



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision**

#### **Request for Variance from Section 3.2.4**

**CB Sports, LLC**

**Tax Map 242, Lots 25 & 26**

**February 16, 2022**

**Applicant:** CB Sports, LLC  
C/O Robert Crabtree  
PO Box 111  
Milford, CT 06460

**Location:** 30 Cooks Point Road (Tax Map 242, Lots 25 & 26)

On December 15, 2021 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of CB Sports, LLC/Eric Buck, Terrain Planning & Design LLC, Agent (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 portion of a porch overhang to be located 40'-1" at its closest point from the reference line, where 50-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 30 Cooks Point Road (Tax Map 242, Lots 25 & 26).
- 2) CB Sports LLC 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 Eric Buck, Terrain Planning & Design LLC.
- 5) The existing house is located 22'-3" at its closest point to the Lake and will be relocated to the northwest corner of the lot.

- 6) The applicants are proposing to construct a new dwelling behind the 50-ft reference line setback, with the exception of a proposed open porch where a portion of the roof overhang is to be located 40'-1" from the reference line setback at its closest point.
- 7) The existing non-conforming deck area will be replaced with a pervious patio in the same location and the project overall complies with the provisions of Article 4.7 of the Ordinance.
- 8) The proposed construction will require an approved NH DES Shoreland Impact Permit.
- 9) Brian Sanford, Chairman of the Conservation Commission presented a letter of opposition for the proposed project.
- 10) One letter was submitted by abutters opposing the construction of a pool.
- 11) Granting the Variance would not be contrary to the public interest as the proposed house will be located behind the 50-ft setback from the Lake, and the proposed patio roof overhang is significantly farther from the Lake than the existing deck, will have less impact within the 50-ft setback from the Lake, and a new septic system. That would be beneficial to the public interest of improving/maintaining water quality for the Lake.
- 12) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #14 above.
- 13) 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 construct a new house and denying it would be a substantial injustice.
- 14) Granting the Variance would not diminish the value of surrounding properties as the construction would be new, the new dwelling will be located behind the 50-ft setback from the Lake and the septic system will be new.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the size, shape and location of the property, the fact that there is an existing non-conforming house, deck, shed and garage; 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 septic permits from DES.

On December 15, 2021, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, St. Peter, DeMeo, Poloian, Mills) and none (0) opposed to grant the request for a variance from Section 3.2.4 for Eric Buck, Terrain Planning and Design LLC as agent for CB Sports, LLC, Robert Crabtree, Manager, Tax Map 242 Lots 25/26, to construct a dwelling and

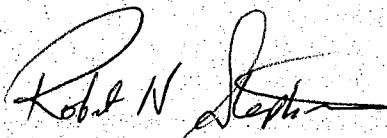
enclosed porch to be located 40'-1" at its closest point to the reference line, subject to the following conditions:

- 1) Porch limits shall be located and pinned by a NH licensed surveyor prior to construction.
- 2) Lots shall be merged prior to commencing construction.
- 3) Any proposed second dwelling unit shall obtain necessary Planning Board approval pursuant to Zoning Article 3.6.
- 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 674:33, approval expires on 12/15/2023 if use is not substantially acted on.
- 8) Receipt of NH DES Shoreland Permit.
- 9) Reference plan set before the Board for hearing is Sheet L-01 Dated 11/10/21.
- 10) Sub-bases for the Permeable pavers and porous asphalt shall be inspected to ensure surfaces are built to plan, and further to close the public hearing

The Board 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 February 16, 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 four (4) in favor (Stephens, St. Peter, Poloian, Mills), and none (0) opposed.

The decision made to Approve the variance on December 15, 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. Steve Zalewski (by email only at ([szalewski@moultonboroughnh.gov](mailto:szalewski@moultonboroughnh.gov))  
Map Lot Document File