

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

Regular Meeting

September 3, 2014

Minutes

Present: Members: Bob Stephens, Russ Nolin, Bob Zewski, Joe Crowe, Ken Bickford
 Alternates: Jerry Hopkins, Paul Onthank, Richard Jenny
Excused: Alternate: Nick DeMeo
Staff Present: Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

I. Call to Order

Mr. Stephens called the meeting to order at 7:00 PM and introduced the members of the Board to the public.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Zewski moved to approve the Zoning Board of Adjustment Minutes of August 20th, 2014, as amended, seconded by Mr. Bickford, carried unanimously.

IV. Hearings

1. dePeyster Trust, Deborah dePeyster, Trustee; 518 High Haith Road, (Tax Map 61, Lot 2)
 Variance from Article VII.E (1)

Mr. Stephens stated that this was an application for a variance for relief from Article VII.E for the expansion of a non-conforming residential cottage within the existing building envelope. For reference, Mr. Stephens gave a brief background on this property, noting the applicant was before the Board in 2013 seeking a variance for the expansion of a non-conforming cottage. There has been some confusion as to whether or not construction within the conforming building pocket needed to part of that application. The applicant applied for a building permit and was notified by the Code Enforcement Officer (CEO) that the porch shown on their building permit application, but not on the ZBA application, required ZBA approval based on the way the current ordinance is written. Mr. Stephens noted that that section of the ordinance may be changed. Mr. Woodruff commented that the Planning Board is going to take a look at a few important zoning amendments that they could change/craft before Town Meeting and thinks that is one of the more important ones.

Jim Morris and Debbie were present for the hearing. Mr. Morris presented the application for variance giving the background on the property as well as the variance granted by the Board in 2013. Mr. Morris stated the approval for the construction of an addition not to exceed 20' x 30' or 600 square feet based on the habitable square footage. They thought that they could build a screen porch, which is not habitable, as long as it met the required setbacks and wouldn't have to be part of that variance. That was their understanding. They had an architect draw up plans, they called the Town during this process, and it was their understanding that the screen porch would not be counted in that 20% allowed by the ordinance. The plan was for a 20' x 30' addition and a 16' x 20' screened porch on top of that. The CEO, in reviewing their building permit application told them that the 16' x 20' screen porch was part of the

footprint and the way that that provision in the ordinance is being interpreted, that's part of the 20% allowable square footage. That is where the confusion has been, which is why they are before the Board this evening. The CEO's interpretation is that the 20' x 30' is the footprint and even if it is not habitable (screen porch or deck) it still counts towards the footprint so if you're seeking a variance you have to specify that's what you want, and they did not specify that on their first application based on their understanding that it didn't count. They are requesting a variance for a 16' x 20' porch that will meet all required setbacks. Mr. Morris noted that they could build the screen porch as a separate structure 1/8" from the building that would not require ZBA approval, but that is not what they want to do.

Mr. Woodruff started with regard to the misunderstanding he may have said the wrong thing on a telephone call, but when you do read the words in the ordinance the 20% maximum expansion is calculated based on habitable floor space, but that 20% is actually the expansion of a footprint of the structure. So it is calculated habitable floor space, and the confusion arose when the applicant's thought that that only applied to habitable floor space. They have cleared that up and that is why they are here tonight to ask for the additional 320 square feet for the screened porch. He noted, as the applicant has stated, that it is completely within the building envelope. And, if it was not attached to the structure, was a standalone structure on the lot, in the building envelope, they could get a building permit to build it, so long as it was not attached. Mr. Woodruff added that he and the CEO have crafted language to fix this section of the ordinance that will be brought before the Planning Board and hopefully the voters in March. The same justification applies to this application as it applied to their original application in 2013. Mr. Woodruff stated that he recommends that the Board grant this variance as well.

There were no questions from the Board.

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

Mr. Stephens asked if there were any 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 granting the variance at 7:11 PM and came out of deliberative session at 7:15 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. Zewski moved to grant the request for **dePeyster Trust, Deborah dePeyster, Trustee, Tax Map 61 Lot 2**, for a variance from Article VII.E with the condition that the dwelling structure's footprint not be expanded beyond the 920 sq. ft. total that would be allowed with the two variances, 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 August 20th, 2014 granting of a variance for Edward John, Jr. & Jane Smits, for a parcel located at 77 Richardson Shores Road (Tax Map 132, Lot 54).

The Board reviewed the Draft Notice of Decision prepared by staff, as directed by the Board at the

hearing on August 20th. There were no changes made to the draft.

Motion: Mr. Bickford moved to direct the Chairman to sign the Notice of Decision as written, for Edward John, Jr. & Jane Smits (132-54)(77 Richardson Shores Road) and staff to mail said notice to the applicant or applicant's agent, seconded by Mr. Zewski, carried unanimously.

VII. Adjournment

Motion: Mr. Nolin made the motion to adjourn at 7:20 PM, seconded by Mr. Bickford, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant