

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

Regular Meeting

May 6, 2015

Minutes

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

I. Call to Order

As Chairman, Mr. Stephens called the meeting to order at 7:00 PM and introduced the members of the board to the public. Mr. Stephens appointed Paul Onthank and Richard Jenny to sit on the board with full voting privileges in place of excused members Bob Zewski and Ken Bickford.

II. Pledge of Allegiance

III. Approval of Minutes

The Chair noted as there were only 3 members present (Nolin, Hopkins, Jenny) at the prior meeting he temporarily seated Mr. Hopkins for the approval of the April 15th minutes.

Motion: Mr. Hopkins moved to approve the Zoning Board of Adjustment Minutes of April 15, 2015, as written, seconded by Mr. Jenny, carried unanimously.

IV. Hearings

1. John C. Mendes & Margaret A. Geanisis (169-36)(96 Lake Shore Drive)
 Variance from Article III.B.3

Mr. Stephens stated that this is a request for a side setback variance.

John Mendes presented the application for variance. Mr. Mendes briefly described the proposed addition to the existing nonconforming porch and the need for the encroachment is for access and egress for his elderly mother to accommodate a walker or wheelchair.

Planner Woodruff reviewed his staff memo, giving a brief summary of the request and background. He stated the requested expansion is for the purposes of a family member with a recognized physical disability and that the modifications are necessary to allow for that person to reasonably reside and use the premises. He stated that he recommended the granting of the variance request.

The Board discussed if the applicant was seeking a variance to the zoning ordinance for a recognized disability, which may be granted for as long as the particular individuals have a need to use the premises. If this were so, then the question was raised, if they were to sell the home, would the porch or ramp need to be removed.

The Planner reviewed RSA 674:33 V, noting paragraph V states: “*Notwithstanding subparagraph I(b), any zoning board of adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance, when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that:*

(a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance.

(b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance that the variance shall survive only so long as the particular person has a continuing need to use the premises.”

It was noted that the language stated the board “*may*” include in the variance that the variance shall survive only so long as the particular person has a continuing need to use the premises, not shall or must. It was suggested that the Notice of Decision contain a condition that the granting of the variance for the ramp and deck does not constitute a footprint for any future request for the expansion of a nonconforming structure. It was the consensus of the Board to not place any additional restrictions on the granting of the variance.

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 7:13 PM and came out of deliberative session at 7:21 PM.

There was no further input from the board or public. The voting members were Bob S., Russ, Rob, Richard and Paul.

Motion: Mr. St. Peter moved to grant the request for a variance from Article III.B(3) for John C. Mendes & Margaret A. Geanisis, Tax Map 169, Lot 36, subject to a condition that the granting of the variance for the ramp and deck does not constitute a footprint for any future request for the expansion of a nonconforming structure; and further 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. Jenny, motion passed, five (5) in favor (Stephens, Nolin, St. Peter, Jenny, Onthank) and none (0) opposed.

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

2. Joseph & Susan Couture (99-112)(254 Paradise Drive)
Variance from Article III.B.1 & B.3

Mr. Stephens stated that this is a request for a side and front setback Variance.

Joseph Couture presented the application for variance. Mr. Couture briefly described the proposed expansion of the existing nonconforming deck and the addition of an eighteen foot metal ramp for the access and egress to accommodate his wife’s wheelchair.

Planner Woodruff reviewed his staff memo, giving a brief summary of the request and background. He stated that the applicant is requesting relief in accordance with NH RSA 674:33.V for the purpose of a family member with a recognized physical disability and that the modifications are

reasonable and necessary to allow for that person to reasonably reside and use the premises. He stated that he recommended the granting of the variance request.

As with the prior hearing, the board discussed the proposed deck and ramp, questioning if granted, would they place any sunset clause/condition on the deck and/or ramp. It was the consensus of the board, that if they were to grant the setback variances that it would be with the condition that the metal ramp be removed at such time as the person with the physical disability no longer resides or regularly uses the premises.

Mr. Stephens opened the hearing for public input at this time. Kevin Quinlan spoke in favor of the request for the granting of the variance both as the President of the Balmoral Association and as a friend.

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 7:31 PM and came out of deliberative session at 7:34 PM.

There was no further input from the board or public. The voting members were Bob S., Russ, Rob, Richard and Paul.

Motion: Mr. Jenny moved to grant the request for a variance from Article III.B (1) & B (3) for Joseph & Susan Couture, Tax Map 99, Lot 112, subject to the condition that the metal ramp be removed at such time as the person with the physical disability no longer resides or regularly uses the premises; and further 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. Onthank, motion passed, five (5) in favor (Stephens, Nolin, St. Peter, Jenny, Onthank) and none (0) opposed.

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

3. James & Carla Salerno (263-91)(78 Long Island Road)
Variance from Article III.B.1 & B.3

Mr. Stephens stated that this is a request for a side and front setback Variance.

Mr. Salerno presented the application for variance. Mr. Salerno stated they are requesting a variance to allow the storage container to remain on the corner of his property which is 9 ft. from his abutting neighbor and approximately 20 ft. the front property line. He stated that it is tucked in the corner with fencing and trees for screening. Where the storage container is presently located it is hard to see that it is there.

The Planner commented that this variance request was a little odd in that the container could be moved to a conforming location. However, given some of the history with regards to the particular use in the neighborhood, the location of this storage shed, tucked up in the trees, next to the fence appears to be the best place for this with regard to quality of life for the neighborhood. Mr. Woodruff gave a brief summary of the request and background. It was noted that the property is a hybrid use, having a grandfathering component coupled with an agreement to not increase the intensity of use (number of dwelling units) as per a shoreland permit in force. And the applicant has a legal customary home occupation and permit in force in that regard. The Planner stated his recommendation was for the granting

of the variance as requested with a suggested condition that the existing fence that serves to screen shall remain and be maintained so long as the storage facility remains.

Mr. Stephens opened the hearing for public input at this time. Abutter Jussara Rosa, 14 West Point Road, spoke in favor of the variance as requested, noting that they felt if the container were to be moved to a conforming location on the property it was have more of a negative effect on them and all who drive by the property.

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 7:48 PM and came out of deliberative session at 8:07 PM.

There was no further input from the board or public. The voting members were Bob S., Russ, Rob, Richard and Paul.

Motion: Mr. Onthank moved to grant the request for a variance from Article III.B (1) & B (3) for James & Carla Salerno, Tax Map 263, Lot 91, subject to the following conditions: with the condition that the existing fence that serves to screen shall remain and be maintained so long as the storage facility remains, and the variance is for a metal storage container, and does not pertain to a future stick-built structure in that location; and further 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. St. Peter, motion passed, four (4) in favor (Stephens, St. Peter, Jenny, Onthank) and one (1) opposed (Nolin).

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

V. Correspondence

VI. Unfinished Business

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:10 PM, seconded by Mr. St. Peter, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant