

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

Regular Meeting

December 7, 2011

Minutes

Present: Members: Bob Stephens, Jerry Hopkins, Russell Nolin
 Alternates: Robert Zewski, Joseph Crowe; Town Planner, Bruce W. Woodruff
Excused: Members: Ray Heal, Nicol Roseberry

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 and Mr. Crowe to sit on the board with full voting privileges in place of Ms. Roseberry and Mr. Heal.

II. Pledge of Allegiance

III. Approval of Minutes

Mr. Hopkins noted on page 2, second paragraph, remedial should be remediation.

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of November 16, 2011 as amended, seconded by Mr. Zewski, carried unanimously.

IV. Hearings

1. Continuation of Public Hearing - Ronald McNulty (282-37)(20 Adams Shore Road)
 Variance from Article III (I)

Mr. Stephens stated this was a continued hearing for Ronald McNulty. Mr. McNulty was present this evening.

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

Motion: Mr. Hopkins moved to approve the application for **Ronald McNulty (282-37)** 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. Zewski, passed by a vote of three (3) in favor (Stephens, Hopkins, Zewski), two (2) opposed (Nolin, Crowe).

2. Bettinger Family Revocable Trust (282-36)(22 Adams Shore Road)
Variance from Article III B (3 & 4)

Mr. Stephens stated there were two applications submitted for variances for the Bettinger Family Revocable Trust, which will be presented and heard simultaneously, but the board will vote on the criteria for each separately. The two requests for variances are for the removal and reconstruction of a new single family dwelling unit that will be located partially within the 20' sideline setback and the 50' shoreline setback.

Dan Ellis of Ames Associates presented the applications for variance. It was noted that Mr. & Mrs. Bettinger were present in the audience for the hearings.

Mr. Ellis stated that this is a variance to completely remove and replace an existing residence located partially within the 20' sideline setback and the 50' shoreline setback. Mr. Ellis gave a brief history of the property and the surrounding lakefront homes in the neighborhood. He then described the project noting the unique features of the property, topography and two knolls, which prohibited them from relocating the proposed dwelling to a conforming area. There is an area of the home which is proposed as a three (3) season porch, which lies within the sideline setback. The three (3) season porch will be open below and will not have a foundation. The existing home is 4.4 feet from the setback line and the proposal is to increase the distance to 6.8 feet.

The second variance is for relief from the required 50' setback from the shoreline. Mr. Ellis stated all of the unique features as stated in support of the sideline setback applied to the shoreline setback. The home has been placed on the lot to maximize the view up the lake towards Alton. All of the homes in the area are placed to the right side of the lots and angled for the view. The existing home is 22.4 feet from the shoreline and the proposal is to move the dwelling back to 32.7 feet from the shoreline. Mr. Ellis stated they will be native plantings along the waterfront to meet the requirements of the NH DES, therefore protecting the lake. Mr. Ellis answered any questions from the board.

Questions from the board included where the water from foundation drains went, what the setback was on the south side of the house, why can't the home be moved back, the height of the building, if they have obtained a shoreland permit from NH DES and if the foundation was to be set by a surveyor. Mr. Ellis answers were the drains stop about 20' from the lake and drain into a vegetated area, the proposed dwelling will meet the 20' sideline setback to the south, the home can't be moved back as they wouldn't be able to make the swing into the garage, the height of the building has not been determined, but will meet the height requirements of the Zoning Ordinance and they have not applied to NH DES for their shoreland permit, as they were waiting for ZBA approval. Mr. Ellis stated that the house has been designed to try and minimize the intrusion into the side setback and shorefront while maintaining the view of the lake.

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 request from the sideline setback only at 8:03 PM and came out at 8:09 PM. There was no further input from the board or public.

Motion: Mr. Hopkins moved to continue the Public Hearing for the **Bettinger Family Revocable Trust (282-36)** to January 4, 2012, and to direct staff to draft a Notice of Decision granting the variance with the following conditions: the pins for the dwelling are to be set by a surveyor, and the receipt of a NH DES approved Shoreland Permit and the Notice of Decision to be recorded, by the

Applicant, at the Carroll County Registry of Deeds, prior to the issuance of a Certificate of Occupancy, seconded by Mr. Zewski, passed by a vote of four (4) in favor (Stephens, Hopkins, Zewski, Crowe), one (1) opposed (Nolin).

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 request from the shoreline setback at 8:11 PM and came out at 8:14 PM. There was no further input from the board or public.

Motion: Mr. Hopkins moved to continue the Public Hearing for the **Bettinger Family Revocable Trust (282-36)** to January 4, 2012, and to direct staff to draft a Notice of Decision granting the variance with the following conditions: the pins for the dwelling are to be set by a surveyor, and the receipt of a NH DES approved Shoreland Permit and the Notice of Decision to be recorded, by the Applicant, at the Carroll County Registry of Deeds, prior to the issuance of a Certificate of Occupancy, seconded by Mr. Zewski, carried unanimously.

Mr. Ellis stated that in other municipalities it is common to have the foundation pins set by a surveyor and that a condition of approval be that they must provide a Foundation Certification Plan to the CEO prior to proceeding any further with the construction of the dwelling.

Motion: Mr. Hopkins amended his motion to include verbiage as noted by Mr. Ellis Requiring a Foundation Certification Plan be submitted to the CEO prior to proceeding with the construction of the dwelling. Seconded by Mr. Zewski, carried unanimously.

VI. Correspondence

1) Mr. Hopkins noted his term ended in March and that he would be seeking election as Town Moderator and School Moderator, but not the Zoning Board of Adjustment. He would be willing to run as a write-in candidate or as an Alternate on the ZBA.

2) Mr. Stephens noted he had received an email from ZBA member Ray Heal stating that his term too was up in March and that he will be in Florida for the winter and not be available for meetings. Mr. Heal submitted a letter of resignation.

Mr. Heal's term does not expire until March of 2013, therefore the board will need to appoint an alternate to fill the vacant seat until the next election in March of 2012, and at that time there will be an opening for a one year term for an elected member.

Motion: Mr. Hopkins moved to appoint Mr. Crowe as a full member of the Zoning Board until the next election in March of 2012, filling the vacant seat created as a result of the resignation of Mr. Heal, seconded by Mr. Nolin, carried unanimously.

It was noted the need for Mr. Crowe to be sworn in as a full member of the ZBA. Mr. Hopkins stated as a Justice of the Peace he was able to perform that duty. Mr. Hopkins gave the oath and swore Mr. Crowe in as a full board member.

Mr. Stephens noted that Ms. Roseberry's term expires in March of 2012 and that she had indicated due to the conflict with her employer presenting in front of the board, and the need to recues herself more and more, she will not be seeking re-election.

3) Mr. Stephens indicated that the next meeting was December 21st and due to the holiday the majority of members were busy and may not be available for the meeting. It was the decision of the board to cancel the meeting of December 21, 2011.

Motion: Mr. Stephens moved to cancel the December 21, 2011 regular meeting of the ZBA, seconded by Mr. Nolin, carried unanimously.

4) Planning Board Draft Minutes of November 21st, 2011 were noted.

5) Planning Board Draft Work Session Minutes of November 30th, 2011 were noted.

6) Board of Selectmen Draft Minutes of December 1st, 2011 were noted.

VII. Unfinished Business

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:28 PM, seconded by Mr. Crowe, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant