

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

**Regular Meeting**

**November 20, 2013**

**Minutes**

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

**II.    Pledge of Allegiance**

**III.   Approval of Minutes**

**Motion:**       Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of November 6, 2013, as amended, seconded by Mr. Crowe, carried unanimously.

**Motion:**       Mr. Hopkins moved to approve the Zoning Board of Adjustment On-site Minutes of November 9, 2013, seconded by Mr. Nolin, carried unanimously with Mr. King abstaining.

**IV.   Hearings**

1.    Continuation of Public Hearing K.A. Clason – Fine Woodworking Corp., for David & Ann Harrington (194-39) (14 Falcon Way) Variance from Article III B(3)

Mr. Stephens noted this was a continued hearing for a variance from the required 20 foot sideline setback to 15 feet.

Kurt Clason was present representing Ann & Dave Harrington. Mr. Clason briefly recapped the request for variance, noting this was an existing non-conforming cottage. He noted the board had conducted a site walk on the property. Mr. Clason stated the only thing he had to add was that he had sent a picture of the line that was drawn in the driveway to the home owners, and their only concern was egress, making a curve in the driveway will make it congested. Mr. Clason answered any questions from the board.

Mr. Woodruff noted at the last meeting he had raised a question as to the plans that were submitted, whether the driveway location shown on the plan was accurate after scaling it off. The key point that comes out of the application is the argument that it is not possible to relocate the new cottage to a conforming part of the parcel without moving it closer to the lake or encroaching on the existing driveway. That is why he had recommended the site walk. Again, the key question is answering the

applicant's argument that it's not possible to relocate the cottage to a conforming position. Noting that once you tear down the non-conforming structure the grandfathering is gone, and if you came forward with a building permit to construct this again, that without a variance you would need to locate it within the building envelope and outside of the setbacks.

Mr. King stated that he was unable to go to the site visit last week but was able to go there today and it appeared to him that there could be a minimal adjustment of the driveway. There are no significant trees in the way, there aren't evergreens that form a buffer between this residence and the abutter to the south. He believes it would be relatively easy and harmless to make it conform.

Mr. Hopkins commented that he was on the other side, stating yes it could be moved over to be conforming. One way or the other you are going to cut trees to make an adequate egress through there. Yes, people do believe that our ordinance is crafted in such a manner to return the town to conformity. With that conformity you would never see a lot shaped like this lot. It is quite different and unique. It can become conforming, trees will be taken down. What is the value of it? You take more trees down, you move it, make it conform, what is the value to the public? Mr. Hopkins acknowledged the hardship that a lot like this creates for a building that existed at one time when it was in conformity. Mr. Crowe stated that he agreed with Mr. Hopkins.

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 8:06 PM.

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

**Motion:** Mr. Hopkins moved to grant the request for **K.A. Clason – Fine Woodworking Corp., for David & Ann Harrington, TM 194 Lot 39**, for a variance from Article III B (3), 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. Crowe, passed four (4) in favor (Stephens, Nolin, Crowe, Hopkins) and one (1) opposed (King).

Mr. Stephens noted the right to file a motion for rehearing in accordance with NH RSA 677:2 would begin tomorrow.

## V. Correspondence

1. Review and possible authorization for the Chair to sign the formal Notice of Decision for the November 6<sup>th</sup>, 2013, denial of an equitable waiver of dimensional requirements for Richard Madison (99-196)(15 Myrtle Drive).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the hearing on November 6<sup>th</sup>. There was a lengthy discussion regarding numbers 14 and 15 as presented in the draft. It was the decision of the board to add the following language to the beginning of both number 14 & 15 "The Board could not determine if" and to add the word "majority" to the last sentence of numbers 15 & 16. Mr. King requested the following language to be added to number 17 "That option was

ignored by the applicant. Only a complete teardown was brought forward by the applicant.” Members were okay with adding the suggested language.

**Motion:** Mr. King moved to direct the Chairman to sign the Notice of Decision as amended, for **Richard Madison, Tax Map 99 Lot 196** and staff to mail said notice to the applicant or applicant’s agent, seconded by Mr. Nolin.

2. Board members were provided with a ZBA Policy Draft prepared by Mr. Woodruff for review and possible discussion. Mr. Stephens stated that two of the elected board members were not present this evening and that they were not going to act on this this evening. He asked that members review the updated draft for the next meeting. The proposed changes are highlighted in red and correspond with the changes that were made in the 2012 NH OEP ZBA Handbook. Mr. Woodruff stated that he would not be in attendance to help them on the 4<sup>th</sup>. He will craft a staff memo for a guide to the board. Mr. Nolin asked if at the meeting on the 4<sup>th</sup> or sometime in the future, there was a chance of discussing about requiring a survey for variance applications. Mr. Woodruff stated that the issue has been officially brought up to the Board of Selectmen (BoS) and the Town Administrator because the wording in the Zoning Ordinance does say that the BoS sets the policy with regard to building permits and fees. Under that umbrella, they would need to set that policy. It is the recommendation of the Office of Development Services, that under certain circumstances, to be determined, both setting the stakes for a foundation using a NH licensed surveyor and then submitting a foundation certificate at the time you come in for the building permit be required. The specific circumstances are to be determined.

**VI. Unfinished Business**

**VII. Adjournment**

**Motion:** Mr. King made the motion to adjourn at 8:40 PM, seconded by Mr. Stephens, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant