

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

Regular Meeting

October 17, 2012

Minutes

Present: Members: Bob Stephens, Russ Nolin, Robert Zewski, Ken Bickford
 Alternates: Jerry Hopkins, Natt King
Excused: Member: Joseph Crowe
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. Mr. Stephens appointed Natt King to sit on the board with full voting privileges in place of missing member Joseph Crowe.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. King moved to approve the Zoning Board of Adjustment Minutes of October 3, 2012, as amended, seconded by Mr. Zewski, carried unanimously.

Motion: Mr. Stephens moved to approve the Zoning Board of Adjustment On-site Minutes of October 15, 2012, as written, seconded by Mr. King, carried unanimously.

IV. Hearings

1. Review and Approval of Notice of Decision for Wendy Castleberry Revocable Trust 2008; Wendy Castleberry, Trustee (171-3)(82 Alpine Park Road)
 Variance from Article III, B(4) (Deck)

The board reviewed the Draft Notice of Decision for the granting of a Variance from Article III, B(4)(Deck) prepared by staff, as directed by the board at the hearing on October 3rd. There were no changes made to the draft or further discussion on the Notice of Decision.

Motion: Mr. Nolin moved to approve the formal Notice of Decision for the **Wendy Castleberry Revocable Trust 2008 (171-3)** (Deck) and to authorize the Chairman to sign the Notice of Decision and staff to mail said notice to the applicant or applicant's agent seconded by Mr. King, passed by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, King), None (0) opposed and 0 abstentions.

2. Review and Approval of Notice of Decision for Wendy Castleberry Revocable Trust 2008; Wendy Castleberry, Trustee (171-3) (82 Alpine Park Road)
Variance from Article III, B(3) (Covered Entry)

The board reviewed the Draft Notice of Decision for the granting of a Variance from Article III, B(4)(Covered Entry) prepared by staff, as directed by the board at the hearing on October 3rd. There were no changes made to the draft or further discussion on the Notice of Decision.

Motion: Mr. Zewski moved to approve the formal Notice of Decision for the **Wendy Castleberry Revocable Trust 2008 (171-3)** (Covered Entry) and to authorize the Chairman to sign the Notice of Decision and staff to mail said notice to the applicant or applicant's agent seconded by Mr. Nolin, passed by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, King), None (0) opposed and 0 abstentions.

3. Review and Approval of Notice of Decision for Wendy Castleberry Revocable Trust 2008; Wendy Castleberry, Trustee (171-3)(82 Alpine Park Road)
Variance from Article III B(3) (Garage)

The board reviewed the Draft Notice of Decision for the denial of a Variance from Article III, B(3)(Garage) prepared by staff, as directed by the board at the hearing on October 3rd. There were no changes made to the draft or further discussion on the Notice of Decision.

Motion: Mr. King moved to approve the formal Notice of Decision for the **Wendy Castleberry Revocable Trust 2008 (171-3)** (Garage) and to authorize the Chairman to sign the Notice of Decision and staff to mail said notice to the applicant or applicant's agent seconded by Mr. Zewski, passed by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, King), None (0) opposed and 0 abstentions.

4. Westwood Shore Drive Realty Trust; Laurie & Douglas Whitley, Trustees (112-53)
(111 Coe Point Road) Variance from Article III B(4)

Mr. Stephens stated that this was a continued hearing for a Variance from Article III B(4) for the Westwood shore Drive Realty Trust for the reconstruction of a residence within 50' of the shoreline of Lake Kanasatka.

The public hearing was opened at the meeting on October 3rd and continued to this evening to allow the board to conduct an on-site visit of the property. The board met on-site on Monday, October 15th. The board viewed the property and there were no decisions made at that time.

Nicol Roseberry of Ames Associates presented the application for the applicants. She noted at the prior hearing Board members had questioned if they had received the required approval from NH DES. At that time she indicated they had chosen to apply for town approval first. Members questioned if they had prepared a storm water management plan/application that they could review. Ms. Roseberry provided the board with a copy of a Shoreland Application Plan for review this evening.

She also provided the board with a copy of an email from property owner, Scott Wallace, indicating that he had no objection to the variance application.

Ms. Roseberry briefly recapped the proposal for the variance, noting the existing conditions, non-conforming residence. She stated the proposed structure lies substantially within the existing footprint. The impervious surface within the setback will be reduced 360 sq. ft. She went on to explain the

proposed storm water management. She noted that the existing structure is in need of extensive work and the applicants wish to remove it and replace it with the proposed dwelling which will use the majority of the disturbed area. Ms. Roseberry answered any questions from the board.

Mr. Zewski noted the location of the proposed leachfield, asking if it mattered that a portion of it is located in the 20' side setback. Ms. Roseberry stated no. He asked for clarification on the plan, the location of the existing residence footprint verses the proposed residence footprint. That was pointed out for clarity.

Mr. Stephens asked for input from the Planner. Mr. Woodruff noted he had spoken briefly at the prior hearing, noting that he was neutral in the support of this request. He asked the board, in their deliberations, to consider whether or not the new house could be located reasonably within the building setback and to consider what the impediments were in doing requiring that the new dwelling meet the ordinance requirements. He asked the Board to consider whether views are a tangible asset that would be lost by requiring the dwelling to be built in conformance with the ordinance. And, do they accept the spirit of the ordinance argument by the applicant, that the quality of storm water protection would be greater if a new structure was constructed in basically the same footprint, using modern techniques. The final point Mr. Woodruff asked the Board to consider was the values of surrounding properties criterion, asking if water quality someday was diminished on the lake, would it diminish property values?. Not just in this one case, but incrementally with the reconstruction of many residences down near the water. Is this possibility mitigated when said reconstruction uses modern storm water quality techniques that would possibly then meet the purpose of the spirit of the ordinance for the 50' setback; which is to advance water quality for all of the lakes?

Ms. Roseberry addressed each of the criteria for the granting of the variance.

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 7:53 PM and came out of deliberative session at 8:26 PM.

Mr. Nolin questioned when the owners had purchased the property. Mr. Whitley stated he believed it was in 2008.

There was no further input from the board or public. The voting members were Bob S., Russ, Bob Z., Ken and Natt.

Motion: Mr. King moved to deny the request for a variance from Article III B(4) for the reconstruction of a residence within 50' of the shoreline of Lake Kanasatka for the Westwood Shore Drive Realty Trust, Tax Map 112 Lot 53, close the public hearing and to direct staff to draft a formal Notice of Decision, for Board discussion only, based on the Finding of Facts during tonight's hearing, which will be reviewed for accuracy only, and signed by the Chair at the next scheduled meeting, seconded by Mr. Nolin, motion passed, four (4) in favor (King, Nolin, Zewski, Bickford), and one (1) opposed (Stephens).

Mr. Stephens noted the right to appeal in accordance with NH RSA 677:2 would begin tomorrow.

V. Correspondence

VI. Unfinished Business

Mr. King commented in speaking with Mr. Nolin he brought up that a few years ago the Board was in receipt of an opinion from Town Counsel regarding the interpretation of the expansion of non-conforming structures. Teardown verses an expansion. Mr. King noted it would be beneficial to himself if he was able to obtain/read a copy of the opinion from counsel. Ms. Whitney and Mr. Woodruff will research records and find a copy of this for Mr. King.

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:34 PM, seconded by Mr. King, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant