

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

Regular Meeting

April 20, 2011

Minutes

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

I. Call to Order

Mr. Stephens called the meeting to order at 7:30 PM, introduced the members of the board to the public and welcomed Mr. Crowe, the newest alternate member of the board.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Nolin moved to approve the Zoning Board of Adjustment Minutes of April 6, 2011, seconded by Mr. Stephens, carried unanimously.

IV. Hearings

1. Continuation of Public Hearing - Trey & Anthony Wilson (23-15)(1225 Whittier Highway) Equitable Waiver of Dimensional Requirements

Mr. Stephens stated this was a continued hearing for an Equitable Waiver of Dimensional Requirements. Mr. Wilson was present this evening for the hearing.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the Board at the hearing on April 6th. Mr. Hopkins would like to amend the decision to include that the applicant accepted a board of four. There were no other amendments made to the draft decision or further discussion regarding the hearing.

Motion: Mr. Hopkins moved to approve the application for **Trey & Anthony Wilson (23-15)** for an equitable waiver as detailed, and amended, in the Draft Notice of Decision, and to authorize the Chairman to sign the Notice of Decision, seconded by Mr. Nolin, passed by a vote of five (5) in favor (Stephens, Hopkins, Nolin, Heal, M^cCarthy), 0 opposed and 0 abstentions.

2. Continuation of Public Hearing - Trey & Anthony Wilson (23-15)(1225 Whittier Highway) Special Exception – Article VI Paragraph E

Mr. Stephens stated this was a continued hearing for a Special Exception. Mr. Wilson was present this evening for the hearing.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the Board at the hearing on April 6th. Mr. Hopkins would like to amend the decision to include that the applicant accepted a board of four. There were no other amendments made to the draft decision or further discussion regarding the hearing.

Motion: Mr. Hopkins moved to approve the application for **Trey & Anthony Wilson (23-15)** for a Special Exception as detailed, and amended, in the Draft Notice of Decision, and to authorize the Chairman to sign the Notice of Decision, seconded by Mr. Nolin, passed by a vote of five (5) in favor (Stephens, Hopkins, Nolin, Heal, M^cCarthy), 0 opposed and 0 abstentions.

3. Continuation of Public Hearing - Squam Byrne, LLC (13-1)(near 928 Bean Road)
Variance from Article III, Paragraph B(4)

Mr. Stephens stated this was a continued hearing for a variance. Dan Ellis of Ames Associates, representing Squam Byrne LLC, was present this evening for the hearing.

The board reviewed the Draft Notice of Decision prepared by the Town Planner, as directed by the Board at the hearing on April 6th. There were no changes made to the draft decision or further discussion regarding the hearing.

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

4. Continuation of Public Hearing - James and Jody Gangi (99-61)(45 Eden Lane)
Variance from Article III, Paragraph B(1)

Mr. Stephens stated this was a continued hearing for a variance. The board conducted an on-site visit of the property on April 16th.

James Gangi represented himself and gave a brief history of the property. He stated that he had bought the house from his parents in 2002. They have had water and mold issues and in 2008 the heavy snow collapsed the roof. They hired a mold specialist who told them they needed to divert as much water as possible from the area around the home. They hired a contractor to replace the entire roof. During conversations with the contractor they discussed expanding up, but weight issues and water issues prohibited this. The contractor pulled a building permit for the renovations that included the roof, crawl space, drainage and floor support. At that time, they had not decided to expand. When they did expand, the contractor did not reapply for a permit for the 10' x 19' addition that is in question. The porch was built and Mr. Gangi was not aware of the need for a variance. Mr. Gangi noted the board had been to the property on Saturday for an on-site. There was no other location to expand outward as they were limited by the brook and the septic, which is why they expanded to the front. Mr. Gangi contacted the contractor upon receiving the letter of violation issued by the Code Enforcement Officer (CEO), but he has had no response from him. Mr. Gangi provided the board with a petition indicating all the neighbors on Eden Lane support their request for a variance. He then went over each of the criteria for the granting of a variance.

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 for the variance at 7:47 PM. During deliberations Mr. M^cCarthy recused himself from the board as he was not present at the on-site visit to view the property. Mr. Stephens appointed Ms. Roseberry at this time with full voting privileges. The board returned to public session at 7:55 PM. There was no further input from the public.

Mr. Stephens noted and provided Mr. Gangi a copy of a letter dated February 15, 2011 from the CEO stating if the board granted the variance that Mr. Gangi is still required to obtain the appropriate permit, pay the fees and any applicable fines.

Motion: Mr. Hopkins moved to direct staff to draft a Notice of Decision to grant the Variance for **James and Jody Gangi (99-61)** and to continue the Public Hearing to May 4, 2011, seconded by Ms. Roseberry, carried unanimously.

5. John & Susan Temple (194-8)(224 Krainewood Drive)
Variance from Article III, Paragraph B(4)

Ms. Roseberry recused herself from the board at this time. Mr. M^cCarthy returned with full voting privileges.

Dan Ellis of Ames Associates, presented the application for variance. Mr. Ellis provided the board with a letter of support dated March 12, 2011 from Albert Notini and referred to a copy of the Tax Map which showed the location and setbacks of the surrounding homes that are located within the setback. He briefly described the property noting the Lot is 0.4 acres with a 21% average slope on the lot and a limited area for the leach field due to the lot configuration. The existing home was constructed in 1975. The proposal was to construct an addition beyond the required fifty (50) and twenty (20) foot setbacks. An inspection determined that the existing dwelling is not structurally sound enough to add onto and needs to be replaced. They are before the board for approval to demolish the existing home, including the foundation and replace it in the same location, as well as an area that is conforming. They looked at other locations on the site, noting there are none for the leach field on or off the lot. There is a common leach field across the street but this lot has no rights and per state standards is overloaded now. Mr. Ellis reviewed each of the criteria for the granting of the variance.

Mr. Hopkins questioned a hatched area on the plan which appeared to be in the setback. Mr. Ellis stated that was an 18" eave overhang, which has been allowed by the CEO.

Mr. Stephens commented if the variance were to be granted, a condition of approval be that the foundation be set by a surveyor as they have no wiggle room.

It was noted the applicant has obtained an approval for construction of the Septic System and they will be required to obtain a NH DES Shoreland permit. Mr. Ellis stated that they will be a 315 sq. ft. reduction in impervious surface within setback area and the existing carport and shed will be removed.

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 for the variance at 8:20 PM and came out at 8:27 PM. There was no further input from the public.

Motion: Mr. Hopkins moved to continue the Public Hearing to May 4, 2011, and to direct staff to draft a Notice of Decision to grant the Variance for **John & Susan Temple (194-8)** conditional upon receipt of NH DES Shoreland Permit, foundation to be set by NH Licensed Surveyor, removal of carport and shed, in accordance with revised plan to be submitted at meeting of May 4th, seconded by Mr. Stephens, carried unanimously

6. 34 Sable Run Lane Nom. Trust c/o Alan & BethAnn Ayres, Trustees (237-12)(50 Braun Bay Road) Variance – Article III (B)(3)

BethAnn and Alan Ayers and Robert Desrosiers were present in the audience for this hearing.

Ms. Ayres briefly described their request for a variance. She stated there is an existing 18' x 14' one (1) room bunkhouse on cinder blocks that is in general disrepair due to water and mold issues. The proposal is to remove and rebuild a one (1) bedroom guest house that will be 22' x 16' including a bathroom on a slab. The current bunkhouse, at the closest point to the property line is seven (7) feet and angles off to nine (9) feet. The proposed bunkhouse will be parallel with the property line at nine (9) feet.

Mr. Hopkins questioned if the total amount of non-conformity was going to be greater. After a short discussion it was stated that while it was being moved away from the property line, the amount of intrusion was greater.

Ms. Ayers noted they had applied to the board for a variance on this lot, which was denied by the board in January. They have resubmitted their application, relocating the proposed bunkhouse and septic tanks. They have submitted to DES for an amendment for the relocation of the septic tanks.

Ms. Roseberry stepped down from the board at this time, and noted for the record that she did not participate on this project with her employer Ames Associates.

Mr. Nolin questioned if the board had determined if the application was substantially different from the previous application which the Board denied.

Motion: Mr. Nolin moved to deny the application of **34 Sable Run Lane Nom. Trust (237-12)** on the basis that it is not substantially different. Mr. Hopkins seconded the motion for purposes of discussion.

After a brief discussion Mr. Stephens called for a vote on the motion. Motion failed 2 to 3.

Motion: Mr. Hopkins moved to accept the application of **34 Sable Run Lane Nom. Trust (237-12)**, Mr. M^cCarthy seconded, passed 3 to 2.

Once the board determined the project was substantially different they viewed the proposed relocation of the bunkhouse. In an effort to move the bunkhouse further from the setback line or make it conforming, the board asked the applicants if there were any alternatives to the relocation of the septic tanks. Mr. Stephens questioned if Board members would benefit from an on-site visit to the property. Board members agreed and onsite visit would be helpful.

Motion: Mr. Hopkins moved to continue the Public Hearing for **34 Sable Run Lane Nom. Trust c/o Alan & BethAnn Ayres, Trustees (237-12)** to May 18, 2011, and to schedule an on-site visit for Saturday, May 14th at 8 AM, seconded by Mr. Stephens, carried unanimously.

VI. Correspondence

1) Planning Board Draft Minutes of April 13, 2011 were noted.

2) Board of Selectmen Draft Minutes of April 7, 2011 were noted.

VII. Unfinished Business

Mr. M^cCarthy spoke to the board regarding his attendance of the meetings. Mr. M^cCarthy stated that due to family matters, he has been unable to make many of the meetings and does not foresee that changing. He stated that he wanted what was best for the board and the community. He could step down from the board as a full member and serve as an alternate member, whatever is best for the board. He noted that he

would only be available during July and August. After a brief discussion with the board, Mr. M^cCarthy gave his resignation.

Motion: Mr. Hopkins moved to accept Mr. M^cCarthy's resignation from the Board, seconded by Mr. Stephens, carried unanimously.

Mr. Stephens noted that in accordance with statute, the vacancy shall be filled by appointment by the remaining board members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.

Motion: Mr. Hopkins moved to nominate alternate Nicol Roseberry as a full member of The Board until town election is held in March 2012, seconded by Mr. Nolin, carried unanimously.

2011 Board Organization – Election of Officers and Review of Policies and By-Laws

Mr. Stephens stated this was the business portion of their annual Organizational Meeting. As Senior Member, Mr. Hopkins called the Organizational Meeting to order and asked who was interested in being the Chairman.

Mr. Stephens and Mr. Hopkins both indicated their interest to serve as Chairman. By a vote of Three (3) for Mr. Stephens and Two (2) for Mr. Hopkins, Mr. Stephens was elected as Chairman.

Motion: Mr. Stephens moved to nominate Jerry Hopkins as Vice Chair, seconded by Mr. Heal, carried unanimously.

Motion: Mr. Hopkins moved to designate staff to act in the capacity of Secretary pertaining to Minutes and Applications to the Zoning Board, seconded by Mr. Stephens, carried unanimously.

Mr. Merhalski noted the time and questioned if the members wanted to begin the review of the policies or continue them until their next meeting. It was the decision of the board to continue them.

Motion: Mr. Hopkins moved to continue the Review of Policies and By-Laws to May 4, 2011, seconded by Mr. Stephens, carried unanimously.

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 9:25 PM, seconded by Mr. Nolin, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant