



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Section 3.2.4

Alan & Bethann Ayres, Trustees

34 Sable Run Lane Nominee Trust

Tax Map 237, Lot 12

October 19, 2022

Applicant: **Michael Bourque, Agent for Bethann Ayres**

Alan & Bethann Ayres, Trustees

34 Sable Run Lane Nominee Trust

266 Merrimac Street, Unit 1

Newburyport, MA 01950

Location: **50 Braun Bay Road (Tax Map 237, Lot 12)**

On October 5, 2022, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Michael Bourque, Agent for Bethann Ayres, owners Alan & Bethann Ayres, Trustees of the 34 Sable Run Lane Nominee Trust (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Ordinance Section 3.2.4 to allow for a two-foot extension to an existing deck to be located 26 feet from the lake at its closest point, where 50-ft is required on a parcel located in the Residential/Agricultural 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 50 Braun Bay Road (Tax Map 237, Lot 12).
- 2) The 34 Sable Run Lane Nominee Trust is the owner of record for the lot.
- 3) The Lot is in the Residential/Agricultural (RA) Zoning District.
- 4) The Applicant was represented by their agent Michael Bourque from Daydream Construction.
- 5) For reference, the Applicant provided a survey plat, Plan of Land dated 6 August 2004, prepared by David M. Dolan Associates, P. C. signed and stamped by Loralie Gerard (License Number 00883).
- 6) The existing deck is located approximately 28 feet from the Lake at its closest point.

- 7) Mr. Bourque stated that the proposed construction would not require an approved NH DES Shoreland Impact Permit.
- 8) The Board determined that the proposal did not represent a potential regional impact.
- 9) Members questioned the non-conformity of the existing deck when the dwelling was constructed and what conditions of approval could they place on an approval if granted.
- 10) The Zoning Board of Adjustment (ZBA) voted by a five (5) in favor (Stephens, St. Peter, DeMeo, Mills, Poloian), and none (0) opposed to continue the Public Hearing to October 19, 2022.
- 11) The ZBA reopened the continued Public Hearing on October 19, 2022.
- 12) Planner Sassan provided the members with as Addendum to Staff Memo dated October 17, 2022, addressing concerns raised by the members at the Public Hearing held on October 5, 2022.
- 13) There were no members of the public who spoke on this application during the public hearing.
- 14) Granting the Variance would not be contrary to the public interest as the proposed expansion to the deck is in keeping with the existing deck, does not increase the impervious surface, and does not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public.
- 15) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #14 above.
- 16) By granting the Variance, substantial justice would be done because there would be a clear loss to the Applicant that is not outweighed by any gain to the public as the variance would allow the Applicant to make minor improvements to the existing deck and denying it would be a substantial injustice.
- 17) Granting the Variance would not diminish the value of surrounding properties as the additions would improve the value of the Property and the value of the surrounding properties, therefore increasing taxes.
- 18) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the fact that the Property has the existing non-conforming House, Guest House and Shed; the location of the existing non-conforming step (landing) is to be removed. Finally, the Board felt it is reasonable to grant relief and allow the Proposed deck extension to be constructed as presented.

On October 19, 2022, the Zoning Board of Adjustment voted by a vote of five (5) in favor (St. Peter, Poloian, DeMeo, Hopkins, Stephens) and none (0) opposed to grant the request for the variance from Section 3.2.4 for 34 Sable Run Lane Nominee Trust, Tax Map 237, Lot 12 for the construction of a 2' deck extension to be located 26' from the Lake at its closest point, where 50 ft. is required, 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) 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 to comply with conditions of approval. 6) Per RSA 673:33, approval expires on 10/19/2024 if use is not substantially acted on, 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 2, 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 four (5) in favor (St. Peter, Poloian, DeMeo, Stephens, Hopkins) and none (0) opposed.

The decision made to grant the variance on October 19, 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 H. Stephens
Chairman, Zoning Board of Adjustment

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

