

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

Regular Meeting

April 4, 2012

Minutes

Present: Members: Bob Stephens, Russ Nolin, Joseph Crowe, Ken Bickford
 Alternates: Natt King; Town Planner: Bruce W. Woodruff
Excused: Member: Robert Zewski
 Alternate: Jerry Hopkins

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 Natt King to sit on the board with full voting privileges in place of Robert Zewski.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Nolin moved to approve the Zoning Board of Adjustment Minutes of March 21, 2012, as written, seconded by Mr. Crowe, carried unanimously, with Mr. King abstaining.

IV. Hearings

1. Continuation of Public Hearing - James M. Quinlan (99-182)(71 Sunrise Drive)
 Variance from Article III, B(3)

Mr. Stephens stated this was a continued hearing for James Quinlan. Mr. Quinlan was present this evening for the continued hearing.

The board reviewed the Draft Notice of Decision prepared by staff, as directed by the board at the hearing on March 21st. There were no changes made to the draft decision or further discussion regarding the hearing.

Motion: Mr. Bickford moved to approve the application for **James M. Quinlan (99-182)** 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, Nolin, Crowe, Bickford, King), None (0) opposed and 0 abstentions.

2. John Kosta (174-33)(181 Krainewood Drive)
 Variances from Article III, B (1, 3 & 4) and Article VII B (3)

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

Mr. Ellis briefly described the existing .20± acre lot and dwelling which was constructed in 1977. The proposal is to remove the existing house (foundation to remain) and reconstruct a new house within the same footprint, with modifications to the deck & porch and the addition of a mud-room entry.

Mr. Ellis stated the lot is very small, with approximately 150' of shore frontage and only 60' deep. There is not any area on the .20± acre lot that would meet the current building setbacks. Mr. Ellis stated the total footprint area will not increase, and is actually decreasing by 2 square feet. The existing distance to the sideline is 12.5', proposed will remain the same, the existing distance to the road centerline is 31.5', proposed will remain the same, and the existing distance to the shoreline is 10.6' and will increase to 11'. The lot is non-conforming, and once they remove the existing grandfathered structure they need relief from the ordinance to reconstruct. Mr. Ellis stated they have reconfigured a portion of the deck, and that square footage has been proposed as a mud-room, which is not currently a part of the existing footprint. Mr. Ellis also noted the request from Article VII B(3), which states that "Non-conforming structures shall not become more non-conforming". He answered any questions from the board.

Mr. Bickford questioned the height of the existing structure. Mr. Ellis stated believed that it was a two story home, and noted that the new structure would meet the 32' height limitation required in the Zoning Ordinance.

Mr. Stephens opened the hearing for public input. There was none noted.

Mr. Stephens asked if there were any additional questions from the board at this time, it was noted there were none. The board went into deliberative session to discuss each of the criteria for granting the variance at 7:41 PM. Mr. Woodruff referred to the Staff Memo he had prepared for the board regarding this application for Tax Map 174, Lot 33. The board came out of deliberative session at 7:50 PM. There was no further input from the board or public.

Motion: Mr. King moved to direct staff to draft a Notice of Decision to grant the variance for **John Kosta (174-33)** and to continue the Public Hearing to April 18, 2012, seconded by Mr. Crowe, carried unanimously.

3. Roger L. & Claire S. Holcombe (130-63)(26 Gansy Lane)
Variance from Article III, B(4)

Mr. Stephens stated that this was an application for a variance. Dave Dolan of David M. Dolan Associates presented this variance on behalf of the applicant.

Mr. Dolan stated this was a request for a variance for relief from the required 50' setback from the lake. He briefly described the existing Lot, noting that it was a fully developed residential lot. The existing camp was built around 1975, which predated zoning. The request is to allow for the expansion of an existing landing/deck by constructing an addition of 200 sq. ft. to the deck, located 36 to 47 feet from the shoreline. Mr. Dolan provided photos of the existing dwelling for the board showing the property and the area for the proposed expansion. Mr. Dolan referred each of the criteria for the granting of a variance. He noted for the record that the plan submitted depicts the proposed addition to be 9' in width, and that it would actually be 9.3' in width, but that it would not be getting any closer to the setback than the existing deck. Mr. Dolan answered any questions from the board.

Mr. Stephens asked if there were any additional questions from the board at this time, it was noted there were none. The board went into deliberative session to discuss each of the criteria for granting the variance at 8:03 PM. Mr. Woodruff referred to the Staff Memo he had prepared for the

board regarding this application for Tax Map 130, Lot 63. The board came out of deliberative session at 8:10 PM. There was no further input from the board or public.

Motion: Mr. Crowe moved to direct staff to draft a Notice of Decision to grant the variance for **Roger L. & Claire S. Holcombe (130-63)**, conditional upon the receipt of a NH DES approved permit, and to continue the Public Hearing to April 18, 2012, seconded by Mr. Nolin, carried unanimously.

4. Verne L. & Elaine M. Richardson (44-30)(1110 Whittier Highway)
Variance from Article VI, C (3)d

Mr. Stephens stated that this was an application for a variance. Jim Hambrook of Hambrook Land Surveying presented the application. Mr. Hambrook stated that it was a request for a variance in Commercial Zone C, in which structures are limited to 6,000 sq. ft. and can go to 12,000 sq. ft. by special exception. The lot is pre-existing and cannot meet the special exception criteria because of the position and layout of the lot. Therefore the request for a variance from two criteria of the special exception to allow them to proceed to request a special exception for the addition to the existing building that would put the building at 6,090 sq. ft.

Mr. Hambrook stated the applicant has been before the Planning Board for site plan review, and at that time the issue of the exceeding of the 6,000 sq ft discussed. At the Planning Board meeting he amended their request for a 20' x 60' addition, keeping it under the 6,000 sq. ft. threshold. After talking with his client, Mr. Richardson, he would like to keep the proposed addition at 21.5' x 90', therefore the need for the variance and special exception.

Board members questioned the size, location and use of the proposed expansion. Mr. Hambrook pointed out the location and noted the applicant contacted the manufacturer of the builder and they had already designed the width at 21.5 ft. The applicant chose to proceed with what they initially thought was only the special exception. The criteria for the special exception requires that 50% of the parking behind the building, and as the site is already developed they could not meet that requirement. That is why they were requesting the variance from the criteria to get them the ability to apply for the special exception.

Board members felt that this was a reasonable request. Mr. Bickford questioned if there would be sufficient access around the building for emergency vehicles. Mr. Hambrook stated yes, plenty of room.

Mr. Stephens opened the hearing for public input. There were none noted.

Mr. Stephens asked if there were any additional questions from the board at this time, it was noted there were none. The board went into deliberative session to discuss each of the criteria for granting the variance at 8:19 PM. Mr. Woodruff referred to the Staff Memo he had prepared for the board regarding this application for Tax Map 44, Lot 30. The board came out of deliberative session at 8:23 PM. There was no further input from the board or public.

Motion: Mr. Nolin moved to direct staff to draft a Notice of Decision to grant the variance for **Verne L. & Elaine M. Richardson (44-30)**, and to continue the Public Hearing to April 18, 2012, seconded by Mr. Bickford, carried unanimously.

5. Verne L. & Elaine M. Richardson (44-30)(1110 Whittier Highway)
Special Exception for Article VI, C(3)d

Mr. Stephens stated that this was an application for a special exception from Article VI, C(3)d, to allow a building addition that would cause the existing 4,800 sq. ft. building to become 6,090 sq. ft., thus exceeding the allowed 6,000 sq. ft. in Commercial Zone C.

Jim Hambrook of Hambrook Land Surveying presented the application. Mr. Hambrook stated briefly described the proposed 21.5' x 60' addition to the front of the building, which put the applicant into the special exception threshold of a square footage greater than 6,000 sq. ft. He noted the board had just directed staff to draft a Notice of Decision to grant the variance, pending approval on April 8th, for numbers 1 and 3 of the criteria. Therefore the board is only looking at criteria 2 of the three required, which is that the parking area for the structure is interconnected with an adjoining lot.

Mr. Woodruff noted that the board was considering a special exception request to increase the maximum of the square footage of a building in Village Zone C, over the 6,000 sq. ft. maximum square feet, by 90 sq. ft. He stated that this was an addition, and the board's prior vote was to grant relief from two of the three required criteria that the applicant must prove to the board in order for them to approve the special exception request.

Mr. Stephens opened the hearing for public input. There was none noted.

Mr. Stephens asked if there were any additional questions from the board at this time, it was noted there were none. The board went into deliberative session to discuss only item #2 of the criteria for granting of the special exception at 8:28 PM and came out of deliberative session at 8:29 PM. There was no further input from the board or public.

Motion: Mr. Bickford moved to direct staff to draft a Notice of Decision to grant the special exception for **Verne L. & Elaine M. Richardson (44-30)**, and to continue the Public Hearing to April 18, 2012, seconded by Mr. Nolin, carried unanimously.

V. Correspondence

- 1) Copy of letter dated March 22, 2012, from Town Planner, to Attorney Christopher T. Meier, regarding Tax Map 200, Lot 12, denial for request for rehearing was noted.
- 2) Planning Board Draft Minutes of March 28, 2012, were noted
- 3) Board of Selectmen Draft Minutes of March 29th were noted.
- 4) The board had a brief discussion regarding the input of comments from the Town Planner during deliberative session. Mr. Nolin stated this subject has been discussed at numerous seminars, and it has been explained that the only persons who may participate during deliberative session was active members. No alternates, or staff, unless they are asked a question. Mr. Nolin asked if the procedure of the Planner giving "staff recommendations" during deliberative sessions could be grounds for possible litigation. Mr. Woodruff stated that he would not put the town at risk by making staff recommendations during deliberations and that the procedure had been vetted in court. The board has requested that Mr. Woodruff contact counsel for his opinion on this subject.
- 5) Mr. Woodruff noted the NH Local Government Center is conducting their "2012 Local Officials Workshop" on various dates and locations in April and May. He pointed out that a workshop will be held on Tuesday, May 1st at the Moultonborough Public Safety Building and another on Saturday, May 19th at LGC. Those interested should register following the instructions on the pamphlet handed out this evening.

6) Mr. Woodruff stated the board had asked that he work on language for the ZBA Policies regarding the seating of alternates, ie. rotation of alternate members on hearings. He noted that he had not completed the language for this evening. He will present it to the board when the draft language has been completed.

7) Mr. Crowe noted that there was some confusion amongst the board regarding procedure of the board. While some of that may be related to new members, he questioned if there should be procedures laid out for hearings, more specifically related to voting, in the policies. Members discussed this subject and there were different opinions on whether there should or should not be specific guidelines in the policies. Mr. Woodruff stated if the board would like, he could draft language for their review at the next meeting. Members requested that he draft language as suggested.

VI. Unfinished Business

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:52 PM, seconded by Mr. Bickford, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant