

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

**Regular Meeting**

**December 5, 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. Nolin moved to approve the Zoning Board of Adjustment Minutes of November 7, 2012, as written, seconded by Mr. Zewski, carried unanimously.

**IV.    Hearings**

1.       Review and Approval of Notice of Decision for Christopher & Christina Savage (44-32) (1088 Whittier Highway) Special Exception Amendment – Article VI (C)&(E )

The board reviewed the Draft Notice of Decision prepared by staff, as directed by the board at the hearing on November 7<sup>th</sup>. 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 as written, for **Christopher & Christina Savage (44-32)** 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. Bickford, passed by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, King), none (0) opposed and 0 abstentions.

2.       James & Deborah Jackson (131-15)(264 Wentworth Shores Road) Variance – Article III, B (4)

Deborah Jackson presented her application for the variance on Tax Map 131 Lot 15, to allow for the removal and replacement of an existing bunkhouse/shed, located within the 50' shoreland setback, with a structure of same dimensions in the same location. Ms. Jackson briefly described the lot and the existing bunkhouse. Members were provided with a sketch of the property and one photo showing the structure.

Mr. Bickford questioned what the existing foundation was made of. Ms. Jackson stated that it was rock and stone.

Mr. Zewski questioned if there was anywhere else they could rebuild the bunkhouse. Ms. Jackson stated that the lot is very steep, describing it as a “billy goat” lot, and that there were only two level areas, one where the existing bunkhouse is located and the other near the road where the septic is located.

Mr. Stephens noted that he had gone to the site earlier in the day and in his opinion did not feel that there was another location to relocate the bunkhouse. Mr. Stephens had taken photos of the lot and provided four additional photos of the lot. Board members discussed the lot, setbacks of the existing bunkhouse, dwelling and the location of the septic system.

Ms. Jackson provided the board with a copy of a Shoreland Permit by Notification that was accepted by NH DES and reviewed on November 28<sup>th</sup>.

Mr. Woodruff commented that he supported the granting of the request for variance as a majority of the lot is taken up by the dwelling and steep slopes, and there is no other area to put it. Once they remove the existing bunkhouse the grandfathering goes away, therefore the request for the variance.

Members discussed the pros and cons to relocating the bunkhouse or rebuilding it on the same footprint. One of the concerns was if it were relocated they would be disturbing the ground on a steep slope and would that cause more harm to the lake than rebuilding it in the same footprint.

Mr. Nolin noted his concerns if the bunkhouse was to be rebuilt in the same location, given the steep slope, people sleeping in it, who need to relieve themselves in the middle of the night would not climb up the steep slope, but would go outside next to the lake. He also commented that one of the goals of the Zoning Ordinance was to eliminate non-conforming structures.

Mr. King commented that there appeared to be an area outside of the 20’ setback that the bunkhouse could be built and he did not consider the steep slope as the existing dwelling was built on the same slope. It was also noted that Ms. Jackson had indicated that she was not certain that she could get a permit from NH DES to build on the steep slope. Mr. Stephens stated that may not be able to be approved by a PBN (Permit by Notification), but may require a different approval by NH DES, and the board did not know what DES may or may not permit.

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 stated the board was going to go into deliberative session, which was to allow them to formulate opinions on the criteria. There will be no input from the applicant or the public at that time. It is for discussion time, opinion time, no voting will take place during the deliberative session and alternates may participate in the deliberations. The board went into deliberative session to discuss each of the criteria for granting the variance at 7:48 PM and came out at 8:02 PM.

Ms. Jackson commented that if the bunkhouse needed to be rebuilt in another location she was not certain if she could get NH DES approval as they would be disturbing new area on a steep slope.

There was no further input from the board or public.

**Motion:** Mr. Zewski moved to grant the request for a variance for James & Deborah Jackson, Tax Map 131 Lot 15, for the removal and replacement of an existing bunkhouse/shed, located within the 50' shoreland setback, with a structure of same dimensions in the same location, to 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, to be reviewed for accuracy only, and signed by the Chair at the next scheduled meeting, seconded by Mr. Bickford.

Discussion on the motion: Mr. Bickford questioned what dimensions the board was approving as there was a discrepancy in two of the drawings submitted with the application and the Permit by Notification. After reviewing and discussing the drawings, Mr. Stephens made the motion to amend the motion on the floor to include language that the Code Enforcement Officer will verify the dimensions of the existing building prior to its removal, and that the new building will be of the same dimensions in the same location. Motion for amendment Seconded by Mr. Zewski, Carried unanimously.

Mr. Stephens called for a vote on the Motion, as amended, for the granting of the variance. Motion passed three (3) in favor (Stephens, Zewski, Bickford) and two (2) opposed (Nolin, King).

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

## **V. Correspondence**

1. The Board was provided with a draft of the 2013 ZBA Meeting Dates. Mr. Woodruff questioned if there were any changes the board would like to make at this time. None were noted.

**Motion:** Mr. Stephens moved to approve the 2013 ZBA Meeting Dates as presented, seconded by Mr. King, carried unanimously.

2. Mr. Woodruff briefly updated the board on the status of the two lawsuits. He noted the Towns motion to dismiss the case filed by Attorney Taussig regarding Rock Pile was denied, and the court date was set for December 18<sup>th</sup> regarding the Appeal from an Administrative Decision in which the Board upheld the Code Enforcement Officers issuance of a building permit for the Popoloski's.

## **VI. Unfinished Business**

## **VII. Adjournment**

**Motion:** Mr. Zewski made the motion to adjourn at 8:23 PM, seconded by Mr. Nolin, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant