

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

**Regular Meeting**

**May 19, 2010**

**Minutes**

Present: Members: Bob Stephens, Russell Nolin, Kevin M<sup>c</sup>Carthy – arrived at 7:57  
Ray Heal – arrived at 8:02; Town Planner, Dan Merhalski  
Excused: Member: Jerry Hopkins  
Alternates: Nicol Roseberry, Bob Bernstein

**I. Call to Order**

Mr. Stephens called the meeting to order at 7:57 PM and introduced the members of the board to the public.

**II. Pledge of Allegiance**

**III. Approval of Minutes**

**Motion:** Mr. Nolin moved to approve the Zoning Board of Adjustment Minutes of May 5, 2010, seconded by Mr. M<sup>c</sup>Carthy, carried unanimously.

**IV. New Applications**

**V. Hearings**

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

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. (Mr. Heal arrived at 8:02, making a board of four)

Donald & Marilyn Weatherbee were present for the hearing and stated for the record that they would proceed with a Board of three. Mr. Weatherbee briefly described the proposed expansion stating that it was an addition to the existing structure. A portion of the proposed structure will replace the existing outside stairs. This was referred to the ZBA as past practice had not included access and egress in the calculations for non-conformity.

Mr. Stephens noted a comment from the Town Planner stating that this was not the first request for an expansion of this non-conforming structure. Mr. Merhalski had reviewed the application for expansion which was approved by the ZBA in 1999. The previous Special Exception was for the deck and consisted of 100 sq. ft. The new area of intrusion requested on this application is 9 sq. ft. There was a discrepancy as to the total amount of intrusion from the survey presented with the application and the sketch provided in 1999. The board discussed this, asking Mr. Weatherbee where the figures came from

on the 1999 application. Mr. Weatherbee stated he had calculated them to the best of his ability. The board discussed the need to establish a baseline in which to proceed. It was the decision to accept the square footage presented on the survey. The baseline will be 939 sq. ft. with 100 sq. ft. used in 1999 and 9 sq. ft. used with the present application, therefore leaving an additional 830 sq. ft. not used.

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 8:12 PM and came out at 8:18 PM. There was no further input from the board or audience.

**Motion:** Mr. Nolin moved to continue the Public Hearing for **Donald & Marilyn Weatherbee (150-17)** to June 2, 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. M<sup>c</sup>Carthy, carried unanimously.

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

Mr. Stephens reiterated for the record 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.

Dan Ellis of Ames Associates, representing Janet Stone stated for the record that they would proceed with a Board of four. Present in the audience for the hearing was Phil & Janet Stone. Mr. Ellis briefly described the project. The proposal is to construct an addition to the existing house and deck within the 50' setback area. The existing intrusion is 525 sq. ft. and the proposed expansion is 221 sq. ft. Mr. Ellis stated that no portion of the proposed addition would encroach closer to the lake than the existing setback which currently is 33 feet from Lake Kanasatka, with the exception of the stairs and they have submitted a second application for this property for access and egress within the required setback. Mr. Ellis provided the board with a photo of the existing home and answered any questions from the board.

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 8:30 PM, excluding the stairs for purposes of this discussion and came out at 8:35 PM. There was no further input from the board or audience.

**Motion:** Mr. Heal moved to continue the Public Hearing for **Janet W. Stone (142-66)** to June 2, 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. M<sup>c</sup>Carthy, carried unanimously.

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

Mr. Stephens reiterated for the record that there were only four members present questioned if the applicant was willing to proceed with a board of four.

Dan Ellis of Ames Associates, representing Phil & Janet Stone stated for the record that they would proceed with a Board of four. Present in the audience for the hearing was Phil & Janet Stone. Mr. Ellis briefly described the proposed stairs from the deck expansion described in the prior hearing.

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 8:39 PM and came out at 8:41 PM. There was no further input from the board or audience.

**Motion:** Mr. M<sup>c</sup>Carthy moved to continue the Public Hearing for **Phil & Janet W. Stone (142-66)** to June 2, 2010, and to direct staff to draft a Notice of Decision granting the special exception for access & egress within setbacks, seconded by Mr. Heal, carried unanimously.

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

Mr. Stephens reiterated for the record 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.

Present in the audience for the hearing was Marcia Steckler, who stated for the record that she would proceed with a Board of four. Dan Ellis of Ames Associates briefly described the project. The proposal is to remove the existing detached garage within the road and side setback and to construct a new detached garage which encroaches on the road and side setbacks, but is less non-conforming than the existing garage to be removed. The existing garage is 10.6' from the side setback line, 20' from the centerline and has 316 sq. ft. of non-conformity. The proposed garage will be 12.7' from the side setback line, 46' from the centerline and will only have 81 sq. ft. of non-conformity. Mr. Ellis provided the board with photos of the site, noting the lot is very small with a large amount of ledge, which limits the development of the site and creates a hardship due to the costs of removal of the ledge.

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 8:50 PM and came out at 8:55 PM. There was no further input from the board or audience.

**Motion:** Mr. Stephens moved to continue the Public Hearing for **Philip & Marcia Steckler (247-6)** to June 2, 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.

**VI. Correspondence**

- 1) Planning Board Draft Minutes of May 12, 2010 were noted.
- 2) Board of Selectmen Draft Minutes of May 6, 2010 were noted.

**VII. Unfinished Business**

**VIII. Adjournment**

**Motion:** Mr. Stephens made the motion to adjourn at 9:02 PM, seconded by Mr. Heal, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant