

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

Regular Meeting

July 7, 2010

Minutes

Present: Members: Bob Stephens, Jerry Hopkins, Russell Nolin, Ray Heal, Kevin M^cCarthy
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

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of June 16, 2010, seconded by Mr. Nolin, 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 stated that this was a continued hearing for the request for variance for Jeffrey and Amy Glass. Bob Pollock from Pollock Land Planning was present to represent the applicant. Mr. Stephens stated the board had a few questions at the prior hearing in which Eric Buck, from Pollock Land Planning was present representing the applicant. Mr. Stephens recapped their concerns which were regarding the water intrusion into the shower pan and the second was whether or not the existing septic system was capable of handling an ejector pump system. It was the decision of the board to continue the hearing for further information from DES regarding these issues, requiring the applicant or their representative to provide the board with the additional information requested from DES.

Mr. Pollock provided the board with emails from David Ames of Ames Associates, Robert Tardif from NH DES Subsurface and Jason Aube from NH DES Shoreland Program, and explained the ZBA had requested additional information regarding the shower drainage and the effect it may or may not have on the existing septic system. Mr. Pollock stated they provided the plans to NH DES, and Mr. Tardif indicated the shower would not affect the septic system. The plan with a revision date of June 28, 2010 was then reviewed by Jason Aube of NH DES Shoreland Division, for compliance with their approval. Noting they have placed a 4.5' x 5' roof over the shower area, a trellis structure and have pitched the permeable pavers outside the shower to drain away from the shower, and elevated the shower drain by 8 inches so the water goes directly into the adjacent bathroom and into the ejector pump.

Mr. Pollock noted the email from Jason Aube, NH DES referring to File #2009-00635, compliance questions. Mr. Aube stated if there was no increase in impervious area, and no excavation or filling is required, than the existing permit needn't be amended.

Mr. Pollock noted the email from Rob Tardiff, NH DES Subsurface stating that Mr. Buck was correct in that DES does not regulate the number of bathrooms/showers in a house, and as such, there is no need to obtain approval from subsurface to install a shower as described. He recommended in addition to the roof they include some sort of method to divert any stormwater flowing across the ground from entering the shower drain. This is why they have proposed to pitch the pavers and elevate the drain.

Mr. Stephens questioned if the latest plan presented to the board reflected all of the changes. Mr. Pollock stated the dated plan presented this evening is the same dated plan sent to NH DES. Mr. Pollock noted again the changes, raising the floor, adding the roof and pitching the permeable pavers away.

Mr. Nolin questioned if all of the proposed changes would prevent the stormwater from going into the septic system. Mr. Pollock stated that was correct. Mr. Nolin commented the shower pan was still permeable pavers and questioned where they are to be pitched. Mr. Pollock stated everything outside the shower drains away. The shower itself drains into the septic system without an ejector pump.

The board discussed the shower and permeable pavers at length. Mr. Nolin did not see how permeable pavers in a shower stall were going to take care of his original concern of the shower draining into the ground, which defeats the purpose of the drain. Mr. Pollock stated if the pavers in the shower area were a concern, they could make them impermeable. Mr. Hopkins questioned if there was a drain with a trap in the shower. Mr. Pollock stated yes.

Mr. Stephens asked the Planner if he knew of any information through conversations he had with the Code Enforcement Officer regarding the design of the shower. Mr. Merhalski stated no, but it was possible because the CEO deals with a different set of people who build the house that the CEO may have the information. Mr. Stephens questioned if the ZBA has access to any files related to the building permit request for the project. Mr. Merhalski stated they have access as long as they are a public document, but that they have not been given anything as part of the ZBA project file. The CEO is still waiting on ZBA approval. He was the one who brought up the fact that there was a shower proposed instead of a deck.

Mr. Pollock stated he was confused as to what the board wanted at this point. There are several people involved at this point, NH DES, Mr. Pollock, Mr. Buck, the builder the CEO. Mr. Merhalski stated the plans received the ZBA received never had any infrastructure for the drain.

Mr. Stephens stated one of the two items outstanding appears to have been addressed. The second concern still exists as to, how does the water get from the shower into the drain. The board discussed this issue of permeable pavers and the shower pan at length. It was the feeling of the board that a detailed design of the shower would be needed in order for them to make the decision if they were in compliance.

The board discussed the option of a condition of approval questioning if that would be a legitimate approach. And if they were to give a conditional approval subject to verification that the shower would be in full compliance with the plumbing codes and what else may be required. Mr. Merhalski stated the fundamental concern is where the drain is. The board has not been provided with information that tells where the drain is located, what kind it is, or where it goes. If the board places a condition on the approval saying that it's up to the CEO to decide if the drain is okay, then the ZBA will not see this application again. It would be up to the CEO if it met his definition. If the issue the board has is whether or not fundamentally the purpose of the variance is tied to the drain and how it operates they should make the decision themselves. Mr. Merhalski commented if the shower was a matter the board was debating, whether or not it would meet their requirements for a variance, then the board should get the information.

Mr. Hopkins referred to number 8 in the Draft Findings of Fact drafted for the June 16th hearing, and questioned Mr. Nolin if this was a condition that would be voted on this evening. Originally the board voted to direct the Planner to draft the decision approving the variance. At the continued hearing there was information brought up that the plan submitted to the board was not the same plan that had been submitted to DES. Subsequently there was a continued hearing with Mr. Buck present in which the board raised a couple of concerns which were to be addressed.

Mr. Stephens asked if there were any questions from the public, noting there were none. The board went into deliberative session to discuss each of the criteria for the granting of the variance and referred to the Draft Finding of Fact prepared for the June 16th Public Hearing.

The board returned to Public Session and instructed the Planner to draft a Notice of Decision to approve the variance subject to the Board's review and acceptance of an architect/engineer's design of the shower that will meet the plumbing code.

Motion: Mr. Stephens moved to direct staff to draft a Notice of Decision approving the variance for **Jeffrey R. & Amy H. Glass (196-8)** subject to the board reviewing and accepting an architect/engineer's design of the outside shower that will meet the plumbing code, seconded by Mr. Hopkins, carried unanimously.

Motion: Mr. Hopkins moved to continue the Public Hearing for **Jeffrey R. & Amy H. Glass (196-8)** to July 21, 2010, seconded by Mr. Stephens, carried unanimously.

**2. Continuation of Public Hearing – Squam Byrne, LLC (13-1)(928 Bean Road)
Variance from Article III, Paragraphs 1 & 2**

Mrs. Roseberry did not participate in any discussion for this Public Hearing.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the board at the Public Hearing on June 16th. There were no changes made to the draft decision or further discussion regarding the hearing.

Motion: Mr. Hopkins moved to approve the application of **Squam Byrne, LLC (13-1)** for a variance, as detailed in the Draft Notice of Decision, and authorize the Chairman to sign the Notice of Decision, seconded by Mr. Heal, passed by a vote of five (5) in favor (Stephens, Hopkins, Nolin, Heal, M^cCarthy), 0 opposed, and 0 abstentions.

**3. Mark & Sarah Cotrupi (54-1)(101 Sheridan Road)
Variance from Article III, Paragraph I**

Mr. Stephens stated this was a request for a variance from the height restrictions under Article III, Paragraph I.

Sarah Cotrupi was present in the audience to present their application. Mrs. Cotrupi gave a brief synopsis of how they acquired the property and determined what would be required to access the property and a suitable building site. Due to the topography of the site and the extensive cost, they have decided on a building site approximately 250 feet up on the site. They then began the design process for their home and due to the character of the site were limited to what floor plan would work on the site and determined their design would not meet the height limitation. Mrs. Cotrupi addressed each of the five criteria for the granting of a variance and answered any questions from the board.

Board members noted there were not any measurements on the plan and questioned the height being requested. Mr. Stephens noted he had spoken with the Fire Chief and he had made a verbal comment on the phone indicating that his concern might be mitigated by the requirement of installing a sprinkler system. Mrs. Cotrupi stated they would not be adverse to that.

Bill and Linda Byer were present in the audience, noting they are adjacent to the Cotrupi's lot. Mr. Byer spoke in favor of the request for variance.

Mr. Stephens noted there were no further questions from the public. The board went into deliberative session to discuss each of the criteria for the granting of a variance. The board returned to Public Session and made the following motion.

Motion: Mr. Hopkins moved to continue the Public Hearing for **Mark & Sarah Cotrupi (54-1)** to July 21, 2010, and to direct staff to draft a Notice of Decision approving the request for a variance from Article III, Paragraph 4, seconded by Mr. Heal

Mr. Merhalski requested further information to prepare the draft Notice of Decision. First, what is the height of the structure at the highest point and second if there is living space in the cupola? Mrs. Cotrupi stated there is no living space in the cupola. The average height of the house is 43' and the maximum height will be 48' as scaled off the plan. It was also noted that the approval is contingent upon the installation of a sprinkler system.

passed by a vote of four (4) in favor (Stephens, Hopkins, Heal, M^cCarthy), 1 opposed (Nolin), and 0 abstentions.

V. Correspondence

- 1) Mr. Stephens noted a letter of appreciation to be sent to former board/alternate member Bob Bernstein. Mr. Bernstein had resigned from the board as he no longer had the time to serve.
- 2) Planning Board Draft Minutes of June 9 & 23, 2010 were noted.
- 3) Planning Board Work Session Draft Minutes of June 30, 2010 were noted.
- 4) Board of Selectmen Draft Minutes of June 17, 2010 were noted.

VI. Unfinished Business

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:44 PM, seconded by Mr. Hopkins, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant