



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision Request for Variance Lennartz Family Revocable Trust Map 180, Lot 21

November 1, 2022

**Applicant: Lennartz Family Revocable Trust
Marie C. and Clayton C. Lennartz, Trustees
2 Haines Terrace
Merrimack, NH 03054**

Location: 107 Cottage Road, Moultonborough, NH (Tax Map 180, Lot 21)

On August 17, 2022, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of The Lennartz Family Revocable Trust (hereinafter referred to as the "Applicant" and/or "Owner"). The Applicant requested a Variance from MZO Article 3.2.4.

The public hearing was continued to September 7, 2022, October 5, 2022, and November 2, 2022. At the regularly scheduled Zoning Board meeting on November 2, 2022, the Board voted by a vote of five (5) in favor (St. Peter, DeMeo, Poloian, Mills, Stephens), none (0) opposed, to **grant** the variance for Tax Map 180, Lot 21 at 107 Cottage Road from Section 3.2.4 to retain a 12' x 17' deck where a portion encroaches into the required 50-foot lake setback on the parcel located in the Residential Agricultural (RA) Zoning District, within the Groundwater Protection Overlay District, and partially within the Floodplain.

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

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 107 Cottage Road, Moultonborough, NH (Tax Map 180, Lot 21).
- 2) The Applicants are the owners of the property.
- 3) The lot is in the Residential Agricultural (RA) Zoning District, within the Groundwater Protection Overlay District, partially within the Floodplain and the residential use is a use allowed by right in that district.

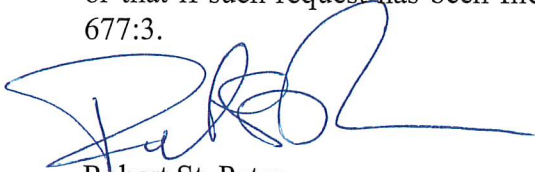
- 4) The Applicant was represented by Attorney Sabrina Beavens of McLane Middleton, Professional Associates.
- 5) The proposal is to retain a 12' x 17' deck where a portion encroaches into the required 50-foot lake setback on the parcel.
- 6) The existing non-conforming Deck is located 29.1'± from the lake at its closest point.
- 7) The Board determined that the proposal did not represent a potential regional impact.
- 8) No members of the public wished to speak during the Public Hearing.
- 9) Two letters from the public were submitted, both in favor of the project.
- 10) Granting the Variance would not be contrary to the public interest as the area of existing encroachment is minimal, and this would be keeping with the character of the neighborhood and would not threaten the health, safety, or general welfare of the public.
- 11) Granting the Variance would be consistent with the spirit of the Ordinance because the proposed construction will not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public.
- 12) By granting the Variance, substantial justice would be done because there would be no gain to the public by requiring the existing deck to be amended to meet setbacks. Denying the variance would be a great loss to the applicant as the deck existed when the Lennartzes purchased the Property, is entirely benign to the community at large: the abutters support it and no one else in Moultonborough noticed the non-conformity prior to the Lennartzes applying for a permit to perform repairs.
- 13) Granting the Variance would not diminish the value of surrounding properties as the value of the subject property and surrounding properties have significantly increased since the deck was constructed.
- 14) There is an unnecessary hardship owing to special conditions of the Property that distinguishes it from other properties in the area in that the Tax Card misrepresented the Deck. The Deck is consistent with other designs in the area and the spirit of the Ordinance has been met and does not violate the general purpose of the Ordinance. The Deck is a common feature of homes around Lake Winnepesaukee and is a reasonable use.

On November 2, 2022, the Zoning Board of Adjustment voted 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 3.2.4 for The Lennartz Family Revocable Trust, Tax Map 180, Lot 21 to retain a 12' x 17' deck where a portion encroaches into the required 50-foot lake setback, with the following conditions: 1) Project shall obtain necessary state and local permits, to include NH DES Shoreland approval and approval of a town building permit, and all conditions of such permits shall be perpetually complied with. 2) 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 to comply with conditions

of approval, and further 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 November 16, 2022, 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 three (3) in favor (St. Peter, Poloian, Hopkins) and none (0) opposed.

The decision made to grant the variance on November 2, 2022, 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 St. Peter
Vice Chairman, Zoning Board of Adjustment

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

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