



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Article III.B.4

John A. & Margaret E. Ohrn

Tax Map 222, Lot 7

June 3, 2020

Applicant: John A. & Margaret E. Ohrn
18 Madison Street
Newburyport, MA 01950

Location: 48 Kim's Alley (Tax Map 222, Lot 7)

On June 3, 2020 the Zoning Board of Adjustment of the Town of Moultonborough held a remote public hearing on the application of John A. & Margaret E. Ohrn (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Ordinance Article III.B.4 for the construction of a 3-bedroom house and attached garage 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 48 Kim's Alley (Tax Map 222, Lot 7).
- 2) The Applicants are the owners of record for the lot.
- 3) The lot is in the Residential Agricultural (RA) Zoning District.
- 4) The Applicant was represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC.
- 5) The existing foundation is located 13-ft at its closest point to the Lake, almost solely within the 50-ft setback from the Lake.
- 6) The existing deck is located 9-ft at its closest point to the Lake.
- 7) The existing attached garage is located less than 2-ft from the wetland located to the northerly side of the Property.

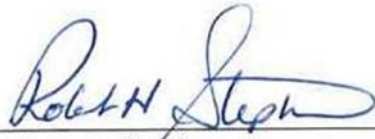
- 8) The property is serviced by an existing 3-bedroom septic system, which was approved by DES in 2008.
- 9) The applicants are proposing to remove the existing 3 bedroom structure and rebuild a new 3-bedroom residence with an attached garage, the foundation would be located 18.5-ft at its closest point to the Lake, and 21-ft. at the next closest point to the Lake.
- 10) The proposed attached garage will be located approximately 5-ft +/- at its closest point from the wetlands located on the Northerly edge of the Property
- 11) The proposed construction will require an approved NH DES Shoreland Impact Permit.
- 12) The property was surveyed by Ames Associates, LLC 5/18/2020.
- 13) There were no members of the public wishing to speak on this application during the public hearing.
- 14) Granting the Variance would not be contrary to the public interest as the removal of the dwelling very close to the lake that doesn't have storm water runoff mitigation strategies and old septic system would be beneficial to the public interest of improving/maintaining water quality for the lake.
- 15) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request the proposal to construct a dwelling farther away from the lake that does include storm water runoff mitigation strategies and a state of the art septic system farther from the lake does coincide with the stated purpose of the ordinance with regard to protecting water quality.
- 16) By granting the Variance, substantial justice would be done because there would be no gain to the public benefit by requiring a new dwelling to be constructed entirely within the building envelope given the constraints of the property.
- 17) Granting the Variance would not diminish the value of surrounding properties as the construction would be new, best management practices will be utilized and water quality would be positively affected by said construction.
- 18) 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 narrow building envelope, the wetlands location, and the existing septic system became the reasons why a new structure could not reasonably be located entirely within the building envelope.

On June 3, 2020, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, St. Peter, DeMeo, Jenny) and none (0) opposed to grant the request for the variance for John A. & Margaret E. Ohrn, Tax Map 222, Lot 7 for the construction 3-bedroom house and attached garage within the required 50-ft lake setback, with the following conditions: 1) Receipt of the required DES Shoreland Impact Permit be submitted to the Land Use Office prior to submittal of the demolition and building permit application; 2) That the foundation corners of the new dwelling be certified and in line with the plan presented as Exhibit B at the hearing, and prepared by Ames Associates, LLC dated 5/18/2020; 3) Ensure that the building permit application proposes no more than 3600 sq. ft. area for

the new dwelling unit and the driveway and that the area of the new dwelling within the waterfront 50-ft. buffer be no more than 1645 sq. ft.; 4) That the existing vegetation, as shown in photos provided at the hearing by Attorney Boldt, is to remain, thereby preserving the vegetation; 5) Installation of a roofline infiltration trench on three sides of dwelling on the lakeside, 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 June 17, 2020, 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, Bickford, St. Peter, Jenny, Hopkins) and none (0) opposed.

The decision made to Approve the variance on June 3, 2020, 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

Date: June 18, 2020

cc. Christopher Boldt (by email only at cboldt@dtclawyers.com)
Nicol Roseberry (by email only at nicol@amesassociates.com)
Map Lot Document File