



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance – Article III.B (3) & (4) Bryan & Linda Corr/Map 270, Lot 4

April 21, 2016

**Applicant: Bryan & Linda Corr
96 Payson Road
Belmont, MA 02478**

Location: 46 Deerhaven Road, Moultonborough, NH (Tax Map 270, Lot 4)

On April 20, 2016, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Bryan and Linda Corr (hereinafter referred to as the “Applicant” and/or “Owner”) to obtain a Variance from MZO Article III. B (3) & (4), to construct a dry boathouse / accessory structure located 4.5 feet from the side property line where 20 ft. is required, and located 12.0 ft. from the reference line where 50-ft. is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 46 Deerhaven Road (Tax Map 270, Lot 4).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 4) Bryan Corr presented the application to the Board.
- 5) The proposal is for the removal of an existing non-conforming structure located 4.5 feet from the side property line and located 2.0 ft. from the reference line, and new construction of a dry boathouse / accessory structure located 4.5 feet from the side property line where 20 ft. is required, and located 12.0 ft. from the reference line where 50-ft. is required.

- 6) The setbacks affected are the twenty foot (20') side line setback and the fifty foot (50') lake setback.
- 7) The applicant had received a Building Permit, #7393, to rehab the existing shore boathouse in place.
- 8) The applicant had received a NH DES Permit by Notification, #2016-00009, for the rehab of the existing boathouse, provided no change in location, configuration, construction type or dimensions. (The state cannot overrule the Town's Zoning Provisions)
- 9) The applicant stated the new structure will be the same dimensions as the prior structure and will be one story, not to exceed the 32' height limitation in the Moultonborough Zoning Ordinance.
- 10) Representatives of the abutting property located at 52 Deerhaven Road noted their concerns which included allegations of misrepresented information on the plan submitted with the application, use of the structure and erosion of the embankment.
- 11) Abutter Ed Mezzanotte, 44 Deerhaven Road, and Dan Kirker, 56 Deerhaven Road, each noted that they had no objections with the proposed plan as presented and spoke in favor of the proposed improvements.
- 12) Granting the Variance would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood because improve water quality through best practices, improve sight lines to the lake for abutters, and most importantly, it will be moved back ten (10) feet further from the lake than the existing structure.
- 13) Granting the Variance would be consistent with the spirit of the Ordinance because the variance will not alter the essential character of the neighborhood because it will improve water quality through best practices, and improve sight lines to the lake for abutters.
- 14) By granting the Variance, substantial justice would be done because there is no public benefit to be gained by requiring the accessory structure to rehabbed in its current non-conforming location, while the loss to the applicant and neighbors would be great because in its requested location, the structure will be moved back ten (10) feet improving water quality due to decreased run-off from structure and will be totally new construction.
- 15) Granting the Variance would not diminish the value of surrounding properties as the structure would be new and best management practices will be employed to protect the lake.
- 16) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the applicant has a permit to rebuild the structure in its current location, two (2) feet from the lake, and moving it back ten (10) feet is a reasonable request. The applicant cannot meet the required side line and lake setbacks.

On April 20, 2016, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Bickford, St. Peter, Hopkins), and none (0) opposed to grant the request for a variance with the following conditions: 1) That all best management practices be employed, such as drip edge filter strips or rain gutters that drain into a rain barrel; 2) The approved shore land permit by notification be resubmitted to NH DES as an amended application and be in line with this approval; 3) That a foundation certification be prepared prior to construction, and submitted to the Town, and further, to close the Public Hearing.

The Board of Adjustment, on May 4, 2016, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of (5) in favor (Stephens, Nolin, Bickford, DeMeo, Jenny), none (0) opposed.

The decision made to Approve the variance on April 20, 2016 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 5-6-16

