

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

**Regular Meeting**

**January 21, 2015**

**Minutes**

Present:       Members:       Bob Stephens, Russ Nolin, Joe Crowe, Ken Bickford  
                  Alternates:     Richard Jenny, Nick DeMeo, Jerry Hopkins (left at 8:00)  
Excused:       Members:       Bob Zewski  
                  Alternate:       Paul Onthank  
Staff Present:  Town Planner, Bruce W. Woodruff; Administrative Assistant, Bonnie Whitney

**I.       Call to Order**

Mr. Stephens called the meeting to order at 7:02 PM and introduced the members of the Board to the public. Mr. Stephens appointed Nick DeMeo to sit on the board with full voting privileges in place of excused member Bob Zewski.

**II.       Pledge of Allegiance**

**III.       Approval of Minutes**

**Motion:**       Mr. Bickford moved to approve the Zoning Board of Adjustment Minutes of January 7, 2015, as written, seconded by Mr. Stephens, carried unanimously.

**IV.       Hearings**

1.       Continuation of Public Hearing for Michael G. Wallace (99-181)(65 Sunrise Drive)  
          Variances from Articles VII E (1) and III.B (3&4)

Mr. Stephens stated that this was an application for a variance for Michael G. Wallace. The applicant is requesting a variance to permit the replacement of an identified main entrance deteriorating wooden deck and the creation of a future side entrance on the existing structure.

Michael Wallace presented his application for variance, stating that he wanted to replace the deteriorated deck that had previously existed, extending it 3 feet into the side setback to accommodate a future, additional, means of egress from the family room for safe passage from the second floor. The proposal includes relocating the stairs as well as increasing the width of the deck 4 feet.

The Planner noted he had two suggested questions the Board may wish to ask the applicant. First why the deck has been expanded and not simply replaced in kind, the same size, and additionally asking the applicant to expand on the statement that the side deck expansion would allow the creation of a future side entrance/egress for safety purposes.

It was noted that several of the members had viewed the site independently prior to the hearing. Those who had not been to the site took a moment to view the diagrams to orientate themselves with the changes proposed to the property, the location of the canal and the street. Members stated that portions of the project had already begun, noting the 3 foot area had not been completed at this time. It was noted for the record that this application was the result of a Code Enforcement violation. Members questioned why the egress could not be put on the other side of the dwelling. Mr. Wallace stated that the layout of the interior of the home prevented the installation of a door on that side, as well as the location of his septic.

Mr. Stephens commented that in the past, access and egress had been allowed within a setback, noting that it has been limited to a 3 foot x 3 foot landing and necessary stairs without the least amount of encroachment into the setback. Mr. Hopkins asked Mr. Wallace if he had made application to DES for a shore land permit. He stated yes, but that he has not heard back from them.

Mr. Stephens opened the hearing for public input at this time, 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 7:18 PM and came out of deliberative session at 7:26 PM to ask the applicant if he would be willing to eliminate the proposed 3 foot intrusion into the side setback, as well as adding 3-4 inches of ¾ crushed stone for storm water mitigation under the entire deck area. Mr. Wallace stated that he was in agreement with the suggestions of the board. Mr. Crowe questioned if this would require a new application. The Planner stated that they could amend the application as suggested. The Board returned to deliberative session at 7:32 PM and came out of deliberative session at 7:38 PM.

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

**Motion:** Mr. Crowe moved to grant a modified request for a variance with the following conditions; 1. That a Shore Land Permit be obtained by NH DES; 2. Storm water runoff mitigation be installed under the entire deck, consisting of ¾ inch stone, 3-4 inches in depth; 3. Prohibit any future enclosure of space above or below the deck area; (the modification agreed to by the Board and Applicant was to eliminate requesting the side setback variance and therefore not asking to construct the three foot wide deck on the side of the dwelling.) ...and to close the Public Hearing. The Board moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting, seconded by Mr. DeMeo, motion passed, five (5) in favor (Stephens, Nolin, Bickford, Crowe, DeMeo) and none (0) opposed.

