action.

Motion: Mr. Bernstein moved to acknowledge the application of Mary E. Allain and David A. Muskopf (200-38) for an area variance and to schedule a hearing for June 3, 2009 to be hearing #1.
Mr. Heal Seconded.
Motion Carried – Unanimously.

V. Hearings

1. **Chris Maroun (135-19)(14 Moultonboro Neck Road)**
Special Exception pursuant to Article VI Paragraph C(1)b.xviii

Mr. Stephens noted that this is a request for a special exception to allow the processing, storage and sale of cordwood/firewood, mulch and related landscaping materials.

Dave Dolan, Agent for the applicant presented the application for special exception. Mr. Dolan presented the board with a revised plan, noting the only change was the addition of the 500' Commercial Zone "A" boundary line. Mr. Dolan briefly described the site, stating it is currently used commercially, noting the existing buildings, shop, outside storage, employee parking, storage areas on-site and the existing tree line. The Lot Coverage is 43% which includes most of the area that is not treed. The wetlands are shown on the plan. There are no proposed physical changes to the property. The request is for an additional use to process firewood/cordwood and the sales of mulch. Mr. Maroun has a site in Meredith in which he currently processes the wood and wishes to move it to this location. He has a machine that is used to process cordwood. The hours of operation are shown on the plan and are to be 7AM to 7 PM; Monday through Saturday for the Landscape Contractor and 8AM to 5 PM; Monday through Saturday for the Processing of Cordwood/Mulch, etc. Mr. Dolan stated that the majority of the site is located in Commercial Zone "A", and most of the surrounding properties are in the commercial zone, or have a special exception to operate a commercial business.

Mr. Dolan addressed each of the criteria for the granting of a special exception. There is an existing well and septic on site and they comply with the lot coverage. Mr. Dolan answered any questions from the board.

Mr. Nolin questioned what would be the hours for the loading and delivery of wood. Mr. Maroun noted 7 AM to 7 PM. Mr. Nolin noted that he was referring to the hours that wood would be delivered to the site in log length. Mr. Maroun stated that he has been having wood delivered to his Meredith site, and has spoken with the drivers. They generally deliver around 10 AM or 3 PM.

Mr. Nolin noted his concerns regarding truck traffic, stating that there does not appear to have been a traffic study completed. The boards discussed this with Mr. Maroun questioning the number of trips a day that come and go from the site. Mr. Maroun stated that there would not be any additional trucks. Currently Mr. Maroun receives tractor trailer loads of mulch to the site and there have not been any traffic related incidences. His trucks that he currently has will be the same used to deliver the wood. At this time the delivery of wood would be a compliment to the landscaping business. The majority of landscaping (mulch) is done in April, May and June and the sale of firewood is August, September and October. The majority of the two would not interfere with each other. Members of the board felt that the truck traffic did not appear to be an issue at this time.

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

- a) Affirmative – Unanimously.
- b) Affirmative – Unanimously.
- c) Affirmative – Unanimously.
- d) Affirmative – Unanimously.
- e) Affirmative – Unanimously.
- f) N/A

- g) Affirmative – Unanimously.
- h) Affirmative – Unanimously.
- 4) Affirmative – Unanimously.

Motion: Mr. Hopkins moved to approve the special exception for **Chris Maroun (135-19)** to allow the processing, storage and sale of cordwood/firewood, mulch and related landscaping materials.
Mr. Bernstein Seconded.
Motion Carried – Unanimously.

**2. Jonathan C. Gilman, as Trustee of the Norway Point Trust (243-28)
Area Variance from Article III Paragraph A, Table I**

Mr. Stephens noted a letter dated May 12, 2009 from Ryan Williams, Esq. requesting to withdraw the Trust's application for an Area Variance.

The board noted there was no need for a motion as this was a right of the applicant to withdraw.

**3. Jonathan C. Gilman, as Trustee of the Norway Point Trust (243-28)
Special Exception pursuant to Article VI Paragraph A(3) and D**

Mr. Stephens noted this was an application for a special exception for the Norway Point Trust.

Attorney Karen McGinley noted that she was representing Jonathan Gilman as Trustee of the Norway Point Trust. Mrs. McGinley stated that they were before the board in January and had obtained two variances and special exception on the lot. At that time they noted they were seeking approvals in order to subdivide three lots, one 1.42 acres lot to be included with the Wallis home, a back lot to be determined at a later date and the residual lot for the Trust. In January they were granted a special exception for three dwellings on the residual lot which was 59.49 ± acres in size.

Mrs. McGinley stated that the Trust and Mrs. Wallis have come to an agreement for the size and location of the back lot. The lot will be 13.425 ± acres and will be conforming, not requiring any relief from the zoning ordinance. The request this evening is for a special exception pursuant to Article VI Paragraph A(3) and D, to allow three dwellings to remain on the residual parcel of 46.04 ± acres.

Mrs. McGinley addressed the criteria for the special exception pursuant to Article VI Paragraph A(3) and D, to allow three dwellings to remain on the residual parcel of 46.04 ± acres.

Abutter Rose Marie Phillips spoke in support of the request of the Trust.

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

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

- 6) Affirmative – Unanimously.
- 7) Affirmative – Unanimously.

Motion: Mr. Heal moved to approve the Special Exception for the Trustee of the **Norway Point Trust (243-28)** seeking relief pursuant to Article VI, Paragraph A(3) and D of the Town of Moultonborough Zoning Ordinance for residential uses.
Mr. Nolin Seconded.
Motion Carried – Unanimously.

**4. Peter & Christine Gennaro (194-2)(246 Krainewood Drive)
Area Variance pursuant to Article III Paragraph B1 & B2**

Mr. Stephens noted this is a request for an area variance from Article III Paragraphs B1 & B2 of the Zoning Ordinance.

Nicol Roseberry of Ames Associates presented the application for an area variance to permit the location of a proposed garage within 50' (33.5' proposed) of the centerline of the improved surface of Krainewood Drive, and within 20' (13' proposed) of the lot's sideline setback. Noting the original application stated Clearwater Point Road and should be Krainewood Drive.

Mrs. Roseberry stated the request is for a proposed 26' x 30' garage that will encroach on the required sideline and road setbacks. Mrs. Roseberry noted that there is an existing utility pole located within the lot, between the existing residence and road, which supports 4 utility lines that lead to various homes, including the applicants. There is a 15' setback to these utility lines, established by the utility company. Mr. Gennaro had investigated the possibility of relocating the utility pole to allow for placement of the garage. The response to the utility company is that it would cost approximately \$25,000+ to relocate the existing pole, reset new poles and associated line. Mr. Gennaro provided the board with two estimates, one from Verizon and the second from NH Electric Coop. If they were willing to relocate the poles at that great expense it would require the removal of the majority of the trees on the road portion of the Gennaro lot, as well as cutting new paths for the utility lines to the other homes.

Mrs. Roseberry provided the board with numerous color photos taken in different locations from the site, showing the proposed location of the garage in perspective to the abutting properties. Also submitted to the board was a letter in support of the approval of the request for the variance from the direct abutter of TM 194-2, Thomas & Lorraine Lesniak, whose property line the garage would encroach upon.

Mrs. Roseberry addressed each of the criteria for the granting of an area variance.

Mr. Hopkins questioned the location of the existing leach field. Mrs. Roseberry indicated that it has currently failed, and is in the location of the existing garage. This is part of the reason they have proceeded with the request for the variance. If the variance is approved they will relocate the leach field as shown on the plan.

Mr. Stephens questioned what easements would be required to place the lines underground. Mr. Hopkins stated it would still require 25-30 feet in order to operate a piece of equipment.

The Chairman went over the criteria for the granting of an area variance. The voting members were Jerry, Russ, Ray, Bob B. and Bob S.

- 1) Affirmative – Unanimously.
- 2) Affirmative – Unanimously.
- 3a) Affirmative – Unanimously.
- 3b) Affirmative – Unanimously.
- 4) Affirmative – Unanimously.
- 5) Affirmative – Jerry, Russ, Ray, Bob B.
Negative – Bob S.

Motion: Mr. Hopkins moved to grant the area variance for **Peter & Christine Gennaro (194-2)** from Article III Paragraphs B1 & B2 as presented.
Mr. Heal Seconded.
Motion Carried – 4 to 1 in favor.

VI. Correspondence

1) Mr. Nolin stated that he had recently attended a seminar noting there were two “hot topics” of discussion. Mr. Nolin provided the board with a copy of House Bill 446 and a copy of a Supreme Court Decision that was recently issued; Hillsborough-southern judicial district No. 2008-370. Mr. Nolin also provided the board with a link to a website regarding Land Use Regulations and Large Ground Water Withdrawals. The board may view the material at <http://www.nhgroundwater.com/>

2) Joint Loss Management Committee Minutes of March 17, 2009 were noted.

3) Planning Board Minutes of May 13, 2009 were noted.

4) Board of Selectmen Minutes of May 7 & 14, 2009 was noted.

5) Mr. Stephens updated the board on the search for a Planner. Mr. Stephens noted that the Planner Search Committee has reviewed 27 applications and narrowed that down to 5. They completed a first round of interviews with 5 candidates. The candidates were given a series of questions about 15 minutes ahead of time, with 45 minutes to respond to the committee. They have narrowed 5 down to 3 who will be interviewed this Friday. The Committee will then rank those 3, and make their recommendation to the Board of Selectmen for next week.

VII. Unfinished Business

VIII. Adjournment

Motion: Mr. Hopkins moved to **Adjourn** at 8:40 P.M.
Mr. Nolin Seconded.

Motion Carried - Unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Land Use Coordinator