

Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Section 3.2.4
Julie and Mike Bezoet de Bie
Tax Map 200, Lot 42

May 5, 2021

Applicant: **Julie and Mike Bezoet de Bie**
24 Shepherd Road
Pelham, NH 03076

Location: **139 Swallow Point Road (Tax Map 200, Lot 42)**

On May 5, 2021 the Zoning Board of Adjustment of the Town of Moultonborough held a remote public hearing on the application of Julie and Mike Bezoet de Bie (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Ordinance Section 3.2.4 for the construction of a dwelling to be located 41.5 ft. at its closest point to the Lake, 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:

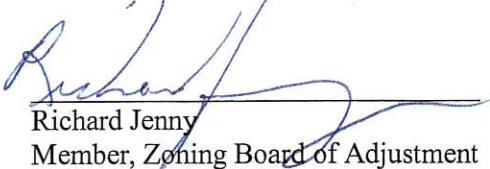
- 1) The property is located at 139 Swallow Point Road (Tax Map 200, Lot 42).
- 2) The Applicants are the owners of record for the lot.
- 3) The lot is in the Residential Agricultural (RA) Zoning District.
- 4) The Applicants Julie and Mike Bezoet de Bie presented their application for the variance using the Zoom web-based platform.
- 5) The existing foundation is located 32-ft at its closest point to the Lake, with an enclosed porch that is 22.0-ft at its closest point to the Lake.
- 6) The existing Lot Coverage of 24.76% coverage and a proposed 24.7% Lot Coverage.
- 7) The applicants are proposing to remove the existing non-conforming 3-bedroom single story house and rebuild a new 3-bedroom residence with a portion of the dwelling being located 41.5-ft at its closest point to the Lake.
- 8) The proposed construction will require an approved NH DES Shoreland Impact Permit.

- 9) There were no members of the public wishing to speak on this application during the public hearing.
- 10) Granting the Variance would not be contrary to the public interest as the Proposed House will be located significantly farther from the Lake than the existing house and will have less impact within the 50-ft setback from the Lake that would be beneficial to the public interest of improving/maintaining water quality for the lake.
- 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 as the variance would be beneficial for lake water quality and would still allow the Applicant to redevelop their house and denying it would be a substantial injustice.
- 13) Granting the Variance would not diminish the value of surrounding properties as the construction would be new, and the new dwelling will be moved farther away from the 50-ft setback from the Lake.
- 14) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the size, u-shaped shoreline, location of the existing well, the fact that there is an existing non-conforming House and Deck; the location of the Existing House on the Property that is more non-conforming than the Proposed House, and the ability to obtain the necessary Shoreland Impact Permit from NH DES. Finally, the Board felt it is reasonable to grant relief and allow the porch to be built to preserve the views while improving the water quality of the lake

On May 5, 2021, the Zoning Board of Adjustment voted by a vote of five (5) in favor (DeMeo, St. Peter, Poloian, Hopkins, Jenny) and none (0) opposed to grant the request for the variance for Julie and Mike Bezoet de Bie, Tax Map 200, Lot 42 for the construction of a 3-bedroom house located 41.5-ft. at its closest point to the Lake, within the required 50-ft lake setback, with the following conditions: 1) The foundation corners shall be located and pinned by a NH licensed surveyor prior to construction; 2) The proposed Conditions Plan submitted with this variance application be the same plan submitted for the Shoreland Protection Permit; 3) The NHDES Shoreland Permit shall be obtained and submitted to the Land Use Department for the file, 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 May 17, 2021, approved this formal Notice of Decision language and authorized Member Jenny to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of three (3) in favor (Jenny, St. Peter, DeMeo, Hopkins) and one (1) abstention (Stephens).

The decision made to Approve the variance on May 5, 2021, 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.



Richard Jenny
Member, Zoning Board of Adjustment

Date: May 17, 2021

cc. Steve Zalewski (by email only at szalewski@moultonboroughnh.gov)
Map Lot Document File