

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

Regular Meeting

February 19, 2014

Minutes

Present: Members: Russ Nolin, Joseph Crowe, Ken Bickford
 Alternate: Jerry Hopkins
Excused: Member: Bob Stephens, Bob Zewski
Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

I. Call to Order

Mr. Nolin called the meeting to order at 7:30 PM and introduced the members of the board to the public. Mr. Nolin appointed Jerry Hopkins to sit on the board with full voting privileges in place of excused member Robert Stephens.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of January 15, 2014, as amended, seconded by Mr. Crowe, carried unanimously.

IV. Hearings

1. Robert L. Waldron Revocable Trust, Robert Waldron, Trustee (132-013/001)(Toltec Point Road) Variance from Article III (I)

Mr. Nolin noted the Office of Development Services was in receipt of an email sent on February 10th, 2014, requesting a continuance of the public hearing to the meeting of March 5th, 2014, in hopes there will be a full board available on that evening.

Motion: Mr. Crowe moved to continue the public hearing for Robert L. Waldron Revocable Trust, Robert Waldron, Trustee Tax Map 132, Lot 013/001), to March 5, 2014, seconded by Mr. Bickford, carried unanimously.

2. Zaremba Program Development, LLC on behalf of Dollar General (52-18)(919 Whittier Hwy) Variance from Article XII.V(B) and XII.V(C)

Mr. Nolin noted the Office of Development Services was in receipt of an email sent on February 10th, 2014, from Nobis Engineering requesting the continuance of the public hearing to the meeting of March 19, 2014.

Motion: Mr. Bickford moved to continue the public hearing for Zaremba Program Development, LLC on behalf of Dollar General (52-18) to March 19, 2014, seconded by Mr. Crowe, carried unanimously.

3. CPK Realty Trust, LLC (135-10)(7 Moultonboro Neck Road)
Variance from Article VII.E.1

Mr. Nolin noted for the record that there were only four members seated this evening and that applicants are entitled to a full board of five members. If the applicant or their agent is willing to proceed with a board of four, they then forfeit their right to request a rehearing on a basis of a board of four. Mr. Nolin noted that the applicant may request a continuance to the next available date. Mr. DaSilva stated that he would proceed with a board of four.

Mr. Nolin stated that this was a hearing for an application for a variance and asked if there was someone here to represent the application. Mr. Chuck DaSilva stated that he was there and Mr. Nolin asked him to explain what it is that he was looking for. Mr. DaSilva stated that he was looking for a variance to permit the construction of a 2nd floor addition. The building is in need of repairs, a new roof and at the same time he would like to add a second floor for dry storage and an office. There will be no retail sales on the second floor.

Mr. Nolin asked if there were any questions from the board. Mr. Bickford asked if they were going to tear the building down to the foundation or just add the second floor. Mr. DaSilva stated they were not tearing it down, just taking the roof off and adding the second floor.

Mr. Nolin commented that it was his understanding that the building was previously conforming until the widening of the intersection took place. Mr. Nolin asked for input from the Planner. Mr. Woodruff gave a brief history of the property as contained in his staff memo of January 29th, 2014. He stated that there is an approved site plan on file for this commercial development. The building was constructed circa 1965 and was always utilized as a commercial structure. The commercial parcel and structure preceded zoning in Town. The right of way line deviates from a normal, traditional 66 ft. wide vector and jogs inward towards the subject parcel to accommodate widened turn lanes at the intersection, thereby changing the front setback dimensions. A more modest taking appears to have occurred on the Moultonboro Neck Road approach to the intersection as well. This appears to have occurred when the intersection was upgraded/signalized. Prior to this uncontrolled change, the owners would have been able to construct a second story addition without the need for relief from the zoning ordinance.

Mr. Bickford asked if the applicant would be willing to amend his application to include that there be no retail sales on the second floor. Stating if the business/property were to be sold at a later date he would not feel comfortable allowing the possibility of retail space on the second level, based on square footage and parking constraints. Mr. DaSilva had no issue with stating that there would be no retail on the second floor. Mr. Woodruff stated the board could place a condition on the granting of the variance and it will be stated in the Notice of Decision and they could also require that said Notice of Decision be recorded at the registry of deeds. It was also noted that the proposed addition will not require an amended site plan.

Mr. Nolin asked if anyone in the public had any questions, there were none. There were no further questions from the board at this time.

Mr. Nolin stated the board was going into deliberative session at 7:44 PM to discuss each of the criteria for granting the variance. The board came out of deliberative session at 7:50 PM. There being no further input from the board or the public Mr. Nolin asked for a motion.

Motion: Mr. Bickford moved to grant variance for CPK Realty Trust, LLC (135-10) for relief from Article VII.E.1 with the condition that there shall be no retail space on the second floor and that the Notice of Decision to be recorded at the applicants expense at the Carroll County Registry of Deeds, to close the public hearing and directs the 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, motion passed, four (4) in favor (Nolin, Crowe, Bickford, Hopkins) and none (0) opposed.

Mr. Nolin noted the 30 day right to appeal in accordance with NH RSA 677:2 would begin tomorrow.

V. Correspondence

1. Mr. Nolin noted that the Board was in receipt of two emails of individuals expressing their interest to serve as Alternate Members of the Zoning Board of Adjustment, the first from Richard Jenny and a second from Paul Onthank. Mr. Onthank was present this evening. After a brief discussion the following motions were made:

Motion: Mr. Bickford moved to appoint Paul Onthank as an Alternate Member of the Zoning Board of Adjustment with a term ending in March 2015, seconded by Mr. Crowe, carried unanimously.

Motion: Mr. Hopkins moved to appoint Richard Jenny as an Alternate Member of the Zoning Board of Adjustment with a term ending in March 2016, seconded by Mr. Bickford, carried unanimously.

As Moderator, Mr. Hopkins swore in Mr. Onthank as an Alternate member of the Zoning Board of Adjustment. It was noted that Mr. Jenny will need to be sworn in prior to serving as an alternate member.

VI. Unfinished Business

1. Review and possible authorization for the Chair to sign the formal Notice of Decision for the January 15th, 2014 granting of a variance for Douglas R. Scott and Alison W. Scott, Trustees of the Alison W. Scott Trust, (188-23)(104 Wyman Trail).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the hearing on January 15th. There were no changes made to the draft.

Motion: Mr. Hopkins moved to direct the Chairman to sign the Notice of Decision as written, for Douglas R. Scott and Alison W. Scott, Trustees of the Alison W. Scott Trust, Tax Map 188 Lot 23 and staff to mail said notice to the applicant or applicant's agent, seconded by Mr. Crowe, carried unanimously.

2. Review of Policies and By-Laws – Mr. Nolin noted that the members had previously tabled the discussion for review and possible approval of the ZBA Policy Draft which was prepared by Mr. Woodruff. Mr. Hopkins noted that two board members were not present this evening and suggested that they were not act on this this evening. This item was tabled again until such time that all elected members can be present for review and discussion of the draft policies.

VII. Adjournment

Motion: Mr. Nolin made the motion to adjourn at 8:08 PM, seconded by Mr. Bickford, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant