



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance**

Douglas R. Scott and Alison W. Scott, Trustees of the Alison W. Scott Trust
Tax Map 188, Lot 23

January 15, 2014

Applicant: **Douglas R. Scott and Alison W. Scott,
Trustees of the Alison W. Scott Trust
45 Gilman Drive
Gilford, NH 03249**

Location: **104 Wyman Trail, Moultonborough, NH (Tax Map 188, Lot 23)**

On January 15, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of the Alison W. Scott Trust (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 22.3 ft. from the lake 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 104 Wyman Trail, Moultonborough, NH (Tax Map 188, Lot 23).
- 2) The applicants are the trustees for the Trust, owner 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.
- 5) The applicant agreed to proceed with only four (4) members of the ZBA present and able to vote on the application.
- 6) The existing structure, a one story, single- family dwelling unit, is located 14.6 feet at its closest point to the Lake, and extends into the 50 foot setback from the Lake and is nonconforming in that regard.

- 7) The applicants are proposing to remove the existing 3 bedroom structure and rebuild a new two (2) story, 4 bedroom structure to be located 22.3.6 feet at its closest point to the Lake.
- 8) The applicant has received an approved NH DES Shoreland Impact Permit #2013-02970.
- 9) The applicant has received an approved NH DES Permit #CA2013116028 for the construction of a 3 bedroom septic system.
- 10) Two letters of support were noted for the record.
- 11) Alternate Hopkins arrived at 8:00 PM and was seated as a voting member, making a full board of five (5) members.
- 12) One (1) abutter and one neighbor each chose to speak in favor of the application during the Public Hearing.
- 13) No other members of the public wished to speak during the Public Hearing.
- 14) 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.
- 15) Granting the Variance would be consistent with the spirit of the Ordinance because the variance request the proposal 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.
- 16) 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.
- 17) 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.
- 18) 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 permittable 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 January 15, 2014, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Bickford, Crowe, Hopkins) and none (0) opposed to **GRANT** the request for a setback variance, subject to the following conditions: 1) The required Shore Land Permit be submitted at time of Building permit application to the Code Enforcement

Officer; 2) Note #7, paragraph 3 on the Proposed Conditions Plan be amended to comply with the Town's Shoreland Water Quality Ordinance with regard to removing dead, hazardous or diseased tree; and that the variance approves a dwelling with the number of bedrooms limited by the number of bedrooms of the NH DES septic approval.

...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 February 19, 2014, 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 four (4) in favor (Nolin, Bickford, Crowe, Hopkins), none (0) opposed.

The decision made to Approve the variance on January 15, 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.



Russell S. Nolin
Vice Chairman, Zoning Board of Adjustment

Date 2/20/14