



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

### **Notice of Decision Request for Variance Roman P. and Misuk Legocki Tax Map 188, Lot 24**

**June 18, 2015**

**Applicant:** Roman P. and Misuk Legocki  
71 Fox Road, Unit #821  
Waltham, MA 02451

**Location:** 100 Wyman Trail, Moultonborough, NH (Tax Map 188, Lot 24)

On June 17, 2015, the Moultonborough Zoning Board of Adjustment opened a public hearing on the application of Roman P. and Misuk Legocki (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III.B.4, to remove an existing nonconforming dwelling and construct a larger replacement dwelling where the shore land setback proposed is 23.8 ft. where 50 ft. 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:

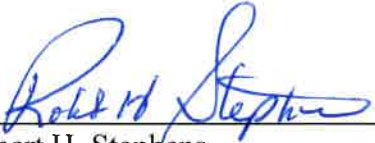
- 1) The property is located at 100 Wyman Trail, Moultonborough, NH (Tax Map 188, Lot 24).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) The applicants were represented by Atty. Christopher Boldt and Nicol Roseberry from Ames Associates.
- 5) The existing structure, a one story, single- family dwelling unit, is located 22.7 feet at its closest point to the Lake, and extends into the 50 foot setback from the Lake and into the side setback, 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, 3 bedroom structure with an attached garage to be located 23.8 feet at its closest point to the Lake, which is approximately 1 ft. farther from the reference line.
- 7) The project will require an approved NH DES Shoreland Impact Permit.
- 8) The applicant has received a 2009 approval for construction (NH DES Permit #CA200901963) for the construction of a 3 bedroom septic system.
- 9) Two (2) abutters and one neighbor each chose to speak in favor of the application during the Public Hearing.
- 10) No other members of the public wished to speak during the Public Hearing.
- 11) 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.
- 12) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request 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.
- 13) 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.
- 14) 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.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the location of the singular permissible site for a new septic system leach field, well location, parking and garage location in combination with the shape of the lot and its location with water and a roadway on each side became the reasons why a new structure could not reasonably be located entirely within the building envelope.
1. On June 17, 2015, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, St. Peter) and none (0) opposed to **GRANT** the request for a setback variance, subject to the following conditions: 1) The required Shore Land Permit and septic system approval being submitted at time of Building permit application to the Code Enforcement Officer; 2) that the requirements in the MZO under Article IV, G. Comprehensive Shore land Protection that are more strict than the state requirements be met, and that the proposed plans be adhered to; 3) the requirement that the foundation be pinned by a licensed NH Surveyor at the time of building permit and prior to pouring the foundation; and 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 July 15, 2015, approved this formal Notice of Decision language and authorized the Vice 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, Nolin, Zewski, Bickford, St. Peter), none (0) opposed.

The decision made to Approve the variance on June 17, 2015, 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.



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Robert H. Stephens  
Chairman, Zoning Board of Adjustment

Date 7-15-15