

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

**Regular Meeting**

**June 16, 2010**

**Minutes**

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

**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. Nolin moved to approve the Zoning Board of Adjustment Minutes of June 2, 2010, seconded by Ms. Roseberry, carried unanimously.

**IV. Hearings**

**1. Continuation of Public Hearing - 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. Eric Buck of Pollock Land Planning, LLC, representing Jeffrey and Amy Glass stated for the record that he would proceed with a Board of four.

Mr. Stephens stated that this was a continued hearing and briefly recapped the prior hearing, noting that there were issues relating to the DES permit. There were questions raised, and the board made a judgment which appeared to be based on misinformation that DES had approved an outdoor shower as per the plans that were provided to the board at that time. Concerns were raised as to whether or not the outdoor shower was going to be piped to the septic system. The board went on the basis of information provided and subsequently has concluded that was not appropriate. The Facts of Finding were amended to include a requirement that the proposed shower facility have an enclosed drain system to contain the shower runoff and that it be piped to the site's septic system.

Mr. Nolin commented that he had raised his concerns regarding the permeable surface and the drainage. Mr. Nolin contacted DES and the plumbing inspectors regarding outdoor showers, noting the requirement that this must be piped into an approved system. Mr. Nolin noted that the proposal is for a trellis roof, or open drain system, stating this too could create a problem, as all the rain from the shower area would be going into the septic, possibly flooding the system. Mr. Nolin feels the drain should be

shielded from this and noted there was also confusion as to which plan was submitted to DES with the application for approval. The board questioned the permit issued by DES and if that was for the shower.

Mr. Buck stated that there is no mention of a shower, but was mention for a deck. The DES approval is for the installation of a 5 x 15' deck structure to replace the stairs, ramp and planter. The plan provided by the builder for their building permit for the structure was never part of the original plans. Red flags went up which is why they have applied for the variance. DES did not see the plan submitted to the Code Enforcement Officer for the original building permit. Their intention was that the shower structure is proposed to be within the 5 x 15' deck that was already approved, permeable or impermeable, and that it did not matter as DES approved the 5 x 15' deck. Through further investigation there was the addition of a trellis structure to go above and DES' response was that as long as the trellis was pervious, and no additional excavation or filling is required, the existing permit needn't be amended.

Mr. Nolin clarified that DES was aware of the shower and that it needs to be piped to the septic, and this is the concern. Mr. Buck's response to the drainage issue was that the permeable pavers are a full infiltration system, so the only thing the drain would be catching is what will come out of the shower and what portion of rain water will fall down the drain. The pavers are not directed to the drain.

The board discussed the shower and drainage issue at length. Mr. Nolin noted his concerns with the additional amount of water infiltrating the septic system and did not feel the drain should be open to the weather, draining into the septic system.

Mr. Stephens asked if there were any questions from the public, noting there were none.

It was the decision of the board to continue the hearing for further information from DES regarding this issue, asking if they (someone with a septic design background) would provide a ruling that consideration for Mother Nature's fury is something they are not concerned about or does not need to be addressed, and if this is an ejector system, will that also need to be taken into consideration.

Mr. Merhalski questioned if the board was requesting staff to contact DES for the additional information or the applicant. The board felt this was the responsibility of the applicant to provide the board with the additional information requested from DES.

**Motion:** Mr. Stephens moved to continue the Public Hearing for **Jeffrey R. & Amy H. Glass (196-8)** to July 7, 2010, and request that the applicant contact NH DES, Subsurface, ask to provide clarification on the impact of rainwater on an open shower that is plumbed to an existing septic system. Also to clarify any concern or impact on, if a pump is necessary to move grey water into an existing gravity fed tank, whether or not that requires a design consideration from an approved septic designer, seconded by Mr. Nolin, carried unanimously.

**2. Continuation of Public Hearing - Csendes Family LLC (196-13)(184 Alpine Park 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 June 2<sup>nd</sup>. There were no changes made to the draft decision or further discussion regarding the hearing.

**Motion:** Mr. Hopkins moved to approve the application of **Csendes Family LLC (196-13)** 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, Hopkins, Nolin, Roseberry), 0 opposed, and 0 abstentions.

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

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 Emile Paquette was 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 June 2<sup>nd</sup>. There were no changes made to the draft decision or further discussion regarding the hearing.

**Motion:** Mr. Nolin moved to approve the application of **Dan Richards (245-72)** for a variance, as detailed in the Draft Notice of Decision, and authorize the Chairman to sign the Notice of Decision, seconded by Ms. Roseberry, passed by a vote of four (4) in favor (Stephens, Hopkins, Nolin, Roseberry), 0 opposed, and 0 abstentions.

**4. Continuation of Public Hearing - Stephanie & Brian Porusta (3-5)(436 Ossipee Mountain Road)  
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. It was noted for the record that Rob Cheney and Stephanie Porusta were present this evening.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the board at the hearing on June 2<sup>nd</sup>. There were no changes made to the draft decision or further discussion regarding the hearing.

**Motion:** Ms. Roseberry moved to approve the application of **Stephanie & Brian Porusta (3-5)** 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 four (4) in favor (Stephens, Hopkins, Nolin, Roseberry), 0 opposed, and 0 abstentions.

**5. Squam Byrne, LLC (13-1)(928 Bean Road)  
Variance from Article III, Paragraphs 1 & 2**

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

Mr. Stephens stated for the record that there were only three 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 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.

Jason Kenney of Twin Oaks Construction, representing Squam Byrne LLC stated for the record that he would proceed with a Board of three. Mr. Kenney briefly described the proposal, which is to

remove the existing bath house and board walk and replace it with a new 12' x 13' bath house further from the lake. They are not increasing the impervious surface. Mr. Kenney answered any questions from the Board.

Mr. Stephens noted that included in the file was a dock permit from DES but not a Shoreland permit for the proposed project. Mr. Stephens questioned if they had received a Shoreland permit. Mr. Kenney provided the board with a copy of the Shoreland Impact Permit for the new structure and to remove and replace an existing culvert to direct runoff into a stormwater management area, settling basin.

Board members questioned the purpose of the bath house, and if it was to have water or utilities. Mr. Kenney stated it was to change clothing in. There will not be any water, but there will be electricity.

Mr. Merhalski stated the application for variance was for relief from Article III, Paragraphs (1 & 2) which relate to road setbacks. As the proposal is not encroaching on the road setback, but the lake setback, Mr. Merhalski questioned the applicant if they wished to amend the application for relief from Article III, Paragraph 4. Mr. Kenney stated he would amend the application to Paragraph 4.

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 variance at 8:10 PM and came out at 8:12 PM.

**Motion:** Mr. Hopkins moved to continue the Public Hearing for **Squam Byrne, LLC (13-1)** to July 7, 2010, and to direct staff to draft a Notice of Decision approving the request for a variance from Article III, Paragraph 4 as amended, seconded by Mr. Stephens, carried unanimously.

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

## **V. Correspondence**

1) Mr. Stephens noted a letter of resignation from alternate member Bob Bernstein as he no longer has the time to serve on the Board. Mr. Hopkins recommended the board send a letter of appreciation to Mr. Bernstein for time served on the Board. Mr. Stephens noted the need for alternate members for the ZBA.

2) Planning Board Draft Minutes of June 9, 2010 were noted.

3) Board of Selectmen Draft Minutes of June 3, 2010 were noted.

## **VI. Unfinished Business**

## **VII. Adjournment**

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

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant