

## ZONING BOARD OF ADJUSTMENT

Wednesday, January 27, 2010  
Belmont Corner Meeting House  
Belmont, N.H.03220

Members Present: Chairman Peter Harris; Norma Patten and Marshall Ford.  
Members Absent: Linda Couture (E) and Pleasant Oberhausen (U).  
Alternates Present: Ed Hawkins.  
Staff: Candace Daigle and Elaine Murphy.

The chairman opened the meeting at 7p.m. and appointed Ed Hawkins as a voting member. He explained that the Board usually consists of five voting members and that an affirmative vote of three is necessary to pass any motion or approval. The applicants have the option of going with a short Board or postponing. A short Board is not a reason for a rehearing.

### **Abutters' Hearing – Kathy Kuslaka-Clement Revocable Trust for Mallards Landing:** Request for:

1. A Variance of Article 8.B.9.f of the Zoning Ordinance to re-construct a shed closer (13.5') to Unit 611 than permitted (20'). ZBA # 0110Z
2. A Variance of Article 4 of the Wetlands Ordinance to re-construct a shed closer (40.3') to the highwater mark than allowed (50'). ZBA # 0210Z
3. A Variance of Article 8.B.9.f of the Zoning Ordinance to re-construct a seasonal single family dwelling closer (16.1') to unit 611 than permitted (30'), but not closer than the existing unit. ZBA# 0410Z
4. A Variance of Article 8.B.9.f of the Zoning Ordinance to re-construct a seasonal single family dwelling closer (11') to the road than permitted (15'). ZBA 0510Z
5. A Variance of Article 8.B.9.f. of the Zoning Ordinance to re-construct a seasonal single family dwelling closer (7.5') to unit 615 than permitted (30'). ZBA # 0610Z
6. A Variance of Article 4 of the Wetlands Ordinance to re-construct a seasonal single family dwelling closer (14.3') to the highwater mark than permitted (50'). ZBA # 0710Z
7. A Special Exception of Article 11.A.3.c of the Zoning Ordinance to reconstruct a seasonal single family dwelling add useable space (2<sup>nd</sup> story) within a preexisting nonconforming footprint (setback to units 611 & 615, and highwater mark). ZBA # 0310Z

Property is located at 76 Mallards Landing Road in an "RS" Zone, Tax Lot 110-002-000-613.

At least three members have viewed the site.

Mr. Bryan Bailey presented the application. Mr. & Mrs. Clement were also present and agreed to a short Board.

Mr. Bailey explained that Mallards Landing is a preexisting use. Anything done in the park requires

Zoning Board approval. This is an odd shaped waterfront lot. The existing structure is very old. It has holes in roof and the floors are spongy. This is an unsafe structure that needs to be replaced. It is a rundown old camp in disrepair and needs to be fixed. The property and unit is wholly contained within the 50' Shoreland Protection zone and is within the 250' of water. They have received a Shoreland Protection permit. Mr. Bailey gave the Board a copy of the plans that DES approved. He explained that the Town and State have different perspectives and objectives on how an application affects them. They both agree to the importance of keeping the lake and environment safe.

He explained that the proposed unit is in keeping with the general size and nature of the neighborhood. It is one of the oldest camps in the area. The dwellings on either side of them have been upgraded recently. The proposal is to replace the existing unit with an 18.6' high 2 story unit. This is sufficient in size to meet their needs and is similar to others in the area.

An area variance is needed for the shed because it is 13.5' closer to Unit 611. The shed is not a normal size because there is not enough room for a normal size shed. It is more like an outdoor closet. It is a detached shed making it an accessory building. The second variance for the shed is because it is 40.3' to the water than allowed 50'.

Mr. Bailey stated the dwelling requires four variances. The first one is because the unit is 16.1' closer to unit 611 than allowed 30'. The current unit is 18.3' from unit 611 making it closer to the north. The second variance is because the unit is 11' from the road. He explained that the building are not parallel on this site but the lines for this lot have been surveyed. The third variance for the unit is because the unit is 7.5' to unit 615. The proposed unit is centered on the lot. The size of the unit is designed to make it a useful structure. The fourth variance is to allow the unit to be 14.3' closer to the highwater mark than allowed 50'.

Mr. Bailey explained why the deck is raised and elevated above the ground. The State of NH DES is concerned with impervious surface and runoff that affects the lake. The deck being elevated does not need any State permits but does need Zoning Board approval because it does not meet setbacks. The State considers the removal of the concrete pad in front of the unit an improvement because the owners are removing an impervious surface. Putting the deck on the second floor and putting in a small rain garden will help with the runoff. The State considers the new unit less invasive than what was there. With the removal of the concrete pad and the gravel parking lot the parking area has to be rebuilt with concrete pavers and porous bedding. The common goal is the betterment of the environment and the best use of the property. The site will have a better structure and an enhanced yard area. The front edge of the proposed building is behind the front of the existing building.

Mr. Bailey addressed the variance criteria. It is not contrary to the public interest because it provides a safer building for the owners and neighbors. The proposal is similar to adjacent properties. The front of building is in the same line of the abutting buildings. A literal interpretation of the ordinance would create unnecessary hardship given the special circumstances because of the closeness to the adjacent buildings, the lake and road restricts the buildable area. The park and sites was built prior to the Town adopting zoning. Unit 611 has received a variance for their construction. The entire Mallard's Landing property predates zoning.

The benefit sought by the applicant cannot be achieved by some other method because the size of camp is the same width as the existing unit. The new unit is the same as others in area. The spirit and intent of the ordinance is observed because the unit will be constructed with 1/2" walls and 5/8" ceilings to meet safety requirements and building codes. It will create a safer environment built to commercial standards not residential standards. It will not diminish property values because it is consistent with others in neighborhood. It will be built to current building codes and increase the value of the neighborhood.

M. Ford wanted to know if the size of the shed is 3' x 12' and if they will store any fuel in it. Mr. Clement stated that they fuel their recreational vehicles on the lake. M. Ford stated with the shed being close to other buildings he is concerned for safety if they stored fuel in the shed.

M. Ford wanted to know where the parking for company would be. Mr. Clement stated that they have parking for two possibly three vehicles. Mallards has a community parking area for additional guest parking. They are not allowed to park on the road.

N. Patten wanted to know if the shed is on a concrete pad. Mr. Clements stated that it is. P. Harris wanted to know if the shed is detached. Mr. Bailey stated that they are separate buildings.

E. Hawkins stated that they could avoid a variance if they moved the unit 2/10' to the north. Mr. Bailey agreed but stated that he squared off the building. E. Hawkins wanted to know if the rain garden is going to be above the deck. Mr. Bailey stated that the garden is underneath the deck. E. Hawkins wanted to know if the concrete pad exists. Mrs. Clements stated that they haven't moved anything. E. Hawkins wanted to know if they had a permit for it. C. Daigle stated that given the age of the structure they probably don't have permit for building and wouldn't have needed one for the pad.

Mrs. Clement submitted a letter from an abutter approving the proposal. C. Daigle read the letter from Mr. & Mrs. Thibault stating they have seen and reviewed the plans and urge the Board to approve the variances and special exception. It will allow the applicant to build a beautiful, safe and efficient home. The home would be safe and more environmentally friendly for Mallard's Landing and Lake Winnisquam.

P. Harris addressed the Conservation Commission concerns about reducing the distance from a dwelling to the water and the waterfront buffer being compromised. He explained that the applicant has submitted their plans for a Shoreland Permit and has received approval. Mr. Bailey stated that this is the first deck built as a pervious surface in the State. E. Hawkins stated that the concern is that the primary structure is the oldest structure in the area and is 14' to the highwater mark. Part of the primary structure is encroaching into the buffer usually it is not a deck. Mr. Bailey explained that the State views the deck as elevated landscaping where the Town views it as a structure. It is not enclosed, roofed or screened. In order to keep the deck they can put a condition on the approval that it remained open and unroofed so that it does not set a precedent allowing a structure closer to the lake. This is a unique situation.

P. Harris stated that the Code Enforcement Officer had concerns that the concrete elevation and building footprint be certified by a licensed surveyor. Mr. Bailey stated that he will assist the applicants in placing the building in the right place and certifying the elevation.

P. Harris stated that he is concerned that the units and sheds in Mallard's have grown over the years. He does not want to create a similar situation to the Alton fire. He is concerned about the safety of the having buildings in close proximity to each other and the lake. With the shed being in close proximity to the neighbors he can see the worst case scenario being a fire similar to the one at Alton Bay. Mr. Bailey stated that this is just a seasonal unit. He stated that it would be safer to replace the existing unit than to try to repair it. Everyone in the park has done it and the dimension is reasonable. P. Harris stated that he doesn't understand how people can purchase a unit and want to replace it within six months. Mr. Bailey stated that the applicants didn't buy the unit to stay in it in its present condition. Their intention was to rebuild it in its existing footprint. P. Harris stated that it is closer to unit 615. Mr. Bailey stated that it is a numbers game. They tried shaping the building to fit the site. P. Harris stated that the buildings being so close to each other is a serious safety concern.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – KATHY KUSLAKA-CLEMENT REVOCABLE TRUST FOR MALLARDS LANDING:**

**MOTION:** P. Harris moved to deny a Variance of Article 8.B.9.f of the Zoning Ordinance to re-construct a shed closer (13.5') to Unit 611 than permitted (20') for the following reasons:

1. A Variance will decrease surrounding property values because of the storage of hazardous material so close to the house.
2. A Variance is contrary to the public interest because the regulations were written with health and safety in mind. This creates a safety risk.
3. Denial would not result in unnecessary hardship to the owner because of the following:
  - A. the variance is not needed to enable the applicant to construct the development as designed due to special conditions of the property because they could share a shed in another location.

Mr. Bailey explained to the chairman that the applicant stated that he would not store fuel in the shed. Mrs. Clement stated that the shed would be to store lawn chairs and life preservers. Mr. Clement stated that he would buy an electric lawnmower to cut the grass. N. Patten wanted to know where the jet skis were stored. Mrs. Clement stated that they are brought to their home in Hooksett. Mr. Bailey stated that there will be no storage of any flammable liquids.

P. Harris withdrew his motion.

**MOTION:** P. Harris moved to grant a Variance of Article 8.B.9.f of the Zoning Ordinance to re-construct a shed closer (13.5') to Unit 611 than permitted (20') as it meets all the criteria.

1. A Variance will not decrease surrounding property values.
2. A Variance is not contrary to the public interest because provisions have been made on the shed to protect health and safety.
3. Denial would result in unnecessary hardship to the owner because of the following:
  - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property. It is a small tight lot.  
and
  - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method. It is a reasonable area for the shed.
4. A Variance will result in substantial justice being done so they don't have to store items in the house.
5. A Variance will observe the spirit and intent of the ordinance because the shed is similar to others in the area.

Conditions:

1. All property bounds/existing footprint certified during construction as required.
2. Compliance to all conditions of NH DES Shoreland Protection permit.

3. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
4. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures except as permitted by this approval.
5. No storage of fuel or hazardous material.

The motion was seconded by N. Patten and carried. (4-0)

**MOTION:** P. Harris moved to grant a Variance of Article 4 of the Wetlands Ordinance to re-construct a shed closer (40.3') to the highwater mark than allowed (50') as it meets all the criteria.

1. A Variance will not decrease surrounding property values. It is similar to others in the area.
2. A Variance is not contrary to the public interest. The use is restricted and will keep hazardous material from being in close proximity to the water.
3. Denial would result in unnecessary hardship to the owner because of the following:
  - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property. There is no other area to build it.  
and
  - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method.
4. A Variance will result in substantial justice being done.
5. A Variance will observe the spirit and intent of the ordinance. It is a small infraction of the setback requirements.

Conditions:

1. All property bounds/existing footprint certified during construction as required.
2. Compliance to all conditions of NH DES Shoreland Protection permit.
3. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
4. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures except as permitted by this approval.
5. No storage of fuel or hazardous material.

The motion was seconded by M. Ford and carried. (4-0)

E. Hawkins wanted to clarify that the proposal is less invasive than the existing non-conforming structure that is there now. The variance is the only way that the proposed structure could be constructed so that it is less intrusive on the northerly side. The approval is based on the facts of the case.

**MOTION:** P. Harris moved to grant a Variance of Article 8.B.9.f of the Zoning Ordinance to re-construct a seasonal single family dwelling closer (16.1') to unit 611 than permitted (30'), but not closer than the existing unit as it meets all the criteria.

1. A Variance will not decrease surrounding property values. It is similar to others in the area.

2. A Variance is not contrary to the public interest. It is an upgrade to the existing unit. It is close to the existing ordinance and the use is grandfathered.
3. Denial would result in unnecessary hardship to the owner because of the following:
  - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property. It is needed to construct the design on a small parcel.  
and
  - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method. It is a reasonable request.
4. A Variance will result in substantial justice being done. The building will be built to safety codes.
5. A Variance will observe the spirit and intent of the ordinance. The building will be kept within the tight setbacks of a preexisting nonconforming lot.

Conditions:

1. All property bounds/existing footprint certified during construction as required.
2. Compliance to all conditions of NH DES Shoreland Protection permit.
3. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
4. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures except as permitted by this approval.
5. Deck to remain open and unroofed.

The motion was seconded by N. Patten and carried. (4-0)

**MOTION:** P. Harris moved to grant a Variance of Article 8.B.9.f of the Zoning Ordinance to re-construct a seasonal single family dwelling closer (11') to the road than permitted (15') as it meets all the criteria.

1. A Variance will not decrease surrounding property values. The encroachment to the road is similar in distance to abutters' encroachments.
2. A Variance is not contrary to the public interest because proposal is similar to others in the area.
3. Denial would result in unnecessary hardship to the owner because of the following:
  - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property, the size of the lot, design of the unit and the pre-existing use.  
and
  - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method.
4. A Variance will result in substantial justice being done. The use is preexisting and they are creating a safer dwelling unit.
5. A Variance will observe the spirit and intent of the ordinance.

Conditions:

1. All property bounds/existing footprint certified during construction as required.

2. Compliance to all conditions of NH DES Shoreland Protection permit.
3. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
4. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures except as permitted by this approval.

The motion was seconded by M. Ford and carried. (4-0)

E. Hawkins stated that it is similar in nature and is less nonconforming than the immediate neighbors making the request palatable.

**MOTION:** P. Harris moved to grant a Variance of Article 8.B.9.f. of the Zoning Ordinance to re-construct a seasonal single family dwelling closer (7.5') to unit 615 than permitted as it meets all the criteria.

1. A Variance will not decrease surrounding property values. It is a pre-existing use being rebuilt in a similar footprint.
2. A Variance is not contrary to the public interest because it is similar to others in the area. It is a pre-existing nonconforming use.
3. Denial would result in unnecessary hardship to the owner because of the following:
  - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property because of the setback requirements and the lay of the land. It will be built to building codes.  
and
  - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method.
4. A Variance will result in substantial justice being done. It will be up to code. Options are limited due to the size of the property.
5. A Variance will observe the spirit and intent of the ordinance. It is a reasonable use similar to what exist.

Conditions:

1. All property bounds/existing footprint certified during construction as required.
2. Compliance to all conditions of NH DES Shoreland Protection permit.
3. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
4. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures except as permitted by this approval.

The motion was seconded by N. Patten and carried. (3-1) E. Hawkins opposed.

**MOTION:** P. Harris moved to grant a Variance of Article 4 of the Wetlands Ordinance to re-construct a seasonal single family dwelling closer (14.3') to the highwater mark than permitted (50') as it meets all the criteria.

1. A Variance will not decrease surrounding property values. It has State DES approval. The upgrades will increase safety and not diminish property values.
2. A Variance is not contrary to the public interest. It is the same use and will add to the aesthetics and safety.

- following:
3. Denial would result in unnecessary hardship to the owner because of the
    - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property. It is a preexisting small lot with tight setbacks.  
and
    - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method. They are working closely to stay with the preexisting footprint.
  4. A Variance will result in substantial justice being done. It is similar to abutters.
  5. A Variance will observe the spirit and intent of the ordinance. They worked with the town ordinance standards as best they could.

Conditions:

1. All property bounds/existing footprint certified during construction as required.
2. Compliance to all conditions of NH DES Shoreland Protection permit.
3. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
4. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures except as permitted by this approval.

The motion was seconded by M. Ford and carried. (3-1) E. Hawkins opposed.

Mr. Bailey addressed the criteria for a special exception. He explained that they are removing the existing seasonal camp and adding a second floor. The site is appropriate and is consistent with others in the park. They will utilize the original footprint. The new building will be constructed to building codes, be on municipal sewer and connected to electric and cable. There is safe disposal of sewage as it is on municipal sewer. It meets all the requirements for a second story given the variances they have just been granted. The height will be a maximum of 18.6' the maximum allowed by Mallards codes. The proposed use is the same as the existing use. There will be a 160 square foot deck.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**MOTION:** N. Patten moved to grant a Special Exception of Article 11.A.3.c of the Zoning Ordinance to reconstruct a seasonal single family dwelling add useable space (2<sup>nd</sup> story) within a preexisting nonconforming footprint (setback to units 611 & 615, and highwater mark) as it meets all the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use. The use already exists and the new structure will be safer.

3. No factual evidence is found that property values in the district will be reduced. It should enhance the value.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.

Conditions:

1. Existing footprint certified during construction as required.
2. Compliance to NH DES Shoreland permit conditions.

The motion was seconded by M. Ford and carried (4-0)

**Abutters' Hearing – Henry & Carol Marcoux for Mallards Landing:** Request for:

1. A Variance of Article 5 Table 2 of the Zoning Ordinance to re-construct a seasonal single family dwelling with attached shed closer (.6') to the rear property line than allowed (12.5') but not closer than the existing structure. ZBA # 0810Z
2. A Special Exception of Article 11.A.3.c of the Zoning Ordinance to reconstruct a seasonal single family dwelling and add useable space (2<sup>nd</sup> story) within a preexisting nonconforming footprint. ZBA # 0910Z

Property is located at 37 Mallards Landing Road in an "RS" Zone, Tax Lot 110-002-000-502.

Mr. & Mrs. Henry Marcoux presented the application.

Mr. Marcoux explained that the proposal is to demo the existing 900- 1000 square feet building and metal shed and replace it with a new house and attached 11' x 15' storage shed. It is not contrary to the public interest because they are replacing an existing structure that will add to the property value and be built to current building codes. The existing shed is partially encroaching on the railroad property and they will be moving it off the railroad property. It will be further back from the street. The new structure will be squared off and face the street. The spirit of the ordinance is observed because there will be ample distance from abutters. The only relief they are seeking is the setback from the railroad.

Mr. Marcoux explained that the current building is built on blocks and is close to the ground. The floors have rotted and have mold issues. The original cabin is old. They bought it in 2002 and have kept it up. The family has grown and they want their grandchildren in a safe and clean structure. It will not diminish the value of surrounding properties because they are replacing an older camp with a new building. It will add value to the surrounding properties. The new unit meets or exceeds setbacks with the exception of the railroad. They have made every effort to maintain the greatest distance from abutters. The enlarged structure will be a one level structure with no stairs. It is an "L" shape ranch designed so it is not close to the neighbors. It is an efficient use of space and is the best plan. The older

structure needs to be replaced. The new structure will have more living space and an additional bedroom. They are increasing the footprint for single level living and removing the encroachment on the railroad property to make the best use of the space.

P. Harris commended the applicant for his willingness to bring the shed into compliance.

M. Ford wanted to know how they are going to heat the structure. Mr. Marcoux stated that it will be forced hot water propane. M. Ford wanted to know if the propane tank will be on the railroad property. Mr. Marcoux stated that it will not be on railroad property and will be 40' from abutters. The tank will be on a concrete pad. Propane will be the only fuel.

E. Hawkins stated that the driveway will be a large expansion of impervious surface and wanted to know if the applicant would be willing to change the driveway to make it a pervious surface. Mr. Marcoux stated that the patio is being downsized and the driveway is gravel. He explained that the railroad property has a gully that goes to a catch basin and his hope is that if he paves the driveway the water off the street will run off towards the gully. He stated that the State's concern is runoff towards the lake. His driveway slopes towards the gully and catch basin. The runoff from the street onto his site has increased over the years because the road has been built up. He is outside the 250' of the Shoreland Protection District. E. Hawkins stated he is concerned about runoff with the new parking area and size of the structure. Mr. Marcoux stated that he would like to have a hard surface in front of the shed so he can get his equipment in and out easily. The abutter's area is all gravel and the runoff goes out back.

Mrs. Marcoux wanted to know what kind of pervious surface the Board would recommend. E. Hawkins stated that asphalt doesn't let the rain infiltrate the ground like green space does. With asphalt they are concerned with Stormwater Management. Mrs. Marcoux stated that they cannot use a snowblower with gravel because the rocks get caught in the snowblower. Mr. Marcoux stated that they make pervious asphalt now but he doesn't know the cost. They could use pavers like the previous applicant is using. M. Ford stated that the pavers are like hard cement with sand between them. P. Harris stated that they could also use ledgepack made from crushed stone and works very well as a hard surface. Mr. Marcoux reiterated the fact that he is outside the 250' buffer area and the runoff will go towards the natural drainage. P. Harris reminded Mr. Marcoux that he must maintain the existing runoff. He is responsible for the runoff as it enters the property and not increasing it as it leaves the property.

E. Hawkins clarified that this is a single story dwelling. Mr. Marcoux stated it is a single story with cathedral ceiling for a loft area.

P. Harris wanted to make sure that Mr. Marcoux received the Conservation Commission's and Code Enforcement comments. Mr. Marcoux stated that he has received their comments.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – HENRY & CAROL MARCOUX FOR MALLARDS LANDING:**

- MOTION:** P. Harris moved to grant a Variance of Article 5 table 2 of the Zoning Ordinance to re-construct a seasonal single family dwelling with attached shed closer (.6') to the rear property line than allowed (12.5') but not closer than the existing structure as it meets all the criteria.
1. A Variance will not decrease surrounding property values. It is an improvement.
  2. A Variance is not contrary to the public interest. It is similar in nature to others in the area.
  3. Denial would result in unnecessary hardship to the owner because:
    - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property due to the size of the lot and close proximity to the road.  
and
    - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method. It is a small change to the preexisting use.
  4. A Variance will result in substantial justice being done. The use is allowed. The improvements are reasonable and in line with Town Ordinances.
  5. A Variance will observe the spirit and intent of the ordinance. Similar to the preexisting nonconforming resident use.

Conditions:

1. Existing footprint certified during construction as required.
2. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
3. Propane tanks to be relocated to on-site storage platform.

The Board discussed the fact that a variance is needed because the expansion is more than 40% of the existing unit otherwise it would have been a special exception. They also discussed the increase in impervious surface. M. Ford stated that the applicant can use asphalt if he wants because the Board cannot require him to use a pervious surface because they are not close to the lake. C. Daigle explained that State regulations allows them to place a condition on approval if the impervious surface increases the off site drainage. M. Ford stated that the road runoff spills onto Mr. Marcoux's property. P. Harris stated that with the changes to the site with the increase in square footage they have to be aware of stormwater management. The runoff could go into the water. Asphalt will create more runoff and he would encourage the applicant to refrain from paving. Mrs. Marcoux stated that as long as they can snowblow and shovel without disturbing the rocks they will look into other hard surfaces. E. Hawkins stated that it is something that the Board has discussed with the applicant but they are not requiring it. Mr. Marcoux stated that he doesn't want to create any problem. He will look into pervious surfaces. He would like a hard surface for the walkway so that they can enter the camp without tracking in mud and dirt. P. Harris reiterated the fact that the applicant cannot increase the runoff from his property.

The motion was seconded by N. Patten and carried. (4-0)

**MOTION:** N. Patten moved to grant a Special Exception of Article 11.A.3.c of the Zoning Ordinance to reconstruct a seasonal single family dwelling and add useable space (2<sup>nd</sup> story) within a preexisting nonconforming footprint as it meets all the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.

Conditions:

1. All property bounds/existing footprint certified during construction as required.
2. All required floodplain documents to be submitted.
3. No structures or additions (incl. decks, porches, landings, etc.) that do not meet setback, except as approved are allowed.
4. No additional runoff from the property.

The motion was seconded by M. Ford and carried. (4-0)

**OTHER BUSINESS:**

**BOARD'S ACTION - MINUTES:**

**MOTION:** P. Harris made a motion to approve the minutes of November 18, 2009. N. Patten seconded. Carried (3-0-1) E. Hawkins abstained.

**ADJOURNMENT:**

**MOTION:** On a motion by N. Patten, seconded by P. Harris, it was voted unanimously to adjourn at 9:04 p.m. (4-0).

Respectfully submitted,

Elaine M. Murphy

