

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

Regular Meeting

August 3, 2011

Minutes

Present: Members: Bob Stephens, Jerry Hopkins, Russell Nolin, Nicol Roseberry
 Alternates: Robert Zewski, Joseph Crowe
Excused: Member: Ray Heal

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 Mr. Zewski to sit on the board with full voting privileges in place of Mr. Heal.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Stephens moved to approve the Zoning Board of Adjustment Minutes of July 20, 2011 as written, seconded by Mr. Zewski, carried unanimously.

IV. Hearings

Ms. Roseberry stepped down from the board at this time for hearings number 1 and 2. Mr. Stephens appointed Mr. Crowe to sit on the board with full voting privileges

1. Continuation of Public Hearing - Norman Larson (137-29)(58 Vonthurst Road)
 Special Exception from Article VII B(3)

Mr. Stephens stated this was a continued hearing for Norman Larson. Mr. Larson was present this evening for the hearing.

Mr. Hopkins noted he was not present at the hearing on July 20th, but has read the minutes and the draft Notice of Decision. He questioned Criteria #2, relating to the height of the proposed expansion. It was noted the addition will be a single story.

The board reviewed the Draft Notice of Decision prepared by staff, as directed by the board at the hearing on July 20th. There were no changes made to the draft decision or further discussion regarding the hearing.

Motion: Mr. Zewski moved to approve the application for **Norman Larson (137-29)** for a special exception, 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, Zewski, Crowe), None (0) opposed and 0 abstentions.

2. Continuation of Public Hearing - Anthony Campbell and Nora Cross (258-7)
(75 Norway Point Road)
Variance from Article VII B(4)

Mr. Stephens stated this was a continued hearing for Anthony Campbell and Nora Cross. David Krause of T.F. Bernier, Inc. and Ward D'elia, Architect were present in the audience for the hearing.

The board reviewed the Draft Notice of Decision prepared by staff, as directed by the board at the hearing on July 20th. There were no changes made to the draft decision or further discussion regarding the hearing.

Motion: Mr. Nolin moved to approve the application for **Anthony Campbell and Nora Cross (258-7)** 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. Crowe, passed by a vote of five (5) in favor (Stephens, Hopkins, Nolin, Zewski, Crowe), None (0) opposed and 0 abstentions.

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

3. Thomas & Karin Wailgum (107-21)(13 Heatherwood Drive)
Variance from Article III (B)(3)

Thomas and Karin Wailgum presented the application for variance. Mr. Wailgum briefly described the proposed addition of a breezeway and a garage.

Mr. Stephens noted the correspondence included with the application for the variance. There was documentation from Claudia Gibson, MD and James Forrestall, Licensed Independent Clinical Social Worker, indicating the Wailgum's 8-year-old twins are Autistic, and that the proposed garage would greatly increase Mr. & Mrs. Wailgum's ability to safely load and unload the boys from their vehicle and allow them not to have to clear snow from their vehicle in the winter (thus not having to be outside and away from the boys); and to provide an extra layer of security and safety for the boys when leaving their home. The Board discussed if the applicant was seeking a variance to the zoning ordinance for the boys recognized disability, which may be granted for as long as the particular individuals have a need to use the premises. If this were so, then the question was raised, if they were to sell the home, would the garage need to be removed. In reviewing RSA 674:33, it was noted there was an amendment to RSA 674:33, adding new paragraph V, that states: "*Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:*

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

*(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment **may** provide, in a finding included in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises."*

It was noted that the language stated the board "**may**" include in the variance, that the variance shall survive only so long as the particular person has a continuing need to use the premises, not shall or must. It was the consensus of the Board to not place any restriction on the granting of the variance.

Mr. Crowe asked the applicants if they had received any objections from their abutters. They stated no and noted their abutter has a large lot, and that there is a dense buffer of trees between their homes.

Mr. Hopkins questioned if they could relocate the proposed garage, and eliminate the breezeway in a manner that could meet setbacks. The board reviewed the sketch, noting the lot is 96.7 ft. ± in width, and the existing home is 32' in width and almost centered on the lot. Mr. Wailgum stated that there are three windows on that end of the house, and they would lose the two first floor windows.

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 7:56 PM and came out at 7:59 PM.

Motion: Mr. Hopkins moved to continue the Public Hearing for **Thomas & Karin Wailgum (107-21)** to August 17, 2011, and to direct staff to draft a Notice of Decision granting the variance, seconded by Mr. Stephens, carried unanimously.

VI. Correspondence

- 1) Planning Board Draft Minutes of July 27th, 2011 were noted.
- 2) Board of Selectmen Draft Minutes of July 21st, 2011 were noted.

VII. Unfinished Business

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:05 PM, seconded by Mr. Zewski, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant