



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Section 3.2.2.4

**David Swindell
Tax Map 198 Lot 1**

April 19, 2023

**Applicant: David Swindell
77 Exeter Street, Apt. #2603
Boston, MA 02116-3531**
Location: 358 Redding Lane (Tax Map 198 Lot 1)

On April 19, 2023, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of David Swindell (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Ordinance Section 3.2.2.4 for the construction of an 11' x 10'8" raised deck with hot tub to be attached to an existing residence and located 41 ft. (at its closest point) within the required 50-ft lake setback on a parcel located in the Residential/Agricultural Zoning District.

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

- 1) The property is located at 358 Redding Lane (Tax Map 198 Lot 1).
- 2) David Swindell & Gail R. Goodman are the owners of record for the lot.
- 3) The lot is in the Residential Agricultural (RA) Zoning District.
- 4) The Applicant was represented by John Smits.
- 5) The existing foundation is located 48.76-ft at its closest point to the Lake.
- 6) The Applicants have received a NHDES Shoreland Permit by Notification #2023-00536, to construct a 10'-8" x 14'-8" open wood deck containing a +/- 88" sq hot tub attached to the existing home's screen porch.
- 7) The applicants are proposing the construction of an 11' x 10'8" raised deck with hot tub to be attached to an existing residence and located 41 ft. (at its closest point) to the Lake.
- 8) The surveyed provided was prepared by French Land Services Inc. 3/29/2023.

- 9) There were no members of the public wishing to speak about this application during the public hearing.
- 10) Granting the Variance would not be contrary to the public interest as the deck will not alter the essential character of the neighborhood because there will be minimal impact, they have received DES approval, and many structures are close in this neighborhood.
- 11) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #10 above.
- 12) By granting the Variance, substantial justice would be done because there would be no gain to the public benefit by requiring a deck to be constructed entirely within the building envelope given the constraints of the property.
- 13) Granting the Variance would not diminish the value of surrounding properties as the property has dense wooded side lot lines, restricting visual access to and from the adjacent neighbors. The deck will be new construction in keeping with the residential character of the neighborhood.
- 14) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship due to the unique shape of the existing dwelling, the location of the house to the shoreline, and there being no other alternate location. The deck is a small area, will not be visible to most. The proposed use is a reasonable use of the property and does not alter the character of the neighborhood.

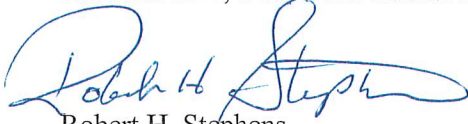
On April 19, 2023, the Zoning Board of Adjustment decided by a vote of five (5) in favor (St. Peter, Poloian, DeMeo, Mills, Stephens) and none (0) opposed to grant the request for the Variance from Section 3.2.2.4 for David Swindell, Tax Map 198 Lot 1 to permit for the construction of an 11' x 10'8" raised deck with hot tub to be attached to an existing residence to be located 41 ft. (at its closest point) from the reference line (lake) where 50 ft. is required with the following conditions:

- 1) Project shall obtain necessary state and local permits and approval of a town building permit, and all conditions of such permits shall be perpetually complied with.
- 2) An approved building permit must be obtained prior to commencing construction and all necessary inspections shall be successfully completed prior to use.
- 3) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
- 4) The applicant and owner are solely responsible for complying with the conditions of approval.
- 5) Per RSA 674:33, approval expires on 4/19/2025 if use is not substantially acted on.

Further, the Board voted to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on May 17, 2023, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision, send to the applicant and place same in the case file by a vote of four (4) in favor (Mills, Poloian, St. Peter, Stephens), and one (1) abstention (Jakobsen).

The decision made to grant the variance on April 19, 2023, 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

cc. Scott Dvorak – Building Inspector (by email only at sdvorak@moultonboroughnh.gov)
John Smits (by email only at jsmits127@gmail.com)
Map Lot Document File

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