

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

**Regular Meeting**

**June 2, 2010**

**Minutes**

Present: Members: Bob Stephens, Russell Nolin, Ray Heal, Kevin M<sup>c</sup>Carthy – arrived at 8:00;  
Alternate: Nicol Roseberry; Town Planner, Dan Merhalski  
Excused: Member: Jerry Hopkins  
Alternate: 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 Jerry Hopkins.

**II. Pledge of Allegiance**

**III. Approval of Minutes**

**Motion:** Mr. Heal moved to approve the Zoning Board of Adjustment Minutes of May 19, 2010, seconded by Mr. Nolin, carried unanimously.

**IV. Hearings**

1. **Donald & Marilyn Weatherbee (150-17)(48 Black's Landing Road)**  
Special Exception for Expansion of Non-Conforming Primary Structure

Mr. Stephens noted that there were only four members present at this time and that the applicant is entitled to a full board of five members. It was noted for the record that there was no one present representing the applicant this evening.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the board at the hearing on May 19<sup>th</sup>. There were no changes made to the draft decision or further discussion regarding the hearing.

**Motion:** Mr. Stephens moved to approve the application of **Donald & Marilyn Weatherbee (150-17)** for the expansion of a non-conforming primary structure, as detailed in the Draft Notice of Decision, and authorize the Chairman to sign the Notice of Decision, seconded by Mr. Nolin, passed by a vote of four (4) in favor (Stephens, Nolin, Heal, Roseberry), 0 opposed, and 0 abstentions.

Ms. Roseberry recused herself from hearings 2, 3 and 4.

**2. Janet W. Stone (142-66)(22 Merrivale Road)  
Special Exception for Expansion of Non-Conforming Primary Structure**

Mr. Stephens noted that there were only three members present at this time and that the applicant is entitled to a full board of five members. It was noted for the record that there was no one present representing the applicant this evening.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the board at the hearing on May 19<sup>th</sup>. There were no changes made to the draft decision or further discussion regarding the hearing.

**Motion:** Mr. Stephens moved to approve the application of **Janet W. Stone (142-66)** for the expansion of a non-conforming primary structure, as detailed in the Draft Notice of Decision, and authorize the Chairman to sign the Notice of Decision, seconded by Mr. Nolin, passed by a vote of three (3) in favor (Stephens, Nolin, Heal), 0 opposed, and 0 abstentions.

**3. Phil & Janet W. Stone (142-66)(22 Merrivale Road)  
Special Exception for Access & Egress Article III B(6)**

Mr. Stephens noted that there were only three members present at this time and that the applicant is entitled to a full board of five members. It was noted for the record that there was no one present representing the applicant this evening.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the board at the hearing on May 19<sup>th</sup>. There were no changes made to the draft decision or further discussion regarding the hearing.

**Motion:** Mr. Stephens moved to approve the application of **Phil & Janet W. Stone (142-66)** a special exception for access & egress within setbacks, as detailed in the Draft Notice of Decision, and authorize the Chairman to sign the Notice of Decision, seconded by Mr. Nolin, passed by a vote of three (3) in favor (Stephens, Nolin, Heal), 0 opposed, and 0 abstentions.

**4. Philip & Marcia Steckler (247-6)(19 Geneva Point Road)  
Variance from Article III, Paragraphs B(1)(3)**

Mr. Stephens noted that there were only three members present at this time and that the applicant is entitled to a full board of five members. It was noted for the record that there was no one present representing the applicant this evening.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the board at the hearing on May 19<sup>th</sup>. There were no changes made to the draft decision or further discussion regarding the hearing.

**Motion:** Mr. Stephens moved to approve the application of **Philip & Marcia Steckler (247-6)** for a variance, as detailed in the Draft Notice of Decision, and authorize the Chairman to sign the Notice of Decision, seconded by Mr. Nolin, passed by a vote of three (3) in favor (Stephens, Nolin, Heal), 0 opposed,

and 0 abstentions.

**5. Jeffrey R. & Amy H. Glass (196-8)(310 Redding Lane  
Variance from Article III, Paragraph B(4)**

Mr. Stephens noted that there were only four members present at this time 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 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. Stephens noted the applicant may request a continuance to the next available date.

Robert Pollock, Jr. of Pollock Land Planning, LLC, representing Jeffrey and Amy Glass stated for the record that he would proceed with a Board of four. Mr. Pollock presented the application, briefly describing the proposal is to remove an existing set of steps, ramp and a portion of a foundation planter and to install an outdoor shower and a ground level deck. They have removed pavement and structures and installed permeable surfaces and bio swales so they have more permeable square footage, bringing the lot more into conformance. The current conditions show the existing steps are 38' from the lake and the ramp 27' from the lake. The total square footage of the steps, ramp and planter is 73 sq ft, the proposed shower and deck area is 105 sq ft. The proposed outdoor shower area is 35.5' from the lake, or 2.5' closer than the steps. The ground level deck is permeable pavers and is 26.10 from the lake or .9 feet closer to the lake than the existing ramp. The deck and floor of the shower are not attached to the house and are permeable pavers, increasing the permeability of storm water. The privacy walls around the shower and the trellis roof are attached to the house. Mr. Pollock noted DES has granted a Shoreland Permit and that a copy of the permit was included with the application package. Mr. Pollock answered any questions from the Board.

Ms. Roseberry requested clarification of the location of the shower and deck. There is an increase of +/- 30 additional square footage of shower/deck area, which is a permeable surface. Ms. Roseberry questioned if the shower was going to be tied into the septic system. Mr. Pollock stated he did not ask his client that question. The board assumed that the DES review of the permit would take that into consideration. The board discussed this issue and noted their concerns about drainage onto the ground. Mr. Nolin questioned if the applicant or agent could contact DES and ask if they had taken the shower into consideration when reviewing the application. Mr. Pollock stated the proposed shower was shown on the plans that were sent to DES.

Mr. McCarthy arrived at 8:00 PM and Mr. Stephens gave a brief recap of the hearing.

The board discussed the shower and drainage at length, noting the permit does not specifically address an outdoor shower or drainage.

Mr. Stephens asked if there were any questions from the public. Dave Dolan asked what the date of the DES approval was, noting any appeal period was 30 days from the date of approval. The approval date was May 18, 2009.

Mr. Stephens asked board members what they wished to do, they could either continue the hearing for further clarification from DES or continue based on the information and testimony presented this evening. Mr. Nolin would like further information regarding the drainage for the outdoor shower. The remaining board members felt that if the plans were submitted with the application to DES and they were issued a permit, they would proceed this evening.

**Motion:** Mr. Nolin moved to continue the hearing and request further information from DES regarding the outdoor shower.

There was no second on the motion, therefore the motion died.

There were no additional comments from the board or public. The board went into deliberative session at 8:09 PM. The board then began discussing each of the five criteria in deliberative session. During these deliberations Mr. M<sup>c</sup>Carthy chose to recuse himself from the hearing as he had not been present for the majority of the testimony, and only given a brief summary when he arrived. Mr. Stephens questioned if Mr. Pollock was willing to proceed with a board of four. Mr. Pollock stated yes. The board returned to public session at 8:21 PM. There was no further input from the board or audience.

**Motion:** Mr. Stephens moved to continue the Public Hearing for **Jeffrey R. & Amy H. Glass (196-8)** to June 16, 2010, and to direct staff to draft a Notice of Decision approving the request for a variance as requested, seconded by Ms. Roseberry, passed by a vote of three (3) in favor (Stephens, Heal, Roseberry), one (1) opposed (Nolin).

**6. Csendes Family LLC (196-13)(184 Alpine Park Road)  
Special Exception for Expansion of Non-Conforming Primary Structure**

Dave Dolan of David M. Dolan Associates, PC, representing the Csendes Family LLC presented the application. Mr. Dolan briefly described the project, which is to remove one structure on the lot which has multiple, pre-existing grandfathered structures and to expand one of those remaining structures with intrusions into the 50-foot lake setback. The remaining structure, to become the primary non-conforming structure has an existing intrusion of 990 sq ft. The proposed new intrusion will be 136 sq ft or 13.74%. Mr. Dolan noted DES has granted a Shoreland Permit and that a copy of the permit was included with the application package. Mr. Dolan answered any questions from the Board.

Board members questioned if the structure being demolished and the structure being expanded were currently attached. Mr. Dolan stated no.

Mr. Stephens asked if there were any questions from the public, it was noted there were none. The board went into deliberative session to discuss each of the criteria for the granting of the special exception at 8:29 PM and came out at 8:32 PM.

Mr. Stephens questioned the proposed height of the structure to be expanded. Mr. Dolan stated that it would be two stories and will meet the 32 foot height limitation as required in the ordinance.

**Motion:** Mr. Nolin moved to continue the Public Hearing for **Csendes Family LLC (196-13)** to June 16, 2010, and to direct staff to draft a Notice of Decision granting the special exception for the expansion of a non-conforming primary structure, seconded by Mr. Heal, carried unanimously.

**7. Dan Richards (245-72)(12 Kingswood Lane)  
Variance from Article III, Paragraphs B(1) & (3)**

Emile Paquette representing Dan Richards presented the application for the variance. Mr. Paquette briefly described the request for a variance was to permit an extension of a second floor deck by

five (5) feet towards the roadway and construct a set of stairs to access the deck which will serve as an additional means of egress. The entire front of the structure is within the 50-foot centerline setback area and a portion of the deck will extend into the 20-foot side setback. Mr. Paquette answered any questions from the Board.

Mr. M<sup>c</sup>Carthy questioned how far from the road was the existing deck. Mr. Paquette stated the house is 44 feet from the centerline of the roadway.

Rob Cheney asked if Kingswood Lane was a private road or town road. It was noted that the Town Tax Maps indicate that Kingswood Lane is a private road.

The board went into deliberative session at 8:39 PM. The board then discussed each of the five criteria in deliberative session. The board returned to public session at 8:41 PM. There was no further input from the board or audience.

**Motion:** Mr. Heal moved to continue the Public Hearing for **Dan Richards (245-72)** to June 16, 2010, and to direct staff to draft a Notice of Decision approving the request for a variance, seconded by Mr. Stephens, carried unanimously.

**8. Stephanie & Brian Porusta (3-5)(436 Ossipee Mountain Road)**  
Variance from Article III, Paragraph B(4)

Rob Cheney representing Stephanie and Brian Porusta presented the application for the variance. Mr. Cheney briefly described the request for variance. The applicant is proposing to remove the existing detached garage which is 21 feet from the stream and to construct a new 36' x 48', 1 ½ story barn that will be 40 feet from the stream. Mr. Cheney stated that there will be grade changes done to the driveway for easier access for Mr. Porusta who is handicapped. Mr. Cheney answered any questions from the Board.

Board members questioned if proposed garage will be heated and will it have living space. Mr. Cheney stated the garage will be set up for heating and did not have any living space.

Mr. Stephens stated the ordinance provides for handicap provisions and noted the request was for a variance and questioned if they were requesting relief under this provision. Mr. Cheney stated that they were not asking for relief under the handicap provision. A variance granted pursuant to a handicap shall only survive only so long as the particular person has a need for it on the property. Due to the expense of the project they chose to apply for a variance without taking into consideration Mr. Porusta's disability. This would allow the garage to remain if they chose to sell the property. Mr. Cheney felt that moving the proposed garage 19 feet further from the stream was a win win situation for the applicant and the town.

Mr. Stephens asked if there were any questions from the public, it was noted there were none. The board went into deliberative session at 8:48 PM. The board then discussed each of the five criteria in deliberative session. The board returned to public session at 8:51 PM. There was no further input from the board or audience.

**Motion:** Mr. Stephens moved to continue the Public Hearing for **Stephanie & Brian Porusta (3-5)** to June 16, 2010, and to direct staff to draft a Notice of Decision approving the request for a variance as requested, seconded by Mr. M<sup>c</sup>Carthy, carried unanimously.

**V. Correspondence**

- 1) Planning Board Draft Minutes of May 26, 2010 were noted.
- 2) Board of Selectmen Draft Minutes of May 20, 2010 were noted.

**VI. Unfinished Business**

**VII. Adjournment**

**Motion:** Mr. Stephens made the motion to adjourn at 8:58 PM, seconded by Mr. Heal, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant