



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

### **Notice of Decision Request for Variance Act Five, LLC/Map 174, Lot 33**

**April 21, 2017**

**Applicant:** Act Five, LLC  
3000 SW Mountain Lane  
West Linn, OR 97068

**Location:** 181 Krainewood Drive, Moultonborough, NH (Tax Map 174, Lot 33)

On April 19, 2017, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Act Five, LLC (hereinafter referred to as the "Applicant" and/or "Owner") for variances from Article III (B)(1, 3 & 4) and Article VII (E)(3) to allow for removal of the existing house (foundation to remain) and reconstruction within the same footprint, with modifications to the deck & porch and the addition of a mud-room entry on the parcel located in the Residential Agricultural (RA) Zoning District, to be located within the required road and lake setback.

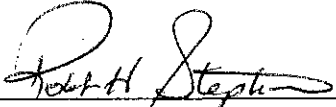
Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 181 Krainewood Drive (Tax Map 174, Lot 33).
- 2) The applicant is the owner of record for the lot.
- 3) The applicant was represented at the Public hearing by Joanne Coppinger of Ames Associates.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The ZBA granted a Variance for the Property on April 18, 2012, which had expired as it had not been exercised within 2 years from the date of final approval.
- 6) The existing house is located less than twenty-five (25) feet from the edge of the right of way, within the fifty (50) foot lake setback and within the twenty (20) foot sideline setback.
- 7) The proposed total footprint area will not change. The existing distance to the side line = 12.5' (12.5' proposed). Existing distance to road centerline = 31.5' (31.5' proposed) Existing distance to lake = 10.6' (proposed 11.0').

- 8) The existing non-conforming lot of record was created in 1976, and is approximately 0.20 ± acres.
- 9) The new structure shall meet the 32' height limitation as required in the Moultonborough Zoning Ordinance.
- 10) An amended NH DES Shoreland Permit (2012-01158) was approved on January 5, 2017 and submitted to the Development Services Office.
- 11) No members of the public wished to speak on the application.
- 12) Granting the Variance will not be contrary to the public interest as there is no increase in footprint area. The new structure will not become more non-conforming.
- 13) Granting the Variance is consistent with the spirit of the Ordinance as this is an existing, non-conforming lot of record created in 1976. The lot is 0.20± acres. There is no area on the lot that meets current building setbacks. The spirit of the ordinance was not to eliminate an owner's right to repair, renovate or replace an existing, non-conforming house.
- 14) By granting the Variance, substantial justice is done as denial of the variance would deny the owner of their right to repair, renovate or replace the existing "grandfathered" structure, without any outweighing benefit to the public.
- 15) Granting the Variance does not diminish the value of surrounding properties as the new residence will be of modern, attractive construction and will only increase surrounding property values.
- 16) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as this is an existing, non-conforming lot of record created in 1976. The lot is 0.20± acres. There is no area on the lot that could meet current building setbacks. Therefore, application of current zoning would render this grandfathered lot "un-buildable".
- 17) On April 19, 2017, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, St. Peter, DeMeo, Hopkins) and non (0) opposed to grant the request for the variance for the for removal of the existing house (foundation to remain) and reconstruction within the same footprint, with modifications to the deck & porch and the addition of a mud-room entry, as presented at the Public Hearing, 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 their next meeting.

The Board of Adjustment, on May 3<sup>rd</sup>, 2017, 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, DeMeo, Jenny) and none (0) opposed.

The decision made to grant the variance on April 19, 2017, 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 5/3/17