

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

(603) 476-2347

Minutes

June 3, 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 20, 2009.
Mr. Nolin Seconded.
Motion Carried - Unanimously.

IV. New Applications

**1. Fred Parks; Pine Ridge Lawn & Landscape, LLC (115-7)(398 Whittier Highway)
Special Exception-Article VI Paragraph C(1)b.xviii**

This is a request for a special exception to allow the use of the property as a facility for Landscape Contractor, including an office and outside storage of landscape materials and vehicles/equipment.

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

Motion: Mr. Nolin moved to acknowledge the application of **Fred Parks; Pine Ridge Lawn & Landscape, LLC (115-7)** for a special exception and to schedule a Hearing for July 1, 2009 to be hearing #1.
Mr. Hopkins Seconded.
Motion Carried – Unanimously.

V. **Hearings**

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

Mr. Stephens noted that 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.

Attorney Doug Hill was present to present the application for an area variance. Present with Mr. Hill was David Muskopf and Mary Allain. Mr. Hill gave an opening statement, noting that this property has a lengthy history. Mr. Hill gave a brief history of the property, providing the board with copies of several documents that included a Site Assessment Study, Tax Map, Purchase and Sales Agreement, Building Permit, Peter Hare letter dated July 19, 2006 and a letter from Don Cahoon dated July 27, 2006. Also provided to the board was a copy of the floor plan of the Muskopf home, and two letters dated April 13, 2009 from Swallow Point Association. Mr. Hill addressed each of the five criteria for the granting of a variance.

The Chair opened the floor for questions from the board. Mr. Hopkins questioned a second blue highlighted line on a map. Mr. Nolin questioned the revision date on one of the tax maps provided. Mr. Bernstein asked the Code Enforcement Officer how much of the structure was complete when Mr. Muskopf was notified of a possible encroachment. Mr. Cahoon stated the foundation. Mr. ~~Nolin~~ Hopkins addressed Ms. Cohen and Ms. Richards regarding Swallow Point Association, questioning if the three directors represented a majority of the association. They stated yes.

Attorney Regina Nadeau was present representing Richard and Susan Mansur who are opposing the request for variance Ms Nadeau gave a different perception on the events that have occurred over the last few years. Ms Nadeau posted a board with photographs of the Muskopf lot and home, as well as a blowup of the Sketch of Land that was provided by the applicants with their application for variance. Ms. Nadeau demonstrated that the Muskopf home could be relocated on the site in a manner that it would meet all required setbacks, therefore having no need for a variance.

There was a lengthy discussion from both sides relating to the easement area that was deeded to Mr. Mansur. Both Mr. Hill and Ms. Nadeua stated that the easement was a matter of the court and was not a part of the decision to be made by the ZBA.

The board discussed if an On-site would be beneficial for this hearing. Mr. Stephens polled the board for their vote if they thought that an On-site site would have merit in this case. Mr. Hopkins – Aye; Mr. Nolin – Aye; Mr. Bernstein – Nay; Mr. Heal – Aye; Mr. Stephens – Nay. By a vote of 3 to 2 it was the decision of the board to schedule an On-site visit of the property.

Motion: Mr. Hopkins moved to continue the hearing for **Mary E. Allain and David A. Muskopf (200-38)** to July 1, 2009 to be hearing #2, and to Schedule an On-site visit form June 27, 2009 at 8 A.M.
Mr. Nolin Seconded.
Motion Carried – Unanimously.

Mr. Hill stated that he would like to respond to Ms. Nadeau's comments. It was noted that the hearing had been closed and was continued to July 1st.

The board discussed this and both parties were in agreement to re-open the hearing to allow time

for Mr. Hill's comments. Mr. Hopkins then made the following motion:

Motion: Mr. Hopkins moved to rescind his prior motion and to schedule an On-site visit on June 27, 2009 at 8 A.M. for **Mary E. Allain and David A.**

Muskopf.

Mr. Nolin Seconded.

Motion Carried – Unanimously.

Mr. Hill's comments were relating to what Ms. Nadeau referred to as "only natural conditions" and a statement that the structure towers into the abutting lot of Swallow Point Association.

Mr. Muskopf gave a brief statement in support of his request for an area variance.

Peg Richards and Jayne Cohen, directors for Swallow Point Association both spoke in favor of Mr. Muskopf's request for a variance.

Motion: Mr. Hopkins moved to continue the hearing for **Mary E. Allain and David A. Muskopf (200-38)** to July 1, 2009 to be hearing #2.

Mr. Bernstein Seconded.

Motion Carried – Unanimously.

VI. Correspondence

- 1) Planning Board Minutes of May 27, 2009 were noted.
- 2) Board of Selectmen Minutes of May 21, 2009 was noted.
- 3) Mr. Hopkins and Mr. Bernstein stated that they would not be present at the next regularly scheduled meeting on June 17, 2009. Therefore, knowing that there would not be a quorum of the board, it was the consensus of the board to cancel the meeting.

Motion: Mr. Bernstein moved to *cancel* the June 17, 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 July 1, 2009.

Mr. Hopkins Seconded.

Motion Carried – Unanimously.

4) Mr. Stephens noted an invitation to attend the LRPC Annual Meeting to be held on Monday, June 22, 2009. The cost is \$30 per person. Anyone wishing to attend should see Ms. Whitney.

5) Mr. Stephens updated the board on the search for a Planner. Mr. Stephens noted that the Planner Search Committee provided the Board of Selectmen (BoS) with three finalists for the position. Since that time, one candidate has withdrawn to accept a position in another community, leaving them with two finalists. These two finalists will be interviewed by the BoS tomorrow, with a decision coming soon.

VII. Unfinished Business

VIII. Adjournment

Motion: Mr. Bernstein moved to **Adjourn** at 9:07 P.M.

Mr. Nolin Seconded.

Motion Carried - Unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Land Use Coordinator