



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

### **Notice of Decision Request for Variance Richard A. Morgan/Map 217, Lot 27**

**January 22, 2015**

**Applicant:** Richard A. Morgan  
6922 Rolling Bells Ct.  
Columbia, MD 21044

**Location:** 166 Black Cat Island Road, Moultonborough, NH (Tax Map 217, Lot 27)

On January 21, 2015, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Richard A. Morgan (hereinafter referred to as the "Applicant" and/or "Owner") to obtain Variances from MZO Article VII. (E) (1) and Article III. B (3) to permit the replacement of a dwelling located 16.7 ft. (closest point) from the side property line where 20 ft. is required and 27 ft. (closest point) from the Reference Line 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 166 Black Cat Island Road, Moultonborough, NH (Tax Map 217, Lot 27).
- 2) The applicant is the owner of record for the lot.
- 3) The applicant was represented at the Public Hearing by Dave Dolan of David M. Dolan Associates, PC.
- 4) On January 7, 2015 the Public Hearing was continued to January 21, 2015 as the applicant exercised his right for a continuance for a full board of five.
- 5) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 6) The proposal is for the construction of a dwelling 16.7 feet from the side property line, 20 ft. required and 27 feet from the shoreline (to the screened porch) where 50 ft. is required after demolition of the existing residential dwelling.
- 7) At the meeting on January 21, 2015, no members of the public spoke in favor of or against the application.
- 8) One email was submitted by an abutter stating that they had no objection for the proposed project.

- 9) Granting the Variances 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 similar to the other dwellings in the neighborhood, improve water quality through best practices and improve sight lines to the lake for abutters.
- 10) Granting the Variances would be consistent with the spirit of the Ordinance because the proposed construction will not alter the essential character of the neighborhood because it would be similar to the other dwellings in the neighborhood, improve water quality through best practices and improve sight lines to the lake for abutters.
- 11) By granting the Variances, substantial justice would be done because there is no public benefit to be gained by requiring that an odd-shaped, inefficient, needlessly expensive dwelling be constructed that stays within the oddly shaped, narrow building envelope on the lot, while the loss to the applicant would be great.
- 12) Granting the Variances would not diminish the value of surrounding properties as the proposed construction would replace sub-standard, deteriorating construction with new, thereby increasing neighborhood valuations.
- 13) There is an unnecessary hardship owing to special conditions of the property that distinguishes it from other properties in the area because of the unique shape of the lot resulting in a narrow, non-rectangular building envelope which would require that an odd-shaped, inefficient, needlessly expensive dwelling be constructed that stays within said building envelope be constructed to meet the setback requirements and that this is not reasonable, or that a much smaller dwelling be constructed that is not commensurate with the very valuable land situated on the point on this island.
- 14) On January 21, 2015, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Bickford, Crowe, DeMeo) and none (0) opposed to grant the request for both variances with four conditions as follows; 1. That a Shore Land Permit be obtained by NH DES; 2. That a septic system design be filed with the Code Enforcement Officer at the time of permitting; 3. That a foundation certification be prepared and submitted with the building permit application; and 4. That all applicable best management practices for storm water runoff mitigation be employed, 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 March 18, 2015, 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, Nolin, Bickford, DeMeo), none (0) opposed and one (1) abstention (St. Peter).

The decision made to grant the variance on January 21, 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 3-21-15