



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

### **Notice of Decision Request for Variance Gramercy, LLC Tax Map 243, Lot 28.3**

**February 7, 2019**

**Applicant: Gramercy, LLC**

**PO Box 896**

**Hanover, NH 03755**

**Location: 61 Norway Point Road, Moultonborough, NH (Tax Map 243 Lot 28.3)**

On February 6, 2019, the Moultonborough Zoning Board of Adjustment opened a public hearing on the application of Gramercy, LLC (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III.B.4 to permit the construction of a residential building partially located within fifty (50) feet of Lake Winnepesaukee, with a portion of the building located within fifty (50) feet of the lake situated in the footprint of a previously existing residential structure on the parcel located in the Residential Agricultural (RA) Zoning District.

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

- 1) The property is located at 61 Norway Point Road, Moultonborough, NH (Tax Map 243, Lot 28.3).
- 2) The applicant is the owner of record for the lot.
- 3) The applicant was represented by Atty. Chris Cole of Sheehan Phinney Bass & Green, PA.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The previously existing structure, a one story, single-family dwelling unit, was located within the 50-foot setback from the Lake and was nonconforming in that regard.
- 6) On October 30, 2018 James DePaolo of Denali Construction obtained Permit #8131 for "selective demolition" of the preexisting home with a portion of the preexisting home to remain in place and to be incorporated into a new structure.

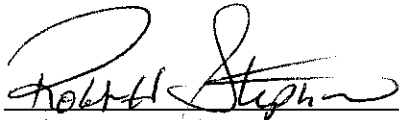
- 7) The preexisting single-family dwelling was removed in its entirety.
- 8) On October 31, 2018 James DePaolo of Denali Construction obtained Permit #8132 for the construction of a new two (2) story, single family home, guest house and wood shed to be located within the required 50 ft setback to the Lake.
- 9) The applicant has received an approved NH DES Shoreland Impact Permit (2018-01993).
- 10) The project has received an approved NH DES Septic Construction Permit (eCA2018090717 for the construction of a 4-bedroom septic system.
- 11) No members of the public wished to speak during the Public Hearing.
- 12) Granting the Variance would not be contrary to the public interest as it would not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public because the home will be in the same footprint as the preexisting home and will not require the removal of any additional trees and preserving the natural area of the property.
- 13) Granting the Variance would be consistent with the spirit of the Ordinance because it would not alter the essential character of the neighborhood and would benefit the public health, safety, and welfare as it would allow the Applicant to construct a home in an area which is already cleared, preserving the natural area of the property.
- 14) 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, while the loss to the Applicant would be an injustice as it would require the removal of additional trees.
- 15) Granting the Variance would not diminish the value of surrounding properties as the construction would be new, the septic system would be new, and it would fit in with the character of the neighborhood.
- 16) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because there is not a fair and substantial relationship between the general purpose of the ordinance provision and the specific application of that provision to the property because the Ordinance allows for renovations and retention in the same footprint as the original and proper construction is impeded by ordinance requirements. A literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as there would be more of a negative impact on the Property due to the removal of additional trees from an undeveloped area. The proposed use is a reasonable one, as a residential structure is allowed, and the location is where one previously existed.

On February 6, 2019, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, St. Peter, Jenny, Onthank, Buy) and none (0) opposed to grant the request for a variance with the following condition: 1) the construction of dwelling shall be no closer than the preexisting dwelling and its location shall be pinned by a licensed land surveyor, and further, to close the Public Hearing.

February 6, 2019  
TM 243-28.3

The Board of Adjustment, on April 3, 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 three (3) in favor (Stephens, St. Peter, Buy), two (2) abstentions (Bickford, Hopkins) and none (0) opposed.

The decision made to Approve the variance on February 6, 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 4/4/19

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