



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance**

Peter Eckhoff, Trustee of the Peter B. Eckhoff Revocable Trust
Tax Map 223, Lot 42

April 21, 2017

Applicant: **Peter Eckhoff, Trustee of the Peter B. Eckhoff Revocable Trust**
9425 SW 60th Court
Pinecrest, FL 33156

Location: **16 Hermit Cove Road, Moultonborough, NH (Tax Map 223, Lot 42)**

On March 1, 2017, the Moultonborough Zoning Board of Adjustment opened a public hearing on the application of Peter Eckhoff, Trustee of the Peter B. Eckhoff Revocable Trust (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III.B.4 and to the degree necessary VII.E, to allow the reconstruction/renovation within a modified footprint of the encroaching portion of an existing non-conforming residential home to be located 34.3 feet at its closest point from the reference line (lake storefront) where 50 feet is required 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 16 Hermit Cove Road, Moultonborough, NH (Tax Map 223, Lot 42).
- 2) The applicant is the owner of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) The applicant was represented by Atty. Christopher Boldt and Nicol Roseberry from Ames Associates.
- 5) The existing structure, a one story, single- family dwelling unit, is located 30.3 feet at its closest point to the Lake, and extends into the 50-foot setback from the Lake, and is nonconforming in that regard.
- 6) The applicants are proposing to remove the existing 3-bedroom structure and rebuild a new two (2) story home with patio, an attached carport, driveway and a reconstructed garage with an overflow sleeping loft and a single bathroom to be located 34.3 feet at its closest point to the Lake, which is approximately 4 ft. farther from the reference line.

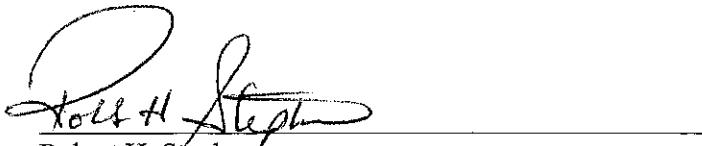
- 7) The project will require an approved NH DES Shoreland Impact Permit.
- 8) The project will require an approved NH DES Septic Construction Permit for the construction of a 3-bedroom septic system.
- 9) The ZBA had concerns at the March 1st, 2017 meeting with the possibilities of being able to accomplish the project without the need for a variance or reducing the nonconformity.
- 10) No members of the public wished to speak during the Public Hearing.
- 11) Attorney Boldt requested a continuance of the hearing to address these concerns with his client.
- 12) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, St. Peter, Nolin, Onthank), and none (0) opposed to continue the Public Hearing to April 19, 2017.
- 13) The ZBA reopened the continued Public Hearing on April 19th, 2017.
- 14) No new information was provided to the Board for the continued hearing.
- 15) Attorney Boldt was present to answer any questions from the Board, stating that his clients wished to proceed with the Variance as originally presented.
- 16) No members of the public wished to speak during the Public Hearing.
- 17) 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 site will be improved with the installation of a new modern septic system, and an NH DES Shoreland Impact Permit that addresses stormwater runoff and water quality.
- 18) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request to construct a new dwelling setback slightly away from the lake will include storm water runoff mitigation strategies and the installation of a new modern septic system which does coincide with the stated purpose of the ordinance with regard to protecting water quality.
- 19) 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.
- 20) Granting the Variance would not diminish the value of surrounding properties as the construction would be new, the septic system would be new and water quality would be positively affected by said construction and it would fit in with the character of the neighborhood.
- 21) Special conditions exist such that 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 disturbance of the site that would be necessary to jack up the existing structure and remodel which allowed by right. The setback to protect the Lake will be enhanced to include water mitigation and being shifted further away from the Lake. The proposed use is a reasonable one, as it will be less non-conforming and less invasive to the environment than rehab by permit.

On April 19, 2017, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, Bickford, St. Peter, DeMeo) and one (1) opposed (Jenny) to grant the request for a variance with the following conditions: 1) The installation of a NH DES Subsurface approved septic system, prior to the

issuance of a Certificate of Occupancy; 2) Installation of the well; 3) That all best management practices be employed, including a drip edge filter strips around the entire home and carport; 4) The seven trees noted in the public hearing to "not be removed" are not removed, and if they are, they will be replaced with trees of similar points; and, 5) Receipt of NH DES Shoreland Permit, and further, to close the Public Hearing.

The Board of Adjustment, on May 3, 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 Approve 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