

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

Regular Meeting

August 7, 2013

Minutes

Present: Members: Bob Stephens, Russ Nolin, Robert Zewski, Joseph Crowe, Ken Bickford
 Alternate: Jerry Hopkins
Excused: Alternate: Natt King
Staff Present: Town Planner, Bruce Woodruff (8:40-8:50); 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

Mr. Crowe stated he had an issue with the minutes, noting he had a discussion with the Planner which was not reflected in the minutes under Unfinished Business. He asked if there was a reason for that. He requested the approval of the minutes be tabled until such time the minutes are amended to include that discussion. Mr. Zewski commented that under Correspondence the minutes reflect that Mr. Stephens and Mr. Bickford stepped down for the review of Item #4, when it should be for Item #3. This will be amended to reflect that they stepped down for Item #3.

Mr. Stephens noted that the Planner was at another meeting and had indicated that he would try and make it to the ZBA meeting later. He suggested that the Board table the approval of the minutes until after the scheduled hearings.

IV. Hearings

1. Continuation of Public Hearing - Richard Madison (99-196)(15 Myrtle Drive)
Equitable Waiver of Dimensional Requirements

Mr. Stephens noted the board was in receipt of a letter dated July 31, 2013, from Attorney Doug Hill. Mr. Hill stated in his letter that they were having difficulty getting the necessary surveying done, and therefore request that the hearing be further continued to the September 4, 2013 meeting.

Motion: Mr. Nolin moved to table the application of Richard Madison (99-196) and to continue the public hearing until September 4, 2013, seconded by Mr. Zewski, carried unanimously.

2. The Marshall Family Trust (29-10)(46 Wiggin Farm Road)
Variance to Article III.A

Mr. Stephens stated that this was an application for a variance for relief from Article III.A to permit a second dwelling addition to the existing single family home.

Peter and Cynthia Marshall were present for the hearing. Mr. Marshall presented the application for variance. Mr. Marshall provided the Board with a letter dated August 5, 2013, from Ames Associates indicating that the property would support a State Approved sewage disposal system for up to 12 bedrooms using the existing well site. Mr. Marshall gave a brief history of the property, as detailed in his application. The proposal is for a second dwelling addition to the existing single family home. They have 18-21 family members using the home during peak season, July and August. The proposal is to add additional living space and a kitchen, which would require a variance for a second dwelling. Mr. Marshall stated they have no intention of renting the property. His father lives there as a resident and Mr. & Mrs. Peter Marshall will be moving there as residents. The current septic system is approximately 75 feet from the shore. They are working with Ames Associates on a new septic design for 11 bedrooms. The new septic will be located 275 feet from the water's edge. The variance is necessary as they do not meet the minimum lot size requirements of the ordinance for a second dwelling unit based on Soil and Slopes. They feel that this is a reasonable use of the land. Mr. Marshall provided the Board with a sketch, which was not to scale, of the proposed addition. They are working with an Architect and have not completed final plans as they were waiting for a decision of the Board for the variance request. Any addition will meet all required setbacks, being built in a conforming building pocket.

Mr. Stephens noted that Article III.A is Minimum Lot Size, which is what the applicant is seeking relief from. There also was a question regarding shore frontage. Minimum shore frontage for two dwellings on a lot is 300 feet. Depending on how you measure, either along the reference line, or tie course, there is either 312' or 283' or an average of 297.5'. Mr. Stephens commented that in essence the variance request is for two issues, one the shore frontage and the other minimum lot size. Board members had no issues with the shore frontage. Mr. Stephens stated that it should be noted that this was looked at and the determination was made by the Board granting relief.

Mr. Hopkins questioned the number of kitchens. Mr. Marshall stated that there would be two. There is one existing in the main house and they are asking for one more.

Mr. Hopkins asked if Mr. Marshall had had the opportunity to review the Planners staff memo noting the suggested conditions if granted. Specifically the condition that the second kitchen to be removed should the Trust ever sell the property. Mr. Marshall stated that he had been provided with a copy of the staff memo.