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

2. Continuation of Public Hearing for Richard A. Morgan (217-27)(166 Black Cat Island Road) Variance from Articles III.B (3&4)

Mr. Stephens stated that this was an application for a variance from Articles III. B (3&4) for Richard Morgan. The proposal is to replace a dwelling located 16.7 ft. (closest point) from the side property line where 20 ft. is required and 27 ft. (closest point) from the Reference Line where 50 ft. is required.

Dave Dolan, of David M. Dolan Associates, P.C. was present this evening to represent the applicant Richard Morgan. Mr. Dolan briefly described the location and existing conditions of the property. He stated the property is developed and that the house was built sometime in the 1980's. The plan shows the existing house on a long narrow lot, which is about 23,500 square feet, on a point with approximately 230 feet of frontage. He noted that the lot is about 120 feet wide at the water and about 40 feet wide at the road. Once you apply the building setbacks the building envelope is very narrow. Mr. Dolan stated the existing corners of the house are about 11.7 feet and 32 feet from the lake. The proposal is to raze the house, constructing a new dwelling that will be moved back about 32 feet to the west, which will increase the shoreline setback to 27 feet. It will also increase the side setback from 16.1 feet to 16.7 feet. There will be a new septic system constructed on the property. It is an existing four bedroom house and the new house will be four bedrooms. They are reducing the existing intrusion into the lake setback from 2,200 +/- sq. ft. to 1,400 +/- sq. ft. and on the side setback from 90 +/- sq. ft. to 60 +/- sq. ft. Mr. Dolan pointed out that by moving the house back it opens up a degree of view from each of the abutting

properties. The proposal will require a shore land permit application, and approval if this goes forward. As part of the shore land permit they will have to demonstrate erosion control which will include silt fence to be installed around the perimeter of the construction area and maintained throughout the course of construction, inspected and repaired if necessary. Mr. Dolan stated that he had submitted with the application an outline for addressing each of the criteria for the granting of a variance. Mr. Dolan answered any questions from the board.

The Planner noted that the owner has the right to tear the existing dwelling down. It is a lot of record. It is an oddly shaped lot of record with a strange building envelope. Once they tear the structure down, any grandfathering goes away, which is the reason this application is before the board. They feel that they cannot fit a useable or reasonable dwelling inside the narrow building envelope.

Members had a few questions regarding an existing retaining wall, and the width of the building envelope. Mr. Dolan commented that the average width is 19 feet.

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. The board went into deliberative session to discuss each of the criteria for granting the variance at 7:59 PM and came out of deliberative session at 8:04 PM.

**Motion:** Mr. DeMeo moved to grant the request for both variances for Richard Morgan, Tax Map 217, Lot 27, with the following four conditions; 1. That a Shore Land Permit be obtained by NH DES; 2. That a septic system design be filed with the Code Enforcement Officer at the time of permitting; 3. That a foundation certification be prepared and submitted with the building permit application; and 4. That all applicable best management practices for storm water runoff mitigation be employed, and further to close the public hearing and 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. Nolin, motion passed, five (5) in favor (Stephens, Nolin, Bickford, Crowe, DeMeo) and none (0) opposed.

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

## **V. Correspondence**

1. Board members were provided with a copy of a letter and registration form for the Preti Flaherty/NHTI Course on Planning and Zoning Laws in New Hampshire. A five session course is available for all planning board members, zoning board members, municipal planners and others. The Planner added that the course is \$175 per person for all five sessions, which would be covered by the Town. He added that members should notify him if they wish to attend, and if there are a number of members attending he will reserve the van so that members may carpool. Mr. Stephens offered to drive his van, allowing members to carpool with him. Members were asked to contact the Planner within the next couple of weeks regarding attending or not attending the five week course.

## **VI. Unfinished Business**

## **VII. Adjournment**

**Motion:** Mr. Bickford made the motion to adjourn at 8:15 PM, seconded by Mr. DeMeo, carried unanimously.

Respectfully Submitted,  
Bonnie L. Whitney  
Administrative Assistant