



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Section 3.2.3 & 3.2.4

Tall Oaks Revocable Realty Trust

Charles Dana & Mary Louise Soucie, Trustees

Tax Map 254, Lot 58

June 16, 2021

Applicant: Tall Oaks Revocable Realty Trust
C/O Bernstein, Shur, Sawyer & Nelson, P.A.
PO Box 1120
Manchester, NH 03105

Location: 10 Watson Shore Road (Tax Map 254, Lot 58)

On July 7, 2021, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Tall Oaks Revocable Realty Trust (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 the construction of a single-family home to be located approximately 6 ft at the closest point from the easterly lot line, where a 20 ft. setback is required and approximately 44 ft from the lake setback line, where a 50 ft setback is required: and the relocation of an existing shed approximately 5.5 ft. from the westerly lot line where a 20 ft setback 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 10 Watson Shore Road (Tax Map 254, Lot 58).
- 2) The Tall Oaks Revocable Realty Trust is the owner of record for the lot.
- 3) The lot is in the Residential Agricultural (RA) Zoning District.
- 4) The Applicant's were represented by Attorney Brett Allard of Bernstein, Shur, Sawyer & Nelson, P.A.
- 5) The proposal is for the construction of a single-family home to be located approximately 6 ft at the closest point from the easterly lot line, where a 20 ft. setback is required and approximately

44 ft from the lake setback line, where a 50 ft setback is required: and the relocation of an existing shed approximately 5.5 ft. from the westerly lot line, where 20 ft. is required.

- 6) The Applicant has received a NH DES Shoreland Impact Permit #2021-02251.
- 7) The Impervious Surface Percentage Approved by DES is "No more than 27.0%.
- 8) One member of the public spoke in favor of the project.
- 9) One abutter submitted a letter for the record indicating they had no objection to the application to relocate the existing shed approximately 5.5 ft. from the westerly lot line.
- 10) The Board voted on the criteria for the dwelling and the shed each separately, with the justification for the five criteria being the same.
- 11) Granting the Variance would not be contrary to the public interest as the proposed structure does not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public as all structures are close in this neighborhood and it does not change.
- 12) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #11 above.
- 13) 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 intent of the ordinance regarding setbacks (to curtail overcrowding, ensure safe access, ensure adequate space for buildings and septic systems, and to ensure the lake water quality is protected) is not negated at all and denying it would be a substantial injustice.
- 14) Granting the Variance would not diminish the value of surrounding properties as it is new construction and will improve the value of the Property and the value of the surrounding properties, therefore increasing taxes.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the Property is a long and narrow lot with two wetlands, which makes the building envelope very small. The lot was created prior to the enactment of the Zoning Ordinance so the Ordinance itself creates a hardship, and the Property has obtained the necessary Shoreland Impact Permit from DES. Therefore, these variances are reasonable.

On July 7, 2021, the Zoning Board of Adjustment voted by a vote of five (5) in favor (St. Peter, Poloian, DeMeo, Mills, Stephens) and none (0) opposed to grant the request for the variance from Sections 3.2.3 & 3.2.4 for Tall Oaks Revocable Realty Trust, Tax Map 254, Lot 58 for the construction of a single-family home to be located approximately 6 ft at the closest point from the easterly lot line, where a 20 ft. setback is required and approximately 44 ft from the lake setback line, where a 50 ft setback is required: and the relocation of an existing shed approximately 5.5 ft. from the westerly lot line where a 20 ft setback is required, with the following conditions: 1) There shall be no impact to the wetlands. 2) Erosion control measures shall be employed in accordance with those shown on the 8/24/2020 Shoreland Permit Application Proposed Conditions Plan. 3) Perform stormwater management and inspection in accordance with those shown on the 8/24/2020 Shoreland Permit Application Proposed Conditions Plan.

4) Adhere to all fifteen project specific conditions of Shoreland Permit number 2020-02251, dated October 2, 2020 and demonstrate compliance to the Code Officer prior to the issuance of the Certificate of Occupancy. 5) Plant plantings in segment 2 to bring the segment up to the required 100 points (as required in the Moultonborough Zoning Ordinance), 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 21, 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, Mills, Stephens), none (0) opposed.

The decision made to grant the variance on July 7, 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.

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

Robert H. Stephens
Chairman, Zoning Board of Adjustment

cc. Brett Allard, Esq. (by email only at ballard@bernsteinshur.com)
Steve Zalewski (by email only at szalewski@moultonboroughnh.gov)
Map Lot Document File