

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

Regular Meeting

August 19, 2015

Minutes

Present: Members: Bob Stephens, Russ Nolin, Bob Zewski, Ken Bickford
 Alternate: Richard Jenny, Nick DeMeo, Jerry Hopkins
Excused: Member: Robert St. Peter
 Alternates: Paul Onthank
Staff Present: Administrative Assistant, Bonnie Whitney

I. Call to Order

Chairman Stephens called the meeting to order at 7:00 PM and led the Pledge of Allegiance. He then introduced the members of the board to the public. Mr. Stephens stated that he would be doing something different this evening in appointing an alternate in place of excused member Robert St. Peter. He appointed Richard Jenny to sit on the board with full voting privileges for the approval of the minutes and Hearing # 1; he will appoint Nick DeMeo to sit on the board with full voting privileges for Hearing #2; and appoint Jerry Hopkins to sit on the board with full voting privileges for Hearing #3.

II. Pledge of Allegiance

III. Approval of Minutes

Motion: Mr. Zewski moved to approve the Zoning Board of Adjustment Minutes of August 5, 2015, as written, seconded by Mr. Bickford, carried unanimously.

Motion: Mr. Nolin moved to approve the Zoning Board of Adjustment On-site Minutes of August 7, 2015 for the M^cCarthy property (18-35) seconded by Mr. Zewski, carried unanimously.

IV. Hearings

1. Continuation of Public Hearing for Advanced Land Surveying Consultants for the M^cCarthy Family 2013 Trust (18-35) (9 Ben Berry Road) Variance from Article III.A (Minimum lot sizes)

Mr. Stephens stated that this was a continued hearing for Kevin M^cCarthy. Mr. M^cCarthy was present for the hearing. Mr. Stephens noted the hearing was continued in order to conduct an on-site visit of the property. A majority of the members were present at the on-site. The Chair asked members if they had any comments or questions for the applicant as a result of the prior hearing and the on-site visit.

Mr. Zewski commented that the two issues at the last meeting were the characteristics (topography, ledge, wet areas) of the lots and the question regarding the soil calculations. Neither of which has been resolved. Soil calculations and information was prepared by Randall Shuey. Members still had concerns with the lot sizing and their prior comments or questions asking if there could be additional land (square footage) added to the proposed 1.33 acre lot that would make the lot conforming and therefore not a need for the variance to create a substandard lot. Mr. Nolin questioned where the

Commercial Zone B line went through the lots. Members viewed a copy of the Tax Map, Map 18, which shows the commercial line cutting through the front portion of the lot, behind the residence and in front of the pole barn. Mr. Nolin then questioned if there was any grandfathering rights to the commercial use on the section of Lot 35 that would become a part of Lot 36 as a result of the proposed boundary line adjustment. Members questioned if Mr. M^cCarthy's landscaping business was a home occupation, asking how many employees he had. He stated that he has four employees. It was noted that no more than one (1) nonresident shall be employed in a home occupation and that the use must be carried on strictly by the occupant of the principal business. There are also limitations to the square footage of accessory buildings.

Members discussed at length the proposal, noting that it was obvious during the on-site that there was not another option for placing the proposed access road from Lot 36 to the developed area on Lot 35. Members questioned again if there were other options for the location of the proposed boundary line which would not create a non-conforming lot. Members reviewed the plan submitted with the application questioning if the line could be moved closer to the pole barn (which would require a side setback variance) or creating an unusual shaped lot including area near the leach field on Lot 36. It was noted that neither the applicant nor the board members were able to determine not only where the proposed line could be located, but how much additional square footage would be required in order to create a conforming lot based on lot sizing.

Mr. Stephens noted that there were no members from the public present this evening.

It was the decision of the board to continue the hearing to allow time for the applicant to contact his surveyor and/or soil scientist to address the questions rose this evening regarding an amendment to the plan which would create a conforming lot based on soils, perhaps then only needing a setback variance.

Motion: Mr. Stephens moved to table the application for the M^cCarthy Family 2013 Trust, Tax Map 18, Lot 35 and to continue the public hearing until September 2, seconded by Mr. Bickford, carried unanimously.

2. Rhonda J. & Raymond G. Quist 2013 Revocable Trust; Rhonda & Raymond Quist, Trustees (223-66)(5 Owens Way) Special Exception Article III.B.6

The Chair unseated alternate member Rich Jenny at this time and seated Nick DeMeo with full voting privileges.

Mr. Stephens stated that this was an application for a special exception from MZO Article III.B.6.

Nicol Roseberry of Ames Associations presented the application for the Quist's. She stated that this was a request for a special exception for the reconstruction of an existing raised walkway within 50' of the lake shoreline, with modifications to the existing footprint. She briefly described the existing walkway, stating that it was a raised walkway, on top of the grade. The existing walkway leading from the 20' shoreline setback to the lake will be modified and pulled back from the lake to be located behind the reference line. The new walkway will ramp into the proposed beach to accommodate various walking abilities of the owner's family. The proposed walkway will be reduced to 3' in width as it approaches the waterfront, and will be 3' in width as it ramps into the proposed beach, resulting in an overall footprint area (420 sq. ft.) that will remain the same as that of the existing walkway footprint (420 sq. ft.). Ms. Roseberry answered any questions from the board.

Mr. Bickford noted his concerns with the possibility of water sheet flowing off the proposed walkway that runs parallel to the shorefront to the proposed perched beach, causing erosion into the lake. Members discussed this briefly noting that if granted, they could place a condition on the approval requiring some form of erosion control or requiring that during the construction of the section of the ramp

walkway within the 20' shoreline setback there being a ¼" gap between the boards preventing sheet flowing of water.

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 special exception at 7:50 PM and came out of deliberative session at 7:53 PM.

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

Motion: Mr. Bickford moved to grant the request for a special exception from Article III.B.6 for The Rhonda J. & Raymond G. Quist 2013 Revocable Trust, Tax Map 223, Lot 66, subject to the following condition: that there be a ¼" gap between the boards in the installation of the section of the ramp walkway within the 20' shoreline setback; 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. Zewski, motion passed, five (5) in favor (Stephens, Nolin, Zewski, Bickford, DeMeo) and none (0) opposed.

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

3. Colby Irrevocable Life Estate Trust; Peter & Linda Colby, Trustees
(129-83)(258 Castle Shore Road) Variance from MZO Articles III.B (3 & 4)

The Chair unseated alternate member Nick DeMeo at this time and seated Jerry Hopkins with full voting privileges.

Mr. Stephens stated that this was an application for a special exception from MZO Articles III.B (3 & 4).

Nicol Roseberry of Ames Associations presented the application for the Colby's. She stated that this was a request for a variance for the reconstruction of a portion of the existing nonconforming residence. Ms. Roseberry briefly described the existing single family residential property, noting that the original south section of the home was built in the 1950's and does not have a full foundation. An addition was built on the north side in the 1990's and does have a foundation. The Colby's wanted to add a second floor to the residence and found during discussions with a builder that the older section built in the 50's could not support a second floor. The proposal is to tear down the south section of the existing nonconforming residence and put in a full foundation and add second story to the overall residence. The reconstruction of the south section of the existing nonconforming residence will be in the same footprint and same location (16' shoreline-to-deck, 32' shoreline-to-wall of residence, 16' property line to bulkhead, 18.4' property line-to-wall of residence), where a shoreline setback of 50' is required, and a property line setback of 20' is required. Ms. Roseberry answered any questions from the board.

Members questioned if there was any consideration given to meeting the side setback, making the proposed reconstruction comply. They questioned the existing deck and asked if there was any stormwater management in place. The board noted their concern with the runoff from a second story as the velocity from the runoff will be increased from the existing single story.

Ms. Roseberry responded that the deck will be moved away for the reconstruction and replaced when completed. They have made application to NH DES for the proposed project which includes converting 840 sq. ft. of existing driveway surface to permeable grass pavers and the installation of drip line trenches under new roof overhangs, reducing the size of the patio and removing the existing perched beach.

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. The board went into deliberative session to discuss each of the criteria for granting the variance at 8:16 PM and came out of deliberative session at 8:21 PM.

During the deliberations it was the decision of the board to require that the proposed new foundation and dwelling being relocated to comply with the required side setback of 20', and not to grant a variance for the side setback as requested. In addition as a condition of approval the applicant's agent agreed to employ best stormwater management practices to address the concerns of the board regarding runoff from a two story dwelling, noting the velocity will be greater than the existing one story dwelling.

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

Motion: Mr. Hopkins moved to grant the request for a variance from Article III.B.4 for the Colby Irrevocable Life Estate Trust; Peter & Linda Colby, Trustees, Tax Map 129, Lot 83, subject to the following conditions: 1) employ best stormwater management practices to withstand the velocity of runoff from the second story dwelling; 2) the proposed reconstruction meet the required property sideline setback of 20', 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. Bickford, motion passed, five (5) in favor (Stephens, Nolin, Zewski, Bickford, Hopkins) and none (0) opposed..

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

V. Correspondence

Mr. Stephens noted the Heritage Commissions Community Landmarks Series 2015 flyer included in the members packets. There will be a Panel Discussion regarding Historic Village Buildings on Monday, August 24th, 7 PM at the Moultonborough Public Library.

VI. Unfinished Business

VII. Adjournment

Motion: Mr. Stephens made the motion to adjourn at 8:24 PM, seconded by Mr. Zewski, carried unanimously.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant