

**TOWN OF NORTHFIELD
ZONING BOARD OF ADJUSTMENT
October 22, 2012**

MINUTES

Members present: Dave Liberatore, Keith Murray, Phil Cain, Brian Brown, Polly Fife and Kent Finemore. Also present: Gerry Coogan, LRPC.

Minutes: Keith Murray moved, seconded by Phil Cain to approve the minutes of September 24, 2012 as read. Motion passed.

ZBA Rules of Procedure: Review/update the current rules to bring into compliance with regulations. Keith Murray moved, seconded by Dave Liberatore to consider proposed changes to the ZBA Rules of Procedure as appropriate to bring into compliance with regulations and procedure. Motion passed. After review of the proposed changes it was agreed to place this on the agenda for the November 26, 2012 meeting.

Carla Wright: Application for a variance from Article 7 Table 2 of the Northfield Zoning Ordinance to permit construction of a dock within 250' of the shore of Sandogardy Pond at 66 East Side Road (Tax Map R8 Lot 70) in the Conservation zone. As he is an abutter, Kent Finemore recused himself and asked Brian Brown to be a voting member for this application. Carla Wright explained that there used to be a dock on this property, but currently it is necessary to moor the boat and walk/swim to it. She plans a seasonal dock without any concrete base. Phil Cain asked why this application was submitted and why a dock would be within 250 feet of the shore. Gerry Coogan responded that he had the same question and wondered if in fact it is a structure. When speaking with Dana Dickson, it became clear that Dana wanted the ZBA to make the decision since the Zoning Ordinance does not address docks. Gerry also spoke with Atty. Matt Serge who stated that the state's rules pre-empt the town's rules and the dock has already been approved by the state. He added that the variance is probably not needed, would there is no harm in holding a hearing on it. After discussion, Keith Murray moved, seconded by Phil Cain to accept the application as complete. Motion passed.

Keith Murray pointed out that the definition of a building in the Zoning Ordinance doesn't include a dock and doesn't apply. Polly Fife asked if the ZBA would be setting a precedent which would require a variance for every dock if this is heard and approved. Brian Brown responded that it would cause no harm if it is approved and would address the issue of docks in the future. Keith Murray added that he didn't want the ZBA to overstep its bounds and would prefer taking no action because the dock doesn't meet the criteria for a structure. Brian Brown cautioned that if the Board takes no action it would need to explain why. Keith Murray added that "no action" would give Dana Dickson the opinion that a dock is not a structure based upon the ZBA's decision. Polly Fife commented that not all docks are created equally and the Board's decision to take no

action might then include a boat house or a permanent concrete structure in the water. Phil Cain reminded the Board that it can't override the state's approval.

Polly Fife agreed that the decision not to take any action on this application can include that we are clarifying our position to be consistent with DES regulations and can reference the DES permit number.

Gerry Coogan suggested that if the Board wants to take no action, it could be done by including reasons for the lack of action, or if it wants to approve the variance it could include a statement that the dock is not a structure and suggest that the Planning Board amend the Zoning Ordinance. Polly Fife likes the authority of the DES and their regulations and she would rather have the ZBA step out and defer to DES. She added that this is only the first time this has happened and it isn't really necessary to change the Zoning Ordinance. She added that she doesn't want to set a precedent for something that is called a dock but really isn't in the future as there are many structures such as pools, decks, etc. that are included in the definition of a structure.

After further discussion, Keith Murray moved, seconded by Brian Brown to take no action on this application due to the fact that the applicant has received DES approval #2012-02309 for a seasonal dock. Motion passed.

Meeting adjourned at 7:30 pm.

Respectfully submitted,

Eliza Conde, Secretary

Minutes approved 11-26-2012