



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Shepton Partners, LLC, Daniel Mangiacotti Reg. Agent

Map 189, Lot 34

October 3, 2019

**Applicant: Shepton Partners, LLC
Daniel Mangiacotti, Reg. Agent
73 Mount Calvary Road
Roslindale, MA 02131**

Location: 89 Buzzell Cove Road, Moultonborough, NH (Tax Map 189, Lot 34)

On October 2, 2019, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Shepton Partners, LLC, Daniel Mangiacotti, Reg. Agent (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III. A, Table I and IV.C (2) to allow for the removal and replacement of a nonconforming grandfathered second dwelling on a lot, where the minimum lot area requirement is not met and where the minimum required shore frontage is not met on the parcel located in the Residential Agricultural (RA) Zoning District.


Based on the application, testimony given at the hearings, additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 89 Buzzell Cove Road, Moultonborough, NH (Tax Map 189 Lot 34).
- 2) The applicant is the owner of record for the lot.
- 3) The applicant was represented at the Public Hearing by Dan Dube of Bella Woods Building & Remodeling.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in the district.
- 5) The applicant is proposing the removal and replacement of a nonconforming grandfathered second dwelling on a lot.
- 6) The minimum lot area requirement is not met, and the minimum required shore frontage is not met.
- 7) The applicant has already received a Shoreland Impact Permit No. 2018-03526 for the proposal, which does not specifically state that the existing dwelling is to be demolished, and a new dwelling built.

- 8) No members of the public spoke to the Variance request.
- 9) Granting the Variance would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood because it would be upgrading an existing condition by constructing a new home in approximately the same location as the prior dwelling on the site, and the proposed single-family dwelling will be meet all setbacks.
- 10) Granting the Variance would be consistent with the spirit of the Ordinance because the proposed construction does not alter the essential character of the neighborhood and it will not change the intent of the ordinance it would be upgrading an existing condition by constructing a new home in approximately the same location as the prior dwelling on the site, and the proposed single-family dwelling will be meet all setbacks.
- 11) By granting the Variance, substantial justice would be done because there is no public benefit to be gained by denying the second dwelling, while the loss to the applicant would be great.
- 12) Granting the Variance would not diminish the value of surrounding properties as the proposed new dwelling will be new construction which will increase the value of the subject property and construct water quality improvement methods, thereby increasing neighborhood valuations.
- 13) Special conditions exist for the subject property, such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship. The Applicant's lot currently has two existing dwellings on a substandard grandfathered lot, has vested rights to two dwellings, and the Zoning Ordinance itself creates the hardship. The proposed use is a reasonable use of the property and does not alter the character of the neighborhood.
- 14) On October 2, 2019, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, St. Peter, DeMeo, Jenny, Hopkins) and none (0) opposed to grant the request for the variance subject to the following conditions: 1) Receipt of an amended Shoreland Permit prior to the issuance of a building permit; 2) Installation of a roofline infiltration trench; 3) Use of Best Management Practices; 4) Substantial conformance with amended shoreland plan, 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 November 6, 2019, 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, DeMeo, Jenny) and one (1) abstention (Bickford).

The decision made to grant the variance on October 2, 2019, 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 11/6/19