



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Sections 3.2.4 and 3.2.1

Richard E. & Julia T. Fradette, Trustees of The Fradette Family Revocable Trust Tax Map 243, Lot 25

April 6, 2022

Applicant: **Richard E. & Julia T. Fradette, Trustees of The
Fradette Family Revocable Trust
166 North Gate Road
Manchester, NH 03104**

Location: **258 Long Point Road (Tax Map 243, Lot 25)**

On April 6, 2022, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Richard E. & Julia T. Fradette, Trustees of The Fradette Family Revocable Trust (hereinafter referred to as the "Applicant" and/or "Owner") for a Variance from Moultonborough Zoning Ordinance Article 3.2.4 for the construction of a dwelling to be located 31.5 ft. at its closest point to the Lake, within the required 50-ft lake setback and Article 3.2.1 for it to be located 15.5 feet at its closest point to the road, where 25-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 258 Long Point Road (Tax Map 243, Lot 25).
- 2) The Applicants are the owners of record for the lot.
- 3) The lot is in the Residential/Agricultural (RA) Zoning District.
- 4) The Applicants were represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC.
- 5) The existing foundation is located 29.5-ft at its closest point to the Lake, is over 50% within the 50-ft setback from the Lake with a total of 1,065 sq. ft. of encroachment within the Lake Setback.
- 6) The existing detached garage is within the 25-ft Road Setback and partially within the Lake Setback and is located 8.5 ft from the Property boundary with Long Point Road at its closest point.
- 7) The existing detached garage has approximately 280 sq. ft. of encroachment within the Road Setback and approximately 30 sq. ft. of encroachment within the Lake Setback.

- 8) The existing lot coverage is approximately 26.6% coverage and proposed is 25.5% Lot Coverage.
- 9) The applicants are proposing to remove the existing non-conforming 3-bedroom single story house and the removal of the existing non-conforming 1-bedroom detached garage and rebuild a new 4-bedroom, one and a half story house and attached garage with a portion of the dwelling being located 31.5-ft at its closest point to the Lake and 5.5 feet at its closest point to the Road
- 10) The proposed construction will require an approved NH DES Shoreland Impact Permit.
- 11) The Board determined that the proposal did not represent a potential regional impact.
- 12) Three letters from the public (abutters) were submitted, all in favor of the project.
- 13) The Board addressed each request for variance separately, addressing the request for relief from Article 3.2.1 for the encroachment in the required setback from the Road first.
- 14) Granting the Variance would not be contrary to the public interest as the Proposed House and Garage will be located further from the Road; the Proposed House and Garage will have a total of only 45 sq. ft. within the two Setbacks more that the Existing House and Garage; and will not threaten the public health, safety or welfare because the Proposed House and Garage would be in keeping with the size of the Property and the existing development in the immediate area along Long Point Road.
- 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 no gain to the public as the variance will allow the redevelopment of the Property, thereby increasing the taxable value of the property, the more conforming location of the Proposed House and attached Garage, the improvements and conditions set forth in the Plans and Elevations, DES approval for the new Septic System and an amended DES Shoreland Permit will allow the Applicant to redevelop their house and denying it would be a substantial injustice.
- 17) Granting the Variance would not diminish the value of surrounding as the unique configuration of the Property at its narrow section of Long Point Road, the closest abutters are fairly far removed from the Proposed Residence and Garage and the construction would be new, and the new dwelling will be moved farther away from the 25-ft setback from the Road.
- 18) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the size, triangular shape and location of the Property, the fact that the Property has the existing non-conforming House and Garage; the location of the Existing House and Garage on the Property that is more non-conforming in distance to the Lake and the Road than the Proposed House, and the ability to obtain an amended Shoreland Permit from NH DES. Finally, the Board felt it is reasonable to grant relief and allow the Proposed House and Garage to be constructed as presented.
- 19) On April 6, 2022, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, DeMeo, St. Peter, Poloian, Mills) and none (0) opposed to grant the request for the variance for Richard E. & Julia T. Fradette, Trustees of The Fradette Family Revocable Trust, Tax Map 243, Lot 25 for the construction of a 4 bedroom, one and a half story house, and attached garage to be located 15.5 feet from the road at its closest point, where 25 feet is required, with the following conditions: 1) Limits of encroachment into the road setback shall be located and pinned in accordance with this approval by a NH licensed surveyor prior to construction. 2) 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. 3) Garage shall only be used as accessory to the existing single-family use. Any future changes to the structure or its use shall be subject to required approvals. 4) An approved building permit must be obtained prior to commencing construction and all necessary inspections shall be successfully completed prior to use. 5) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval. 6) The applicant and owner are solely responsible to comply with conditions of approval. 7) Per RSA 673:33, approval expires on 4/6/2024 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.

- 20) The Board then addressed the request for relief from Article 3.2.4 for the encroachment in the required setback from the Lake.
- 21) Granting the Variance would not be contrary to the public interest as the Proposed House will be located slightly farther from the Lake than the existing house and will not threaten the public health, safety, or welfare because the Proposed House and Garage would be in keeping with the size of the Property and the existing development in the immediate area of the neighborhood.
- 22) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #20 above.
- 23) By granting the Variance, substantial justice would be done because there would be no gain to the public as the variance will allow the redevelopment of the Property, thereby increasing the taxable value of the property, the more conforming location of the Proposed House and attached Garage, the improvements and conditions set forth in the Plans and Elevations, DES approval for the new Septic System and an amended DES Shoreland Permit will allow the Applicant to redevelop their house and denying it would be a substantial injustice.
- 24) Granting the Variance would not diminish the value of surrounding as the unique configuration of the Property at its narrow section of Long Point Road, the closest abutters are fairly far removed from the Proposed Residence and Garage and the construction would be new, and the new dwelling will be moved farther away from the 50-ft setback from the Lake.
- 25) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the size, triangular shape and location of the Property, the fact that the Property has the existing non-conforming House and Garage; the location of the Existing House and Garage on the Property that is more non-conforming in distance to the Lake and the Road than the Proposed House, and the ability to obtain an amended Shoreland Permit from NH DES. Finally, the Board felt it is reasonable to grant relief and allow the Proposed House and Garage to be constructed as presented.
- 26) On April 6, 2022, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, DeMeo, St. Peter, Poloian, Mills) and none (0) opposed to grant the request for the variance for Richard E. & Julia T. Fradette, Trustees of The Fradette Family Revocable Trust, Tax Map 243, Lot 25 for the construction of a 4 bedroom, one and a half story house, and attached garage to be located 31.5 feet from the lake at its closest point, where 50 feet is required, with the following conditions: 1) Limits of encroachment into the lake setback shall be located and pinned in accordance with this approval by a NH licensed surveyor prior to construction. 2) 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. 3) Garage shall only be used as accessory to the existing single-family use. Any future changes to the structure or its use shall be subject to required approvals. 4) An approved building permit must be obtained prior to commencing construction and all necessary inspections shall be successfully completed prior to use. 5) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval. 6) The applicant and owner are solely responsible to

comply with conditions of approval. 7) Per RSA 673:33, approval expires on 4/6/2024 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 April 20, 2022, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, St. Peter, DeMeo, Poloian, Mills) and no abstentions.

The decision made to grant the variance on April 6, 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.

A handwritten signature in blue ink, reading "Robert H. Stephens", is written over a horizontal line.

Chairman, Zoning Board of Adjustment

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