



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

### **Notice of Decision**

#### **Request for Variance - DECK**

**Wendy Castleberry Revocable Trust 2008;  
Wendy Castleberry, Trustee/ Map 171, Lot 3**

**October 3, 2012**

**Applicant: Wendy Castleberry, Trustee  
Wendy Castleberry Revocable Trust 2008  
PO Box 1467  
Center Harbor, NH 03226**

**Location: 82 Alpine Park Road, Moultonborough, NH (Tax Map 171, Lot 3)**

On October 3, 2012 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of the Wendy Castleberry Revocable Trust 2008; Wendy Castleberry, Trustee (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III, B (4) to allow for construction of a 10.5' x 19.3' deck, resulting in 18 sq. ft. of deck surface located within the 50' shoreline setback for 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 82 Alpine Park Road (Tax Map 171, Lot 3).
- 2) The applicant is the owner of record for the lot.
- 3) The applicants were represented at the Public Hearings by Nicol Roseberry of Ames Associates.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The applicants are proposing construction of a 10.5'x19.3 deck, resulting in 18 sq. ft. of the deck surface located within the 50' shoreline setback.
- 6) Storm water management in the form of existing and proposed gutters, and proposed crushed stone infiltration trenches, will provide additional protection of the lake from storm water runoff.
- 7) The Applicant has received a Shoreland Impact Permit (2012-02380) from the NH DES. Board members questioned if the same plan was submitted with both applications to the Zoning Board of

Adjustment and the NH DES. Ms. Roseberry stated yes and that she would provide the office with a copy of the plan submitted for approval by the NH DES.

- 8) No members of the public spoke for or against the Variance request.
- 9) Granting the Variance will not be contrary to the public interest as the deck will be located on the road-facing side of the house, which already exists in the setback, separated from the lake by the house, and extends over a portion of existing impervious area.
- 10) Granting the Variance is consistent with the spirit of the Ordinance as the 50' buffer provides protection of the lake's water quality. The proposed deck will be separated from the lake by the house, and is proposed over a portion of existing impervious area.
- 11) By granting the Variance, substantial justice is done as the proposed deck for the existing nonconforming house is positioned away from the lake, and will provide both a level landing area outside of a point of access/egress for the house, and a semi-private outdoor seating area for the property.
- 12) Granting the Variance does not diminish the value of surrounding properties as the proposed deck will add value to the residence, which can increase the value of surrounding properties, as well.
- 13) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because the proposed deck is located on the opposite side of the nonconforming house from the lake and the proposed use is a reasonable one as attached decks are common features of residential waterfront homes.
- 14) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Crowe, Bickford) and none (0) opposed, to Grant the request for a variance and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision to Grant the Variance, to be reviewed by the Board at the October 17, 2012 Regular Meeting.

The Board of Adjustment, on October 17, 2012, approved by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, King) and none (0) opposed, this formal Notice of Decision and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file.

The decision made to Grant the variance on October 3, 2012 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

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