

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

Regular Meeting

September 16, 2009

Minutes

Present: Members: Bob Stephens, Jerry Hopkins, Bob Bernstein, Russell Nolin, Ray Heal;
Alternate: Nicol Roseberry; Town Planner, Dan Merhalski

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

Mr. Hopkins requested an amendment to the August 5th Draft Minutes to correctly reflect the Motion on Page 5 which was written incorrectly. The motion should read Mr. *Bernstein* moved to grant the area variance for Mary E. Allain and David A. Muskopf (200-38) from Article III Paragraph B as presented. Mr. *Hopkins* Seconded. Motion *Failed – 2 in favor, 3 opposed*, not Mr. Stephens moved to grant the area variance for Mary E. Allain and David A. Muskopf (200-38) from Article III Paragraph B as presented. Mr. Bernstein Seconded. Motion Carried – Unanimously.

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of August 5, 2009 as amended, seconded by Mr. Bernstein, carried unanimously.

Motion: Mr. Hopkins moved to reaffirm the Chairman's action as a committee of one on September 2, 2009, seconded by Mr. Nolin, carried unanimously.

IV. New Applications

V. Hearings

**1. Independent Marine, Inc. (23-36)(1204 Whittier Highway)
Use Variance**

Mr. Stephens stated this was an application for a Use Variance from Article V, Paragraph B(2) to permit a temporary portable event sign for advertising fall storage at Independent Marine, Inc.

Jon Haselton was present to address any questions from the board. Mr. Haselton stated he was requesting approval for an illuminated sign for temporary use for six weeks.

Board members questioned the purpose, size and location of the sign. Mr. Haselton stated the purpose was to generate business, and he was not certain of the exact size of the sign. It was a State of Maine DOT roadside sign that is on a small trailer and is mobile. The sign will be placed up on the hill on the side of the parking lot.

Mr. Bernstein questioned the need for approval for this request as the sign is on a registered trailer and is a mobile sign. The board discussed this with Mr. Merhalski stating the question is answered in Article V, Signs the first paragraph.

Lori Whitley questioned what article Mr. Haselton was seeking relief from. Mr. Stephens noted Article V Paragraph B(2), and read this section of the ordinance to the public. Mrs. Whitley expressed her concerns with the request for a variance from the sign ordinance, noting this was a controversial issue when the amendment to the ordinance was proposed.

Judy Ryerson gave a brief history of the intent for this section of the sign ordinance, noting the town had held a special town meeting in which the amendment passed by a three to one vote of the citizen's of Moultonborough in 2007.

Chuck DaSilva questioned what the difference was between the sign that Mr. Haselton would like to use and the sign at Dunkin Donuts which is a digital sign. Board members noted there were five electronic/illuminated signs that are grandfathered as they were in place prior to the passing of the section of the ordinance prohibiting electronic message boards.

The board discussed each of the criteria for the granting of a Use Variance.

Mr. Haselton stated the request is for a temporary sign, event sign, to generate business so he can pay his taxes.

Motion: Mr. Hopkins moved to direct staff to draft a decision denying the application of **Independent Marine, Inc. (23-36)** for a Use Variance, and continue the hearing to October 7, 2009. seconded by Mr. Nolin, carried unanimously.

**2. Jay R. & Carol B. Lamarche (263-73)(70 West Point Road)
Special Exception for Expansion of Non-Conforming Primary Structure**

Ms. Roseberry recused herself from any discussion regarding the Lamarche application.

Mr. Stephens stated that this was an application for a special exception for the expansion of a non-conforming primary structure.

Jay Lamarche presented the application for special exception. Mr. Lamarche stated the proposal is to knock down the existing house and garage and replace with a more conforming structure. The house will be moved 20' back from the lake. The garage is now non-conforming, 4.2' from the north setback and will be made less non-conforming at 10.6'. There is a 50 square foot area the garage will intrude into that does not presently. This is the area requiring the special exception.

There was no public input for this hearing.

The board discussed each of the criteria for the granting of a special exception.

Mr. Stephens questioned the height of the existing garage, and the height of the proposed garage. Jason Drouin, contractor stated the existing garage is a single story and the proposed garage is two stories, noting it will meet the required height limitation of the ordinance.

Motion: Mr. Hopkins moved to direct staff to draft a decision approving the application for **Jay R. & Carol B. Lamarche (263-73)** for the expansion of a non-conforming primary structure, and continue the hearing to October 7, 2009. seconded by Mr. Heal, carried unanimously.

Mr. Drouin questioned if they could proceed forward with the project. Mr. Merhalski stated the final approval is not issued until the next meeting in which the board will vote to approve the draft decision. The final approval will trigger the 30 day appeal period. If the applicant wishes to build, they may proceed at their own risk. It is not recommended because if someone was to appeal, and the decision was overturned, whatever was done would have to be undone.

VI. Correspondence

1) Mr. Stephens stated the board is in receipt of a Motion for Re-hearing for David Muskopf and Mary Allain in which the board had denied on August 5th. Mr. Stephens noted it was up to the board to decide if they will grant a motion for a rehearing, deny their motion, or suspend the decision complained of pending further consideration. The board discussed this request and was in agreement to grant the request for rehearing.

Motion: Mr. Hopkins moved to grant the rehearing for the Muskopf application and to schedule a hearing for October 21, 2009. Seconded by Mr. Bernstein.

Mr. Merhalski stated procedurally the board has to schedule the Public Hearing within 30 days. However the applicant's agent stated he would not be available on the 7th, and was in agreement to the board scheduling the hearing for the 21st. Attorney Hill stated that the applicant waives any application of the requirement of the 30 day hearing.

Motion Carried – Unanimously.

2) Letter dated September 15, 2009 Regina A. Nadeau, Esq. filing an Objection to Motion for Rehearing relating to the Muskopf/Allain request for Rehearing was noted.

3) Mr. Stephens noted the NHOEP Fall Conference to be held on October 17, 2009 at Loon Mountain.

4) Planning Board Minutes of August 12, 26 and September 9, 2009 were noted.

5) Board of Selectmen Minutes of August 6, 20 & September 3, 2009 were noted.

VII. Unfinished Business

VIII. Adjournment

Motion: Mr. Nolin made the motion to adjourn at 8:25 PM, seconded by Mr. Bernstein, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney

