

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

**Regular Meeting**

**June 20, 2012**

**Minutes**

Present:           Members:       Bob Stephens, Russ Nolin, Joseph Crowe, Robert Zewski, Ken Bickford  
                          Alternates:     Jerry Hopkins, Natt King  
Staff Present:    Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

**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.

**II.      Pledge of Allegiance**

**III.     Approval of Minutes**

**Motion:**        Mr. Nolin moved to approve the Zoning Board of Adjustment Minutes of June 6, 2012, as written, seconded by Mr. Zewski, carried unanimously.

**IV.     Hearings**

1.    Andre G. Lambert Trust (12-111)(18 Myrtle Drive)  
      Variance from Article III B(3)

Mr. Stephens stated that this was a hearing for an application for a variance. Andre Lambert presented the application for variance, noting one of the distances shown on his sketch provided with the application was incorrect. Based on that, he requested to amend the application to reflect the correct encroachment (shown as 7 ½ ft.) into the sideline setback and increase the size of the shed to 8' x 12', to be located 14' from the sideline setback. Mr. Lambert answered any questions from the board.

Mr. Stephens questioned what was in the front yard between the existing dwelling and the road. Mr. Lambert stated that was where the septic and leach field is located, and that it is a raised system, approximately 4 ½ feet.

Mr. Bickford stated that he had gone to view the property and that there is an existing shed on the abutting property which is located on the property line, and that the front lawn is actually a raised about 4' for the septic system.

Mr. Stephens opened the hearing for public input. There was none noted. Mr. Stephens closed the hearing for public input at this time.

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 7:38 PM and came out of deliberative session at 8:00 PM.

Mr. Stephens noted that during the deliberative session Board Members discussed rotating the placement of the shed 90 degrees, which would decrease the amount of encroachment into the side line setback. Also discussed was whether or not to increase the distance between the dwelling and the shed from 5' to 7', which would place the shed 14' from the property line. Upon discussion, it was the feeling of the board that purpose of the application was for a variance from the required 20' setback, and they would the least amount of intrusion. Mr. Lambert was in agreement with the request of the board that the 8' x 12' shed be rotated 90 degrees, placing the 12' long side of the shed parallel to the property line, 16' from said property line.

**Motion:** Mr. Bickford moved to direct staff to draft a Notice of Decision to grant the variance for the **Andre G. Lambert Trust (12-111)** conditional upon rotating the shed 90 degrees, the shed to be 7' from the dwelling, with the long side parallel to the property line, 16' from the property line and to continue the Hearing to July 18, 2012, seconded by Mr. Zewski

There was a discussion on the motion, regarding if the board intended on pinning the placement of the shed 7' from the dwelling and 16' from the property line. This point was brought up as the measurements have not been surveyed and a question was raised what would happen if they were not accurate and the applicant could not meet both conditions of approval. It was stated it that would then need another variance from the board. It was the decision of the board to require the placement of the shed to be 16' from the sideline only. Mr. Bickford amended his motion to the following.

**Motion:** Mr. Bickford moved to direct staff to draft a Notice of Decision to grant the variance for the **Andre G. Lambert Trust (12-111)** for the placement of an 8' x 12' shed within the sideline setback, conditional upon rotating the shed 90 degrees, placing the 12' long side of the shed parallel to the property line, 16' from the property line and to continue the Hearing to July 18, 2012, seconded by Mr. Zewski, carried unanimously.

## V. Correspondence

1) Motion for Rehearing regarding Notice of Decision, dated May 16, 2012 – Rock Pile Real Estate LLC for a Special Exception and 3 Variances received June 12, 2012, filed by Eric Taussig, Esq., on behalf of Robert Wallace. Board members reviewed the points in Attorney Taussig's brief that they felt had a possibility of being compelling evidence that would point towards granting a Rehearing. They discussed each one of those points at length and decided that none of those points reached the level where there was either new evidence that was either not available or an allegation of new evidence that was corroborated, or that the board had made procedural errors. The decision of the majority of the board was that none of those things applied.

Mr. Stephens noted while all members and alternates present this evening participated in the discussion, the voting members on the request for Rehearing were Mr. Nolin, Mr. Zewski, Mr. Crowe, Mr. Bickford and Mr. Stephens.

**Motion:** Mr. Crowe moved that the board accept the request for rehearing as requested in the **Motion for Rehearing regarding Notice of Decision, dated May 16, 2012 – Rock Pile Real Estate LLC for a Special Exception and 3 Variances**, and to move for a reconsideration, seconded by Mr. Nolin, motion failed, two (2) in favor (Nolin, Crowe), and three (3) opposed (Stephens, Zewski, Bickford).

**Motion:** Mr. Stephens moved to deny the request for rehearing as requested in the **Motion for Rehearing regarding Notice of Decision, dated May 16, 2012 – Rock Pile Real Estate LLC for a Special Exception and 3 Variances** seconded by Mr. Zewski, motion passed, three (3) in favor (Stephens, Zewski, Bickford), and two (2) opposed (Nolin, Crowe)

Mr. Stephens stated the board considered the letter and brief by the appellant, Mr. Wallace, who was represented by Attorney Taussig, which was what was before them. Additional information that came in the form of the objection or rebuttal was superfluous to what they the board was charged with doing, and therefore not to be part of the boards consideration.

2) Mr. Stephens noted the Objection to the Motion for Rehearing which was submitted on Behalf of Robert Wallace received on June 18, 2012 from Regina A. Nadeau, Esq.

3) Mr. Stephens noted the Reply to the Objection filed by Applicant's Counsel (Regina A. Nadeau, Esq.) received at 6:40 PM via email on June 20, 2012 from Eric Taussig, Esq.

4) Board members were provided with the final copy of the Policies for signature. Mr. Woodruff stated that he had made the changes as discussed and approved at the last meeting.

**Motion:** Mr. Nolin moved to approve the Moultonborough Zoning Board of Adjustment Policies as presented this evening, seconded by Mr. Stephens, carried unanimously.

5) Planning Board Draft Minutes of June 13, 2012, were noted.

## **VI. Unfinished Business**

## **VII. Adjournment**

**Motion:** Mr. Stephens made the motion to adjourn at 9:08 PM, seconded by Mr. Zewski, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant