

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

Regular Meeting

September 21, 2011

Minutes

Present:	Members:	Bob Stephens, Jerry Hopkins, Ray Heal, Nicol Roseberry
	Alternate:	Joseph Crowe; Dave Holden – Interim Planner
Excused:	Member	Russell Nolin
	Alternate:	Robert Zewski

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. Crowe to sit on the board with full voting privileges in place of Mr. Nolin.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Crowe moved to approve the Zoning Board of Adjustment Minutes of September 7, 2011 as written, seconded by Ms. Roseberry, carried unanimously.

IV. Hearings

1. Continuation of Public Hearing - Scott & Elizabeth Dolfi (188-30)(80 Wyman Trail)
Variance from Article III (I)

Ms. Roseberry stepped down from the board at this time.

Mr. Stephens stated this was a continued hearing for Scott & Elizabeth Dolfi. Mr. Stephens noted that there were only four members seated at this time and that applicants are entitled to a full board of five members. It was noted for the record that no one was present this evening representing the applicant and it was the practice of the Board to continue as there was a quorum of the Board.

Mr. Hopkins stated he was present at the first hearing, and he was not present at the last hearing on the 7th. He requested an update from the Board regarding the hardship. Mr. Stephens briefly recapped his meeting on-site with the Fire Chief, indicating he had no access issues regarding the height of the building.

The board reviewed the Draft Notice of Decision prepared by staff, as directed by the board at the hearing on September 7th. There were no changes made to the draft decision or further discussion regarding the hearing.

Motion: Mr. Heal moved to approve the application for **Scott & Elizabeth (188-30)** 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 three (3) in favor (Stephens, Heal, Crowe), one (1) opposed (Hopkins) and 0 abstentions.

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

2. Continuation of Public Hearing - Nancy Sears Barker (236-21)(100 Echo Landing Road)
Variance from Article III (B)(3)

Mr. Stephens stated this was a continued hearing for Nancy Sears Barker. Stephen Sheffer was present representing the applicants. Mr. Sheffer provided the Board with materials as requested at the prior hearing detailing the physical size and dimensions of the addition as required as a condition of approval.

The board reviewed the Draft Notice of Decision prepared by staff, as directed by the board at the hearing on September 7th. There were no changes made to the draft decision or further discussion regarding the hearing.

Motion: Ms. Roseberry moved to approve the application for **Nancy Sears Barker (236-21)** 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. Heal, passed by a vote of four (4) in favor (Stephens, Heal, Roseberry, Crowe), None (0) opposed and one (1) abstention (Hopkins).

3. Continuation of Public Hearing – Rock Pile Real Estate, LLC (44-13)(84 Gov. Wentworth Highway) Variances from Article III (A), Article VI (E)(1), (F)(1), (F)(2) & (F)(6.D & E)

Mr. Stephens stated this was a continued hearing for Rock Pile Real Estate, LLC. Mr. Stephens opened with the following comment. Basically from the perspective of legal counsel, in order for the project to move forward, it needs both the Special Exception and the Variances together. He stated that at the last meeting, Ms. Prause removed from the hearing, without prejudice, the Special Exception. Since the Board is looking at the whole situation as a total package, it does not make any sense to move forward on the continuation of the variance. The project cannot be completed without everything. If and when the applicants files a new application for Special Exception, they will need to start at ground zero, and have all the variances approved for the plan presented at that time. It has been indicated that the plan will be different from what was submitted at this time.

Ms. Prause commented the remaining variance continued was dealing with the frontage issue. At the previous hearing she was under the impression that the sale of the ROW could move forward, but that the ZBA did not have the information necessary to move forward at that time. She did find a driveway permit from 2005 that did include closing off the Route 109 entrance of the driveway. Ms. Prause looked for direction from the Board as to what would make more sense at this time, to continue until they have a new plan, or to withdraw at this time.

It was the feeling of the Board that it would be cleaner if Ms. Prause were to withdraw the application, without prejudice, at this time and reapply when she had the new plan. Ms. Prause requested that the Board withdraw the request relief from the section of the ordinance relating to the frontage. Mr. Holden suggested that the request for withdrawal be for the project/application, not only the one variance relating to frontage. Ms. Prause noted her concerns regarding the three variances which had been granted, and that they were necessary to continue any kind of basic structural improvements. She was loathed to withdraw the variances which were granted, if that would leave her in a situation she could not continue the renovations in process. Mr. Stephens commented that the current use as residential did not require land use approvals. Ms. Whitney stated that she had verified with the Code Enforcement Officer that work being completed on the building, as shown on the building permit would require any land use

approvals. Mr. Cahoon had indicated that as applied for on the building permit, no approvals were required at this time.

Mr. Holden clarified for the record that the Boards consideration of the project consisted of two applications, one has been withdrawn, therefore the other fails. In effect the applicant would be starting over. Hypothetically they would be filing a new project, which may have different particulars and would be considered de novo.

Motion: Mr. Stephens moved that the board accept the applicants (**Rock Pile Real Estate, LLC**) request that the project be withdrawn without prejudice, at this time from the Boards consideration, seconded by Mr. Crowe, carried unanimously.

4. Richard Raisanen Revocable Trust (168-18)(34 Knoll Point Drive)
Variance from Article III (B)(3)

Ms. Roseberry stepped down from the board at this time.

Mr. Stephens stated that this hearing for an application for a variance. Mr. Dan Ellis of Ames Associates presented this variance on behalf of the applicant. Mr. Raisanen was present for the hearing.

Mr. Stephens noted that there were only four members seated at this time and the applicant is entitled to a full board of five members. If the applicant was willing to proceed with a board of four, then he forfeits his 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. Mr. Ellis stated for the record that he would proceed with a board of four.

Mr. Ellis briefly described the existing Lot, and dwelling that was constructed in 2000. He stated that the proposed variance was to permit the construction of an 18' x 24' family room and patio with pergola, six (6) feet from the property line. Mr. Ellis spoke to alternatives for the addition, which included a boundary line adjustment (BLA) that would deal with two abutters to the North, neither that were interested in the BLA, but provided approval of the variance for project as proposed. An addition to the East was out, due to location of the existing septic. Another was to convert the existing garage into living space, and construct a new garage, but that was not favored as that would result in a house that would be approximately 100' in length along the property line. If the addition were proposed for the South side, they would still be in the same situation of needing a variance to encroach on that sideline setback. The last side of the home was to the rear, or the lakeside. This would involve many roof lines and would be squeezed in, obscuring the natural light in the dining room, and it would block off one side of the screen porch, and there would be a significant expense to relocate the screen porch and change the current floor plan inside. Mr. Ellis estimated it to be three times the cost to expand towards the lake verses expanding to the North side as proposed. Mr. Ellis provided the board with large colored photos taken from the property, showing the location of the existing home, the location of the proposed addition and the existing buffer on the abutting property. Mr. Ellis noted a wetland on the abutting property, stating that the existing buffer most likely would remain on the abutting property, and reiterating the abutter's support of the project. Mr. Ellis spoke to what he described as the uniqueness of the Lot, the characteristics, amount of shore frontage in comparison with the surrounding properties.

The Board members discussed the information provided to them, relating to the options that were available to the applicant. Ms. Whitney questioned the amount of square footage that would be non-conforming. Mr. Raisanen and Mr. Ellis calculated it to be approximately 400 square feet.

Mr. Ellis addressed each of the criteria for the granting of a variance.

Mr. Hopkins questioned what was the hardship? Mr. Ellis stated financial in terms of construction. It would be three times greater than adding to the North side. Also the appeal and aesthetic value of the home.

Mr. Stephens questioned if any board member felt there would be any benefit in conducting an on-site visit of the property. Board members commented that Mr. Ellis had provided large colored photos of the site and did not believe that an on-site visit was necessary.

Mr. Stephens asked if there were any questions, it was noted there was none. The board went into deliberative session to discuss each of the criteria for granting the variance at 8:35 PM and came out at 8:46 PM. There was no further input from the board or public.

Motion: Mr. Hopkins moved to direct staff to draft a Notice of Decision to deny the variance for **Richard Raisanen Revocable Trust (168-18)** and to continue the Public Hearing to October 5, 2011, seconded by Mr. Crowe, passed by a vote of three (3) in favor (Stephens, Hopkins, Crowe), one (1) opposed (Heal).

Mr. Stephens noted that the applicant has the right to request a re-hearing within 30 days or appeal to Superior Court within 30 days of the date of this decision.

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

VI. Correspondence

- 1) Planning Board Draft Minutes of September 14, 2011 were noted.
- 2) Board of Selectmen Draft Minutes of September 15, 2011 were noted.

VII. Unfinished Business

VII. Adjournment

Motion: Mr. Hopkins made the motion to adjourn at 8:50 PM, seconded by Mr. Stephens, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant