

**ZONING BOARD OF ADJUSTMENT
424 WHITE MOUNTAIN HIGHWAY
MILTON, NH 03851
Meeting Minutes
April 23, 2015**

Members in attendance: Michael Tabory, Stan Nadeau and Lue Snyder. Also in attendance, Kimberly Ladisheff Land Use Clerk.

Public in attendance: Bruce Woodruff, Stephen and Marilyn Hayes, Matthew Flathers.

Chairman Tabory called the meeting to order at 6:02pm.

Public Comment

None

Election of Officers

S. Nadeau motioned to nominate M. Tabory for Chairman. Motion seconded by L. Snyder. Motion carried.

S. Nadeau motioned to nominate L. Snyder for Vice Chair. Motion seconded by M. Tabory. L. Snyder abstained. Motion carried.

A letter of interest was received from Bruce Woodruff to become an alternate on the ZBA. L. Snyder motioned to appoint Bruce Woodruff as an alternate. Motion seconded by S. Nadeau. Motion carried.

Case #2015-2

Stephen and Marilyn Hayes are requesting an Equitable Waiver from Article III, Section 3.5 (Dimensional Requirements), of the Zoning Ordinance, to allow a lot line adjustment. Property located at Map 28 Lots 34 & 35; 101 Lakeside Drive and hideaway Lane, Milton, NH in the Low Density Residential Zone.

Stephen stated he has 2 adjacent lots, a building on one with the well on the other. However if you wade through the Registry of Deeds, older deeds show the lot that the building is on as a larger lot which would include the well. However, the Town tax maps show the smaller lot with the well on it.

M. Tabory motioned to table this case for a few minutes. Motion seconded by S. Nadeau. Motion carried.

M. Tabory mentioned he spoke with the Town Attorney regarding the straw poll votes the board does. The Attorney's advice was that they vote on each criteria as a binding vote and then one final vote at the end. S. Nadeau asked if one question does not pass, do they continue. M. Tabory stated yes, if the Attorney had to defend an appeal the more information he has, it would be easier knowing which ones passed and which ones failed.

M. Tabory then explained the process to the applicants and continued with the application process.

4.23.15 ZBA

1. The violation was not noticed or discovered until after a structure in violation had been substantially completed, or a lot or other division of land in violation had been conveyed to a bona fide purchaser for value.

The board was in agreement this was not a violation but an error.

Stephen stated there has been much confusion with deeds on file as to the location of the common boundary between lots 34 & 35 going back about 50 years.

L. Snyder asked what the difference was if the line was moved. Stephen stated there was a difference of about 40 ft.

Public Comment - None

M. Tabory motioned that the error was not noticed or discovered prior. Motion seconded by S. Nadeau. All in favor, motion carried. Number 1 met the criteria.

2. The error was caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in the interpretation or administration of this ordinance by the Code Enforcement Officer.

Stephen stated he can't tell them how or why this happened all those years ago.

Public Comment - None

S. Nadeau motioned the error was caused by either a good faith error in measurement or calculation. Motion seconded by L. Snyder. All in favor, motion carried. Number 2 met the criteria.

3. The error does not constitute a nuisance, diminish the value of properties in the area, or adversely affect any present or permissible future uses of the premises.

Stephen stated there is no change in the allowed use of both lots and the abutter's boundaries do not change.

Public Comment - None

S. Nadeau motioned the error does not constitute a nuisance, diminish the value of properties, or adversely affect any present or permissible future use. Motion seconded by L. Snyder. All in favor, motion carried. Number 3 met the criteria.

4. Weighing the cost of past construction or investment made in ignorance of the facts constituting the error, the cost of correction so far outweighs any public benefit to be gained in requiring the error to be corrected.

Stephen stated he would have to put a new well on the other property which would be very expensive.

Public Comment - None

4.23.15 ZBA

S. Nadeau motioned the cost of correction so far outweighs any public benefit to be gained. Motion seconded by L. Snyder. All in favor, motion carried. Number 4 met the criteria.

5. In lieu of the findings required by the Board under items #1 and #2 above, the owner may demonstrate to the satisfaction of the Board that the error has existed for ten years or more and no enforcement action has been commenced against the error during that time by the Town or any person directly affected.

M. Tabory stated there was no need for this one as #1 and #2 met the criteria.

Public Comment - None

S. Nadeau motioned to approve entire application. Motion seconded by L. Snyder. All in favor, motion carried. The equitable waiver was granted.

Approval of minutes

Motion by L. Snyder to accept the January 22, 2015 meeting minutes. Motion seconded by S. Nadeau. Motion carried.

Other Business

Matthew Flathers was present to ask about general procedure. There was a brief discussion.

Motion by S. Nadeau to adjourn. Motion seconded by L. Snyder. Motion carried. Meeting adjourned at 6:50pm.

Respectfully submitted,

Kimberly Ladisheff
Land Use Clerk