

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

Public Meeting

February 15, 2023

Minutes

Present: Members: Bob Stephens, Robert St. Peter, Nick DeMeo, Sean Poloian
 Alternate: David McDonough
Excused: Member: Michael Mills
 Alternates: Jerry Hopkins, Steve Buy
Staff Present: Bonnie L. Whitney, Administrative Assistant

I. Call to Order: Chairman Stephens called the meeting to order at 7:00 PM and led the Pledge of Allegiance. The Board Members and Staff then introduced themselves. Mr. Stephens appointed David McDonough to sit on the Board with full voting privileges in place of Michael Mills.

II. Pledge of Allegiance

III. Review/Approval of Minutes: 02/01/23

Motion: Mr. St. Peter made the motion to approve the February 1, 2023, minutes as written. Mr. McDonough Seconded. The Motion carried unanimously.

IV. Hearings:

1. William P., Jr. and Patricia A Davies (161-19) (144 Curtis Lane)
 Variance from Section 3.2.2.3

Chairman Stephens asked what members, if any, had been to view the site. Mr. McDonough and Mr. St. Peter indicated that they had viewed the site.

Mr. Stephens asked that the Board determine whether this development has the potential of Regional Impact and take a vote on that determination. Mr. Stephens polled the Board by roll call vote asking each if they felt that this project for the Davies (161-19) would have any potential for Regional Impact? Roll call: David – No; Nick – No; Sean – No; Rob – No; Bob – No.

Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC (DTC), Agent for the Applicants, was present representing the applicants. The proposal is for the construction of an addition for an expanded master bedroom suite and Great Room no closer than 5 feet of the side boundary line.

Mr. Boldt noted the Existing Conditions Plan (Exhibit A), and Proposed Conditions Plan (Exhibit B) were available for participants to view. He briefly described the property which is approximately 400 feet long and approximately 90 feet in width on the Lake.

Mr. Boldt pointed out a key factor is its southern boundary, which is Mr. Belanus' lot, is burdened by a 100-foot-wide PSNH easement. The property is accessed by Curtis Lane. Mr. Boldt noted photos of the site were provided with the application package.

Mr. Boldt stated there is an existing dwelling which is slightly non-conforming with its front deck, partially within the 50-ft Lake setback. He briefly described other improvements on the site which included a garage, fire pit, parking area, as well as a fair number of boulders on the property.

The Proposed Conditions Plan depicts the addition. It is to the south side, the side which has the powerline easement. The Property is served by a State approved 3-bedroom septic system. Additionally, they have received the necessary Shoreland Impact Permit for this project. The proposed impervious lot coverage is reduced slightly (15.2% to 15.0%) as part of the DES approval. The Fire Pit will be reconstructed into pervious.

The Photos show the area of the Abutting Lot near to the area of the proposed Addition. Mr. Boldt noted that the property line is roughly a foot off the stone wall in the photo. He acknowledged that there have been improvements (lawn area) that encroach onto the abutting property, adding they are not claiming that area of land.

Mr. Boldt stated his narrative addresses each of the five criteria, briefly touching on each of them. He then answered any questions from the Board.

Members questioned what was in the existing home in the area of the proposed addition, what the height of the windows are in the proposed addition along the property line, as well as the access for the site over the abutting property, noting the access lies within the PSNH right-of-way.

Mr. Stephens opened the public hearing for public input.

Robert Belanus, abutter along the entirety of both the south and west property lines of the subject property, noted his concerns with the close proximity of the proposed addition to his property. Mr. Belanus provided a marked-up copy of the plans and photos that were submitted as part of the application. He pointed out in the photos that the applicant had already encroached on his property with improvements that include lawn as previously noted.

Mr. Belanus stated that he was not opposed to the addition as proposed, noting his concerns with privacy. He suggested the windows on the side of the home facing his property be 6-feet above the floor, frosted glass panes for privacy or an alternative to the windows being skylights. As a final option, he requested the installation of a fence or screening along the property line that would consist of planting arborvitaes that are 6-ft in height, to be planted in a zig zag manner along the length of the Addition.