Mr. Stephens opened the hearing for public input, noting there was none.

Mr. Stephens asked if there were any additional questions from the board at this time, it was noted there were none. He closed the public hearing and the board went into deliberative session to discuss each of the criteria for the granting of the variance at 7:44 PM and came out of deliberative session at 7:50 PM.

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

Motion: Mr. Bickford moved to grant the request for the **Marshall Family Trust, Tax Map 29 Lot 10**, for a variance from Article III.A, subject to an approved NH DES septic design permit for an eleven (11) bedroom system, that the second kitchen be removed should the Trust ever sell the property, and that the Notice

of Decision be recorded at the Carroll County Registry of Deeds, and that a foundation certificate survey be submitted at the time of application for building permit to the Office of Development Services, and 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, which will be reviewed for accuracy only, and signed by the Chair at the next scheduled meeting, seconded by Mr. Zewski, motion passed, five (5) in favor (Stephens, Nolin, Zewski, Crowe, Bickford) and none (0) opposed.

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

3. Peter & BettyAnn Salchli (213-1)(14 McCormack Lane)
Special Exception from Article VI Paragraph E

Mr. Stephens stated that this was an application for a Change in Use, effectively from what was an Antique/Craft Shop to Gourmet Food take out.

Peter and Betty Ann Salchli were present for the hearing. Mrs. Salchli stated the proposal is for gourmet take out only. There will be no additional changes to the existing site plan which was approved in 2000. They propose to operate from May to October, and there will be no seating. There will be no additional traffic flow on Moultonboro Neck Road. This will be a seasonal operation with the majority of the business being pre-ordered by phone or online. They will be meals that are prepared to go, that will just need to be put on the grill or in the oven.

Mr. Stephens questioned the anticipated hours of operation. Mrs. Salchli stated 9am – 6pm. This will be for meals so it will not be an evening or early morning establishment. Mr. Stephens questioned if the meals are to be sent out as hot meals, or takeout that you bring home and put in the oven. These will be meals that you bring home and put in the oven. Mr. Stephens stated the purpose of his question had to do with the time frame intensity, if they were being served hot, then he would look at it different, for a 5 o'clock rush hour, effecting traffic flow, etc.

Mr. Nolin questioned if the food is to be prepared at the location. Mrs. Salchli stated yes. Mr. Nolin questioned if there was a septic system onsite. Mrs. Salchli stated that there is a septic system for the house in the back. Mr. Nolin asked if the cabin was attached to that system. It was stated no, the cabin is not attached at this time. Mr. Hopkins stated if they are to prepare meals in the cabin, then the kitchen would be required to meet fire code. Mrs. Salchli stated that she had already spoken to the Fire Chief who told her they would have to have a commercial stove and hood. She asked if there would be any requirements for a sprinkler system and he said no, based on what they proposed. This will be a small, seasonal operation.

Mr. Nolin noted his concerns, no kitchen, no septic. Mr. Stephens commented that the kitchen and septic would be addressed with the Code Enforcement Officer, making sure that they meet the applicable requirements. The Board is looking at the change of use from antique to take out. Mr. Nolin stated that there is a big difference between the two. The proposal is vague. Other proposals in the past have shown where things are on the site plan. Mrs. Salchli stated that there is a septic and that she had the septic design and they intend to connect it to the property. Members reviewed the approved 3 bedroom septic design for the dwelling on the rear portion of the lot. There was a lengthy discussion regarding the septic, noting that they will be required to obtain NH DES approval for a septic system that will handle both the proposed additional use and for the existing 3 bedroom dwelling.

Mr. Nolin asked what kind of volume they were expecting. Mrs. Salchli replied that they would be happy with fifty (50) customers per day. They will encourage people to order ahead, therefore spreading out the times which orders will be picked up.

Mr. Nolin questioned the number of parking spaces. It was noted that there are six (6) parking spaces depicted on the approved site plan. Mr. Bickford commented that he went to the site prior to the meeting and stated that the parking had not been completed as depicted on the plan. Mrs. Salchli stated that they would construct the parking spaces as approved on the plan. Mr. Bickford noted his concern with vehicles parking along Moultonboro Neck Road. Mr. Stephens replied that they could ask the applicant to place signs on their property stating No Parking on Roadway, or something to that effect, but that Moultonboro Neck Road is a State road and they cannot control the parking along the roadway and if it occurs it would become an enforcement issue with the Police Department.

Mr. Stephens opened the hearing to the Public. Scott Lamprey, abutter, 20 McCormack Lane, requested clarification as to where the board was at this point this evening. They have spoken to septic system and asked if parking was all right. Mr. Stephens replied they have discussed the parking, hours of operation which would denote the intensity, septic, and change of use. Mr. Lamprey commented that he is all for small business, so long as it is clear as to where the business is located so the patrons don't wander down the road (McCormack Lane), which is a dead end. He wants to make certain they have the appropriate approvals for DES, to make sure the loading for the existing leach bed is adequate. They do not have a problem with having a business there, so long as they promise to be good neighbors.

Mr. Stephens asked if there were any additional questions from the board at this time, it was noted there were none. He closed the public hearing and the board went into deliberative session to discuss each of the criteria for the granting of a special exception at 8:20 PM and came out of deliberative session at 8:35 PM.

Mr. Woodruff noted that at Town Meeting this year the nature of when special exceptions get abandoned and when they are not vested. However, zoning can never go back and reach back into the past with new regulations, so even though this special exception that was granted in 2000 hasn't been used for a while, the new zoning ordinance that was passed in March of 2013, doesn't take effect until then. Therefore, no two year period has gone by, so there is no issue with abandonment of this property.

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

Motion: Mr. Nolin moved to grant the request for **Peter & Betty Ann Salchli, Tax Map 213, Lot 1**, for a Special Exception from Article VI. A and E, for a change of use, subject to the receipt of an approved NH DES septic design to accommodate the proposed septic loading, receipt of an approved amended NH DOT Driveway permit and that the parking conform (constructed) to the six (6) spaces in accordance with Site Plan approval of August 29th, 2000, prior to the issuance of a Certificate of Occupancy to operate the business, and 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, which will be reviewed for accuracy only, and signed by the Chair at the next scheduled meeting, seconded by Mr. Bickford, motion passed, five (5) in favor (Stephens, Nolin, Zewski, Crowe, Bickford) and none (0) opposed.

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

V. Correspondence

VI. Unfinished Business

1. Review and possible authorization for the Chair to sign the formal Notice of Decision for the July 17th, 2013, granting of a variance for Frances Eklund (99-197) (19 Myrtle Drive).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the hearing on July 17th. There were no changes made to the draft.

Motion: Mr. Zewski moved to direct the Chairman to sign the Notice of Decision as written, for **Frances Eklund, Tax Map 99, Lot 197**, and staff to mail said notice to the applicant, seconded by Mr. Crowe, carried unanimously.

2. **Approval of Minutes:** Mr. Stephens noted the Board had tabled this at the beginning of the meeting. Mr. Crowe had brought up the comment that in the minutes there was nothing reflecting his expression of concern regarding the letter the Planner had handed out at the prior meeting regarding the Jury Standards for Zoning Board Members. Mr. Crowe wanted to know if there was a particular reason that that discussion was not captured in the minutes. Ms. Whitney stated that there was someone different taking notes that evening and prepared the minutes and that there was no particular reason that discussion was not contained in the minutes. Ms. Whitney will review the tape and add it to the July 17th minutes as requested by Mr. Crowe.

Motion: Mr. Stephens moved to approve the Zoning Board of Adjustment Minutes of July 17, 2013, as amended, seconded by Mr. Crowe, carried unanimously.

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:50 PM, seconded by Mr. Bickford, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant