



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Section 3.2.3 & 3.2.4

Terkla Revocable Trust

David G. & Dawn G. Terkla, Trustees

Tax Map 132, Lot 49

June 16, 2021

Applicant: Dawn G. Terkla
7 Lovell Road
Arlington, MA 02474

Location: 55 Richardson Shores Road (Tax Map 132, Lot 49)

On June 16, 2021, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Dawn G. Terkla (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Ordinance Section 3.2.3 & 3.2.4 to allow for a 2' deck extension to be located 32'-3" at the nearest point, and a 4' deck extension on the opposite end to be located 46' from the Lake, where 50 ft. is required and to be located 17'-0" at the nearest point from the sideline setback, where 20 ft. is required 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 55 Richardson Shores Road (Tax Map 132, Lot 49).
- 2) The Terkla Revocable Trust is the owner of record for the lot.
- 3) The lot is in the Residential Agricultural (RA) Zoning District.
- 4) John Smits presented the application for the variance. He provided both a site plan and elevation plan for the proposed deck additions.
- 5) The proposal is for the construction of a 2' deck extension to be located 32'-3" at the nearest point, and a 4' deck extension on the opposite end to be located 46' from the Lake, where 50 ft. is required and to be located 17'-0" at the nearest point from the sideline setback, where 20 ft. is required.
- 6) The Applicant has received a NH DES Shoreland Permit #2021-01502.
- 7) The Impervious Surface Percentage Approved by DES is 15.4%.

- 8) There were no members of the public wishing to speak on this application during the public hearing.
- 9) 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 and does not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public.
- 10) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #9 above.
- 11) 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 two existing structures and denying it would be a substantial injustice.
- 12) 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.
- 13) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the Property was built prior to the enactment of the Zoning Ordinance so the Ordinance itself creates the hardship, and the Property has obtained the necessary Shoreland Impact Permit from DES. Therefore, these variances are reasonable.

On June 16, 2021, the Zoning Board of Adjustment voted by a vote of five (5) in favor (St. Peter, Poloian, DeMeo, Jenny, Stephens) and none (0) opposed to grant the request for the variance from Sections 3.2.3 & 3.2.4 for Dawn G. Terkla, Tax Map 132, Lot 49 for the construction of a 2' deck extension to be located 32'-3" at the nearest point, and a 4' deck extension on the opposite end to be located 46' from the Lake, where 50 ft. is required and to be located 17'-0" at the nearest point from the sideline setback, where 20 ft. is required, with the following conditions: 1) Receipt of a stamped survey plan to accompany the plans presented with the application, depicting the encroachment into the lake and side setback areas as presented. 2) Receipt of an amended application to include relief from Section 3.2.3 for the sideline setback encroachment, 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 July 7, 2021, 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 five (5) in favor (St. Peter, Poloian, DeMeo, Jenny, Stephens,), none (0) opposed, and no (0).

The decision made to grant the variance on June 16, 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.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

cc. John Smits (by email only at jsmits127@gmail.com)
Steve Zalewski (by email only at szalewski@moultonboroughnh.gov)
Map Lot Document File