Discussion ensued regarding the area in which the Addition is to be located, what was visible from the Applicant's property, what improvements were on the Abutting Lot, if Mr. Belanus had received approval for his proposed improvements to the Lake. Mr. Belanus stated that he has received a Shoreland Impact Permit to install two patios, a shed, and staircase walkway access between the tiered landscape. He noted that his access down to the patio area is along the area next to the Addition, which has been improved by the abutter. The screening would allow him to utilize his property without feeling that he was intruding in the Applicant's home or yard. Mr. McDonough questioned if there had been any substantive discussions between Mr. Belanus and the Applicant. Mr. Boldt indicated that there had been, they just have not reached an agreement.

Mr. Stephens asked if there were any additional questions from the board. Hearing none, the board went into deliberative session to discuss each of the criteria for the granting of a variance at 7:42 PM and came out of deliberative session at 8:12 PM.

During deliberative session members discussed each of the criteria for the granting of a variance. They agreed that granting the variance would not be contrary to the public interest as the easement area for PSNH prevents two structures from being built close to each other, therefore the proposed addition would not have a negative impact on the abutter and neighborhood. For the same reasons as referenced for the first criterion the variance observes the spirit of the Ordinance. Substantial justice is done as there would be a clear loss to the Applicant that is not outweighed by any gain to the community by denying the request to construct the Addition. The Abutter did not oppose the proposal but desires a consideration for privacy screening. The proposed Addition will not diminish surrounding property values as it will not change the character of the neighborhood, it will be new construction adding value to the Applicant's Property and with proper screening, will not negatively impact value of the abutter's property. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship as special conditions of the Property distinguishes it from other properties in the area due to the size and rectangular shape and location of the Property on a dead-end segment of Curtis Lane, the Property has an existing concrete patio within 6 feet of the southern boundary line/edge of the PSNH right of way, The location of the Addition will be in compliance with the Lake setback, and the Project has obtained the Shoreland Permit for DES for the Addition. The proposed use is reasonable as the Addition is for living space, is encroaching on a boundary line that is subject to the PSNH right of way and no structures can be built in that area.

There was no further input from the Board or public. The voting members were David, Nick, Sean, Rob, and Bob.

MOTION: Mr. DeMeo made the motion to grant the request for a variance from Article 3.2.2.3 for William P. Davies, Jr. and Patricia A. Davies, Tax Map 161, Lot 19 for the construction for an addition to be located no closer than 5 ft. at its closest point from the side boundary line where 20 ft. is required, subject to the following conditions: 1) Project shall obtain necessary state and local permits and approval of a town building permit prior to commencing construction, and all conditions of such permits shall be perpetually complied with; 2) All necessary inspections shall be successfully completed, and receipt of a Certificate of Occupancy obtained from the Code Enforcement Officer prior to use; 3) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval. 4) The applicant and owner are solely responsible to comply with conditions of approval. 5) Per RSA 674:33, approval expires on 2/14/2025 if use is not substantially acted on; 6) The applicant shall install screening along the length of the addition on the southerly side of the house from the easterly face to the westerly face prior to the issuance of a certificate of occupancy, and said buffer/screening shall be determined and agreed upon with the abutter (Robert Belanus, Tax Map 161 Lot 18) and submitted as part of the building permit application, 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 their next meeting. Mr. St. Peter Seconded. The Motion carried Unanimously.

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

2. Madeline S. Oka and Paul Oka (168-2) (63 Blackey Cove Road)
Variance from Sections 3.2.2.1 and 3.2.2.3

Mr. Stephens noted the board was in receipt of an email dated February 8, 2023 from Christopher Boldt, Esq., representing Paul and Madeline Oka. Mr. Boldt requested a continuation of the hearing currently on this evening's agenda be continued to the ZBA's agenda for March 15, 2023. The applicant is exploring a slight modification to the Proposed Conditions Plan and Elevations.

Motion: Mr. St. Peter moved to continue the public hearing for Variance request for Madeline S. and Paul Oka (168-2) to March 15, 2023. Mr. DeMeo seconded. The Motion carried unanimously.

V. **Correspondence:** - None

VI. **Unfinished Business**

Mr. Stephens noted that there were no new submissions or continued hearings for the March 1st meeting date, therefore he cancelled the Zoning Boards regularly scheduled meeting of March 1, 2023.

VII. **Adjournment:** Mr. DeMeo made the motion to adjourn. Mr. McDonough Seconded. The Motion carried Unanimously, and the Board adjourned at 8:34 PM.

Respectfully Submitted,
Bonnie L. Whitney
Administrative Assistant