



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Jeffrey R. and Amy H Glass/Map 196, Lot 8

July 21, 2010

Applicant: Jeffrey R. and Amy H. Glass
25 Regents Circle
Brookline, MA 02445

Location: 310 Redding Lane Moultonborough, NH (Tax Map 196, Lot 8)

On June 2, 2010 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Jeffrey R. and Amy H. Glass (hereinafter referred to as the “Applicant” and/or “Owner”) for a variance from Article III (B)(4) to allow removal of the existing planter, stairs and stone ramp and installation of an outdoor shower facility attached to the existing single family dwelling in the Agricultural Residential (AR) Zoning District to be located with the required lake setback.

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 310 Redding Lane (Tax Map 196, Lot 8).
- 2) The applicants are the owners of record for the lot.
- 3) The applicants were represented at the Public hearing by Robert Pollock.
- 4) The applicant’s representative waived the applicant’s right to a five-member Board, there being only four (4) members present for a portion of the meetings.
- 5) The lot is located in the Agricultural Residential (AR) Zoning District.
- 6) The existing single family dwelling is largely located within the existing 50-foot lake setback.
- 7) The proposed shower facility will be attached to the structure and will be approximately 2 and ½ feet closer to the lake shore than the existing structure, increasing the setback violation.

- 8) The lot is a corner shorefront lot with portions of two lot lines along Lake Winnepesaukee.
- 9) The ZBA had questions at the June 2, 2010 meeting relating to the drainage for the shower. The applicant's representative assured the Board that the design of the shower facility was reviewed and approved by NHDES.
- 10) The Zoning Board of Adjustment voted by a vote of three (3) in favor (Stephens, Heal, Roseberry), and one (1) opposed (Nolin) to continue the Public Hearing to June 16, 2010, and to direct the Town Planner to draft a Notice of Decision to Grant the Variance, to be reviewed by the Board at the June 16, 2010 Regular Meeting.
- 11) Between the June 2, 2010 meeting of the ZBA and the June 16, 2010 ZBA meeting, the Code Enforcement Officer provided the Town Planner with information relating to the drainage for the shower indicating that the plan that was submitted to NHDES was not the same plan that was proposed before the ZBA and that DES had not previously known about a shower and drain for the site.
- 12) The ZBA re-opened the continued Public Hearing at the June 16th meeting and discussed the conflicting plans and approvals.
- 13) The applicant's representative had sent one of his employees to explain to the Board that an unintentional mistake had resulted in a different set of plans being sent to DES and that the new plans before the ZBA were not a violation of the DES approval as their DES approval allowed for impervious surface to be constructed in the footprint of the addition and the shower called for pervious pavers to be installed. No additional impervious surface was to be added to the new application.
- 14) The members of the ZBA questioned the drainage for the shower and the possibility of stormwater entering the open system, possibly leading to issues with the septic system. Due to its proximity to the lake and the need for additional information from DES, the ZBA continued the Public Hearing to July 7, 2010 to allow the applicant to obtain written approval from DES and further information about septic permitting issues. The applicant was also to return with a revised plan showing the drainage in the shower.
- 15) At the meeting of July 7, 2010, the applicant presented e-mail correspondence from NHDES indicating that a new permit was not required for the shower's pervious pavers and that a roof section would be installed in the trellis to prevent stormwater from entering the shower.
- 16) There were no revised plans for the drainage for the shower facility.
- 17) The ZBA again continued the Public Hearing to July 21, 2010 to allow the applicant to present the drainage plans to the Board.
- 18) At the meeting of July 7, 2010, the Board also voted by a vote of five (5) in favor (Stephens, Hopkins, Nolin, Heal, McCarthy) and none (0) opposed to continue the Public Hearing to July 21, 2010 and to direct the Town Planner to draft a new Notice of Decision reflecting the

changes in the application to Grant the Variance, and to add that the Board would consider acting on the Notice of Decision only if the applicant provided the revised plans for the shower, to meet with the requirements of the plumbing code, prior to the next meeting.

- 19) No members of the public wished to speak on the application at any of the meetings.
- 20) The proposed new shower facility will have an enclosed drain system to contain the shower runoff and shall be piped to the site's septic system.
- 21) Granting the Variance will not be contrary to the public interest as the use of the lot for residential use is in accordance with the permitted uses in the Agricultural Residential (AR) Zoning District and the proposed change will remain consistent with the existing use.
- 22) Granting the Variance is consistent with the spirit of the Ordinance as the intent of the addition is for residential, private use of this shorefront lot.
- 23) By granting the Variance, substantial justice is done.
- 24) Granting the Variance does not diminish the value of surrounding properties as the neighborhood is largely comprised of single-family homes of like construction and style, and the addition will not negatively affect the properties around it as the proposed use of the addition is consistent with reasonable uses on similar shorefront lots.
- 25) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the lot size and location, as well as the location of the pre-existing, non-conforming primary structure limit the reasonable use of the lot for location of such a facility.

The Public Hearing was continued to June 16, July 7 and July 21, 2010. The Board of Adjustment closed the Public Hearing on July 21, 2010. Based on the above Findings of Fact, the Board of Adjustment voted by a vote of four (4) in favor (Stephens, Nolin, Heal, Roseberry), none (0) opposed, to **GRANT** the request for variance.

This decision 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 _____