

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

Regular Meeting

December 1, 2010

Minutes

Present: Members: Bob Stephens, Jerry Hopkins, Russell Nolin, Ray Heal, Kevin M^cCarthy;
Alternates: Nicol Roseberry, Robert Zewski; Town Planner, Dan Merhalski

I. Call to Order

Mr. Stephens called the meeting to order at 7:30 PM.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of November 17, 2010, seconded by Mr. Nolin, carried unanimously.

IV. Hearings

1. Continuation of Public Hearing - Carlene Porter-Holmes & Myron Holmes (74-14) (143 Lees Mill Road) Variance – Article III (B)(1)

As Mr. M^cCarthy was not present for the first hearing, he stepped down from the board. Mr. Stephens appointed Mr. Zewski (who was present at the first hearing) as a full voting member.

Mr. Stephens noted this was a continued hearing for a variance. The board had continued the hearing to allow time for the applicant to provide the measurement for the distance from the corner of the garage to the edge of the property line as that information was not shown on the sketch.

Mrs. Porter-Holmes provided the board with a sketch depicting the proposed 20' x 20' garage to be sixteen (16) feet from the edge of the Right-of-way (ROW) and twenty-five (25) feet from the centerline of the road. Mrs. Porter-Holmes reiterated a portion of their prior testimony supporting their request for the granting of the variance, noting there were nine other residences on Lees Mill Road, eight of them have attached garages, one of which received a variance from the required setback.

Mrs. Porter-Holmes noted the letter submitted to the board from Verne Richardson, an effected landowner. Mr. Richardson claims he has a deeded right to pass and repass through the Holmes property. Mrs. Porter-Holmes questioned if this is still exists or not as it did not carry over with the transfer of the deed in 1955. The board noted the letter as correspondence and was in agreement that it was not pertinent to the application. Mr. Porter-Holmes answered any questions from the board.

Mr. Hopkins questioned if there was any other location on the property that the proposed garage could be constructed that would not require a variance. Mrs. Porter-Holmes noted septic and topography

prohibited this to the right of the home and if they were to move the proposed garage back from the road to meet the setback from the ROW, they would not comply with the required 50' setback from the brook.

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 7:49 PM and came out at 7:58 PM.

Mr. Nolin questioned if the proposal would require the relocation of the driveway. It was noted that this would require the applicant to make application for a new driveway cut. Mr. Nolin requested the board place a condition on the approval subject to the Road Agent approving the driveway cut.

Motion: Mr. Nolin moved to continue the Public Hearing for **Carlene Porter-Holmes & Myron Holmes (74-14)** to December 15, 2010, and to direct staff to draft a Notice of Decision approving the request for a variance conditional upon the Road Agent approving the driveway cut, seconded by Mr. Stephens, carried unanimously.

Mr. M^cCarthy returned to the board at this time with full voting privileges.

2. Continuation of Public Hearing - The Taylor Community (96-4)(Route 171)
Special Exception – Article VII (A)(1), Condominium Conversion

Mr. Nolin stepped down from the Board for this hearing. Mr. Stephens appointed Mrs. Roseberry to sit on the board with full voting privileges.

Present in the audience representing The Taylor Community was Catherine Broderick, Esquire, Steven Smith, Surveyor and Tim Martin, President and CEO of the Taylor Community.

Ms. Broderick gave a brief overview of the existing property, noting the proposal is for a change of ownership. There will be no increase in the number of units, increase in size of units or in the number of bedrooms, the only change is the form of ownership.

Steve Smith of Steven J. Smith & Associates briefly described the existing conditions of the site. There are fourteen (14) units on 84.38 acres, consisting of 4 single units, 3 duplex units and 1 quad unit. They received subdivision approval in 1998, and they have an existing State approval for the well system. They have re-submitted to the State for subdivision approval which is pending. Mr. Smith noted that the 84.38 acres could support 33 units, but stated they are not proposing any increase in the number of units. They are waiting for the water quality test to come back for a new water system approval.

Ms. Broderick described the condominium conversion, noting the Taylor Community will sell the units. She noted the need for Planning Board approval for both subdivision and site plan approval. Ms. Broderick requested two (2) amendments to the application, the first change to Criteria 2, from single-family to multi-family and the second to Criteria E, adding “and Site Plan Review” to the last sentence.

Mr. Stephens asked if there were any questions from the public. Linda Nolin, Trustee of the West Wynde Farm commented they have an agreement for “limited duration and use of the woods roads....” and questioned if this condition would stay in the deed. Ms. Broderick noted that was a right in their deed, but she did not know the terms and would like to do some research on this and would speak with

the Nolin's for the details. Mrs. Nolin questioned if the Taylor Community would be selling the units individually or would the property be sold to another party, who will re-sell and expand. She requested the ZBA make a condition that there be no further development or expansion. Mrs. Nolin questioned if this were to be converted, would there be a possibility of there being an association clubhouse, and would the septic be sufficient. Mr. Smith noted this would require state and local approvals if there was a proposal for a clubhouse.

The board went into deliberative session to discuss each of the criteria for the granting of the special exception at 8:32 PM and came out at 8:35 PM.

Motion: Mr. Hopkins moved to continue the Public Hearing for **The Taylor Community (96-4)** to December 15, 2010, and to direct staff to draft a Notice of Decision approving the request for a special exception, seconded by Mrs. Roseberry, carried unanimously.

Mr. Nolin returned to the board at this time with full voting privileges.

3. Continuation of Public Hearing - 34 Sable Run Lane Nom. Trust c/o Alan & BethAnn Ayres, Trustees (237-12)(50 Braun Bay Road) Variance – Article III (B)(3)

Mr. Stephens noted a letter dated December 1, 2010 from Holden Engineering, agent for the Ayers, respectfully requesting a continuance of the Public Hearing to December 15, 2010.

Motion: Mr. Stephens moved to continue the Public Hearing for **34 Sable Run Lane Nom. Trust c/o Alan & BethAnn Ayres, Trustees (237-12)** to December 15, 2010, seconded by Mr. M^cCarthy, carried unanimously.

4. J. Craig Moriarty (170-17)(5 Whittier Highway)
Motion for Re-hearing - Appeal from an Administrative Decision

Mr. Stephens noted the applicant, Craig Moriarty, has submitted a request for a rehearing of their appeal of an Administrative Decision which was denied on October 20, 2010. The Board discussed this request in accordance with RSA 677:2 and 3 to determine if there was reason to hold a new hearing. Mr. Merhalski stated RSA 677:3 indicates the board must decide to: "either grant or deny the application [for rehearing], or suspend the order of decision complained of pending further consideration". It was noted that the ZBA had received a decision from counsel on the original application, but has not seen the motion for rehearing. It was the decision of the board to grant the request for the rehearing. Board members questioned the required timing of the scheduling of the Public Hearing.

Motion: Mr. Hopkins moved to grant the motion for rehearing as requested by J. Craig Moriarty (170-17) and to schedule the hearing for either January 5, 2011 or January 19, 2011, depending on the applicants availability, Seconded by Mr. Stephens, carried 4 to 1 with Mr. Nolin opposing.

V. Correspondence

1) Board of Selectmen Draft Minutes of November 18, 2010 were noted.

VI. Unfinished Business

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:53 PM, seconded by Mr. M^cCarthy, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant