



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision
Variance Article 3.6.1
Passio Point, LLC
Tax Map 263, Lot 88

July 19, 2023

Applicant: **Passio Point, LLC**
Theodore Karwoski, Member
16 Charles Drive
Greenland, NH 03840

Location: **26 West Point Road, Moultonborough, NH (Tax Map 263, Lot 88)**

On July 19, 2023, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Passio Point, LLC (hereinafter referred to as the “Applicant” and/or “Owner”). The Applicant requested Variances from MZO Sections 3.2.2.3, 3.6.1, 7.4 and 7.5.

At the regular meeting held on Wednesday, July 19, 2023, the Zoning Board of Adjustment (the Board) voted by a vote of five (5) in favor (Mills, McDonough, Jakobsen, Poloian, Stephens), none (0) opposed, to conditionally **grant** the variance for Passio Point, LLC, Tax Map 263, Lot 88 at 26 West Point Road from Zoning Ordinance Article 3.6.1 providing that the constructing, rebuilding and expanding of each of the three structures as depicted on Exhibit B to the applicants Narrative. Having made the above determination, the Zoning Board of Adjustment hereby finds that relief from Sections 3.2.2.3, 7.4 and/or 7.5 of the Zoning Ordinance are not required per Exhibit B as referenced above on the parcel located in the Residential Agricultural (RA) Zoning District.

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

- 1) The Property is located at 26 West Point Road (Tax Map 263, Lot 88).
- 2) Passio Point, LLC is the owner of record for the lot.
- 3) The Applicants were represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC.

- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 5) Prior to public input, the Zoning Board voted five (5) in favor (Mills, McDonough, Jakobsen, Poloian, Stephens) that the proposal did not have the potential for Regional Impact.
- 6) The proposal is for the Main house (Residence 1) to be demolished and replaced with a larger residence in a partially different location. Existing nonconforming dwelling units (Woodlands Guest House [Residence 2] and Beach Guest House [Residence 3]), both to be demolished. Residence 2 to be replaced with a larger residence in a new, conforming location. Residence 3 to be replaced with a structure in the same nonconforming footprint, but expanding from 1.5 stories to 2 stories, though not increasing in overall height.
- 7) The Board, the applicant, and staff agreed that by granting a variance from Article 3.6.1 would eliminate the need for any other variance relief.
- 8) Two letters of support were received for the project.
- 9) No member of the public spoke to the request for the variance.
- 10) Granting the Variance from Article 3.6.1 would not be contrary to the public interest as there have been three dwelling units on the property for over seventy (70) years, and the applicant has vested rights to three dwelling units.
- 11) Granting the Variance is consistent with the spirit of the Ordinance for the same reasons as listed above.
- 12) Granting the Variance from Article 3.6.1, substantial justice is done as there would be a clear loss to the applicant that is not outweighed by any gain to the community if the variance were denied. The variance will allow the applicant to remove and replace the existing dwellings on the lot.
- 13) Granting the Variance from Article 3.6.1 does not diminish the value of surrounding properties as the reconstructed dwellings will not change the character of the neighborhood, will be new construction, increasing their value and the value of the surrounding properties, therefore increasing taxes. One abutting lot is a recreational lot that is owned by West Point of Long Island Association, Inc. and they have provided a letter stating that they do not oppose the owner's application for variance.
- 14) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship; the lot already has three units on a lot of insufficient size.

On July 19, 2023, the Board decided by a vote of five (5) in favor (Mills, McDonough, Jakobsen, Poloian, Stephens) and none (0) opposed to grant the request for the Variance from Article 3.6.1 Passio Point, LLC, Tax Map 263, Lot 88, providing that the constructing, rebuilding and expanding of each of the three structures as depicted on Exhibit B to the applicants Narrative be approved. Having made the above determination, the Zoning Board of Adjustment hereby finds that relief from Sections 3.2.2.3, 7.4 and/or 7.5 of the Zoning Ordinance are not required per Exhibit B as referenced above, subject to the following conditions:

1. The project limits shall be located and pinned in accordance with this approval by a NH licensed surveyor prior to construction.
2. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
3. The applicant and owner are solely responsible for complying with the conditions of approval.
4. Per RSA 674:33, approval expires on 7/19/2025 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 August 2, 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, McDonough, Jakobsen, Stephens), none (0) opposed, and one (1) abstention (DeMeo).

The decision made to grant the variance on July 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

cc. Scott Dvorak – Building Inspector (by email only at sdvorak@moultonboroughnh.gov)
Christopher Boldt, Esq. (by email only at cboldt@dtclawyers.com)
Map Lot Document File