



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

### **Notice of Decision Request for Variance CPK Realty Trust, LLC/Map 135, Lot 10**

**February 20, 2014**

**Applicant: CPK Realty Trust, LLC  
PO Box 579  
Moultonborough, NH 03254**

**Location: 7 Moultonboro Neck Road, Moultonborough, NH (Tax Map 135, Lot 10)**

On February 19, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of CPK Realty Trust, LLC (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article VII.E.1, to construct a second story addition onto the nonconforming commercial structure on the parcel located in the Commercial A 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 7 Moultonboro Neck Road (Tax Map 135, Lot 10).
- 2) The applicant agreed to proceed with a board of four members.
- 3) The applicant is a partner in the LLC, owner of record for the lot.
- 4) Carlos "Chuck" DaSilva presented the application for the variance.
- 5) The lot is located in the Commercial A Zoning District.
- 6) The applicant agreed to a condition that there shall be no retail sales on the second floor.
- 7) No members of the public wished to speak during the public hearing.
- 8) Granting the Variance would not be contrary to the public interest as the permit to construct the second floor addition meets all code requirements and would have been possible were it not for


the state taking land on both frontages, thereby making the structure nonconforming. The owner had no choice in the matter, so it was out of their control.

- 9) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request does not decrease the health, safety or welfare of the community or the surrounding commercial neighborhood.
  - 10) By granting the Variance, substantial justice would be done because the land taking that made the structure nonconforming was out of the control of the owner and there will be no gain at all by not granting relief in this instance.
  - 11) Granting the Variance would not diminish the value of surrounding properties as it will fit in with the commercial neighborhood and increase the values of the surrounding businesses.
  - 12) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the lot was made smaller along the two frontages by a taking of land for right of way purposes that made the pre-existing commercial structure nonconforming, which then precluded any expansion of the structure. The lot is unique in that regard.
1. On February 19, 2014, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Nolin, Bickford, Crowe, Hopkins) and none (0) opposed to grant the request for a variance with the condition that there shall be no retail space on the second floor and that this Notice of Decision shall be recorded at the Carroll County Registry of Deeds,

...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 March 5, 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 three (3) in favor (Nolin, Bickford, Crowe), none (0) opposed.

The decision made to Approve the variance on February 19, 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.

  
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Robert H. Stephens  
Chairman, Zoning Board of Adjustment

Date 3-6-2014