



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance – Article III.B (4) Judith & Robert Trautwein/Map 160, Lot 5

July 2, 2014

Applicant: **Judith & Robert Trautwein**
1766 McConnell Drive
Williamsport, PA 17701

Location: **8 Garwood Lane, Moultonborough, NH (Tax Map 160, Lot 5)**

On May 21, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Judith & Robert Trautwein (hereinafter referred to as the “Applicant” and/or “Owner”) for a variance from Article III. B (4), for relief from the required 50 foot setback from a perennial stream to construct a residential dwelling 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 8 Garwood Lane (Tax Map 160, Lot 5).
- 2) The applicants are the owners of record for the lot.
- 3) The applicants were represented at the public hearing by Nicol Roseberry from Ames Associates.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The ZBA had questions at the May 21, 2014 meeting relating to the proximity of the proposed residential structure to the stream, noting their concerns with disturbance of the stream bank.
- 6) Abutter Jim Burns spoke in favor of the granting of the variance.

- 7) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Crowe), and none (0) opposed to continue the Public Hearing to June 4, 2014, and to schedule an on-site visit of the property for June 4, 2014 at 5:30 P.M.
- 8) The ZBA re-opened the continued Public Hearing at the June 4th meeting and discussed their observations from the site visit.
- 9) The applicant's representative (Nicol Roseberry) explained to the Board the proposed improvements that were identified onsite.
- 10) Members again noted their concerns with the close proximity to the stream as well at the square footage of the proposed structure which included a one car garage.
- 11) The applicant's representative (Nicol Roseberry) requested a continuance to allow for time to confer with her clients regarding the concerns noted by the board.
- 12) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Jenny), and none (0) opposed to continue the Public Hearing to June 18, 2014.
- 13) The ZBA re-opened the continued Public Hearing at the June 18th meeting reviewing the revised plan (6/17/14) submitted by the applicant's representative (Nicol Roseberry).
- 14) Ms. Roseberry noted the changes regarding the proposed structure, included the removal of the one car garage, and the area reduction of the house foundation, resulting in a stream setback of 7' for the foundation and 5' for the cantilevered wall of the structure.
- 15) Granting the Variance would not be contrary to the public interest as the lot is a lot of record, with existing residential use, and this proposal improves the public benefit by complying with the shoreland setback to the lake and improves the setback to the stream.
- 16) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request does acknowledge that the property owner has a right to continue the residential use in a reasonable way that complies to the greatest extent with the dimensional requirements of the ordinance.
- 17) By granting the Variance, substantial justice would be done because the gain to the public by not allowing the continuation of the existing residential use because it the structure could not meet one dimensional requirement while meeting all others was minimal compared to a very large loss (reasonable, continued use of the land) by the owner.
- 18) Granting the Variance would not diminish the value of surrounding properties as the structure would be new and the parcel layout would better protect the lake and stream.
- 19) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the lot has special circumstances such as a protruding cemetery with its larger setback requirement, stream, challenging topography and lake shoreline, the building envelope is very small and oddly shaped and locating a reasonable area

for building that meets the highest number of dimensional requirements is accomplished in only one location.

On June 18, 2014, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, DeMeo) and none (0) opposed to grant the request for a variance with the following conditions: 1) That a Shore land Permit be submitted to the Development Services Office at time of Building Permit application; 2) The owner produce a foundation certificate from a licensed NH Surveyor at the time of Building Permit Application; 3) That the current plan (April 24, 2014) with a revision date of June 16, 2014, has a driveway, labeled access to Clark's Landing, shall add a note prohibiting vehicles to said driveway access and that the area shall be revegetated prior to the start of construction; 4) The existing retaining wall and stream bank shall not be disturbed during demolition and construction; 5) A Storm Water Pollution & Prevention Plan (SWPPP), prepared by a licensed NH Professional Engineer, be submitted prior to the issuance of a Building Permit and that the Notice of Decision be recorded at the Carroll County Registry of Deeds, and further, to close the Public Hearing.

The Board of Adjustment, on July 2, 2014, 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 (5) in favor (Stephens, Nolin, Zewski, Bickford, Crowe), none (0) opposed.

The decision made to Approve the variance on June 18, 2014 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.

Date _____

Robert H. Stephens
Chairman, Zoning Board of Adjustment