

**Moultonborough Zoning Board of Adjustment
P.O. Box 139
Moultonborough, NH 03254**

Regular Meeting

February 17, 2010

Minutes

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

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. Mr. Stephens appointed Nicol Roseberry to sit on the board with full voting privileges in place of Ray Heal.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of December 16, 2009, seconded by Ms. Roseberry, carried unanimously.

Motion: Mr. Hopkins moved to reaffirm the Chairman's action as a committee of one on February 3, 2010, seconded by Ms. Roseberry, carried unanimously.

IV. New Applications

1. David S. Severance & Julianne P. Daniels (152-2)(133 Severance Road)
Special Exception for Commercial Use

This is a request for a special exception to allow the operation of a dog daycare and dog training facility.

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

Motion: Mr. Hopkins moved to acknowledge the application of **David S. Severance & Julianne P. Daniels (152-2)** for a special exception and to schedule a hearing for March 3, 2010 to be hearing #1.
Mrs. Roseberry Seconded.
Motion Carried – Unanimously.

V. Hearings

Ms. Roseberry stepped down from the Board for this hearing.

1. Robert & Gail Hughes (217-1)(225 Eagle Shore Road)
Expansion of Non-Conforming Primary Structure

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

Dan Ellis of Ames Associates, representing Bob & Gail Hughes stated for the record that they would proceed with a Board of three. Present in the audience for the hearing were Robert & Gail Hughes and abutters Chris & Margaret Theophile. Mr. Ellis briefly described the project, which is to remove the existing non-conforming structure and build a new structure which will meet the lake setback. However they will still be encroaching in the side setback area. The closest point of the existing structure is 3.4 feet from sideline and the proposed structure will be 9.4 feet from the sideline to the west. Mr. Ellis stated they had provided incorrect calculations for the abutter notification. It was stated that the total area of setback intrusion will be reduced from 915 s.f. to 420 s.f. and it should read that it will be reduced from 915 s.f. to 591 s.f.

Mr. Hopkins requested for clarification purposes the existing intrusion is 420 s.f. and the proposed new intrusion is 420 s.f. Mr. Ellis clarified that the total of the intrusion for the new structure is a total of 591 s.f. and they are removing all of the 495 s.f. lake intrusion.

Mr. Ellis addressed each of the criteria for the granting of a special exception.

Mr. Ellis provided the Board with an enlarged copy of the Tax Map that depicted the location of the Hughes home and the abutting home of the Theophile. Mr. Ellis noted the Theophile's home is to the west and set back quite a ways. There is a stand of trees between the two houses that will remain. Mr. Ellis provided three photos taken from the dock of the Hughes property. One shows the home to the east and the other two shows the Hughes existing home and the abutting properties to the west. Mr. Ellis noted that you can hardly see the Theophile's home through the trees.

Mr. Stephens questioned the height of the proposed structure. Mr. Ellis stated that it would be two stories, with a walk out basement and it will comply with the 32 foot height requirement as required by the Zoning Ordinance. The existing home is 2 ½ stories on pilings.

Abutter Chris Theophile questioned if they were going to have to remove trees, and if so how many. The applicants and abutters viewed the plan in regards to trees and what will remain and what will need to be removed.

Mr. Stephens stated for the record the procedure for comments and questions should be directed through the Board so they become a matter of record.

Mr. Hopkins noted his concerns regarding view, light and air, noting if there is not a clear vision of what is there as to whether this impacts the view, light and air of any abutter, then the Board should set up an on-site to look at it. Mr. Stephens noted the abutters to the west were present and had no concerns. It sounds the abutters already are not able to see because of the tree buffer that exists and there is nothing in

the plan that indicates the buffer is going to be significantly altered, therefore he couldn't see where adding the other ten feet will change the Theophile's ability or inability to see. Mr. Hopkins stated from what he has heard in testimony, not what he has seen, that all the criteria is satisfied, based on the practices used in the past,

Mr. Nolin stated that he would like a site walk as well. Mr. Stephens what would he gain from the site walk. Mr. Nolin stated he would like to have additional time to think about his decision. Based on the way the Board has been doing business and the mechanics with the numbers, they stand fine as within what the Board has been using and you can't change the game plan in the middle of it, that's for another day.

Mr. Stephens went over the procedure of the Board, noting the walk through would not change the way the Board does business today. Mr. Nolin did not agree with that statement and feels that the Board should conduct a site walk.

Motion: Mr. Nolin moved to continue the Public Hearing for Robert & Gail Hughes (217-1) to March 3, 2010, and to schedule an On-site visit for February 20, 2010 at 8 AM, seconded by Mr. Hopkins, carried unanimously.

Mr. Stephens requested permission from the applicant and abutters to enter onto the property of both the Hughes and Theophiles. Both owners granted the Board permission to enter onto their property. Mrs. Hughes expressed her opposition to the Board conducting an on-site visit.

Mr. Theophile stated that they would not be able to be present on March 3rd, and would like it noted for the record that they have no objections to this request.

Ms. Roseberry returned to the Board at this time with full voting privileges.

VI. Correspondence

- 1) Planning Board Draft Minutes of December 21 & 23, 2009 and January 13 & 27, 2010 were noted.
- 2) Planning Board Public Hearing Draft Minutes of January 13 & 27, 2010 were noted.
- 3) Board of Selectmen Draft Minutes of December 17, 2009 and January 7 & 21, 2010 were noted.
- 4) Mr. Stephens stated he had requested the Planner to draft a letter of appreciation for Mr. Berstein. Board members reviewed and approved letter to be presented to Mr. Berstein on March 3rd.
- 5) Mr. Hopkins questioned if the Board was in receipt of any letters of interest to serve on the Zoning Board as an Alternate. It was noted there are none at this time.

VII. Unfinished Business

VIII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:15 PM, seconded by Mr. Hopkins, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant