



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance & Special Exception

**Alan B. & Mary Anne Sopelak
Tax Map 119, Lot 2**

February 20, 2025

Applicant: **Alan B & Mary Anne Sopelak**

P.O Box 507

Moultonborough, NH 03254

Location: **11 Blueberry Lane, Moultonborough, NH (Tax Map 119, Lot 2)**

On February 5, 2025, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Alan B. & Mary Anne Sopelak (hereinafter referred to as the “Applicant” and/or “Owner”) for a Variance from Section 3.2.2.1 and 3.2.2.3, and a Special Exception to relocate the existing nonconforming footprint to a more nearly conforming location, as is provided for under Zoning Article 7.5.5.5 on the parcel, Tax Map 119, Lot 2 that is located in the Residential Agricultural (R/A) Zoning District.

Based on the application, testimony given at the hearings, additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 11 Blueberry Lane (Tax Map 119, Lot 2).
- 2) Alan B & Mary Anne Sopelak are the owners of records for the lot.
- 3) The Applicants were represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC.
- 4) The lot is located in the Residential Agricultural (R/A) Zoning District, and the residential use is a use allowed by right in that district.
- 5) Prior to public input on February 5, 2025, the Zoning Board of Adjustment voted five (5) in favor (Merrill, McDonough, DeMeo, Jakobsen, Stephens) and none (0) opposed that the proposal did not have the potential for Regional Impact.

- 6) The proposal is for the relocation of an existing non-conforming structure's footprint to be located 21.5' from the ROW where 25' is required and 9.2' from the southerly property line and 13.0' from the northerly property line where 20' is required.
- 7) A plan prepared by Ames Associates, titled Existing Conditions ZBA Exhibit, dated 11/14/24, was submitted as part of the application package.
- 8) Five abutters submitted letters in favor of the project.
- 9) Granting the Variances will not be contrary to the public interest as stated in Atty. Boldt's narrative. It is believed that the public will gain a more conforming structure, improved septic as well as landscape.
- 10) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #9 above.
- 11) By granting the Variance, substantial justice would be done as it is presumed to be in the interest of the public as it is an improvement of what already exists.
- 12) Granting the Variance does not diminish the value of surrounding properties as it will not cause any overcrowding or change in the character of the neighborhood, it is a reasonable use and will be new construction adding value to the property. The variance that is requested is only diminishing intrusion into the setback and has been there for 50-60 years.
- 13) Special conditions of the property distinguish it from other properties in the area as the subject lot is smaller than the minimum lot size, the existing structure is located in the southerly setback and was constructed prior to the adoption of the Zoning Ordinance, the new septic limits where there could be future expansion. The new structure is to be more nearly conforming than existing conditions. The proposed use is for a single-family dwelling, which is a reasonable use in New Hampshire.

At the regular meeting held on Wednesday, February 5, 2025, the Zoning Board of Adjustment (the Board) decided by a vote of five (5) in favor (Merrill, McDonough, DeMeo, Jakobsen, Stephens), none (0) opposed, to conditionally **grant** the variance from Section 3.2.2.1 for Alan B & Mary Anne Sopelak, located at 11 Blueberry Lane, Tax Map 119, Lot 2 for the relocation of an existing non-conforming structure's footprint to be located 21.5' from the ROW where 25' is required.

The Zoning Board of Adjustment voted by a vote of three (3) in favor (DeMeo, Stephens, McDonough), and two (2) opposed (Jakobsen, Merrill), to conditionally **grant** the variance from section 3.2.2.3 for Alan B & Mary Anne Sopelak, located at 11 Blueberry Lane, Tax Map 119, Lot 2 for the relocation of an existing non-conforming structure's footprint to be located 13.0' from the northerly property line where 20' is required.

The Zoning Board of Adjustment voted by five (5) in favor (McDonough, DeMeo, Stephens, Merrill, Jakobsen) and none (0) opposed, to conditionally **grant** the Special Exception pursuant to 7.5.5.7 where the Project is making the southerly side of the Proposed Home significantly more

conforming than the Existing Home (9.2' from the southerly property line and 13.0' from the northerly property line where 20' is required).

Both Variances and the Special Exception were granted under the following conditions: 1) Structure limits shall be located and pinned in accordance with this approval by an NH licensed surveyor prior to construction. 2) Project shall obtain necessary state and local permits, to include approval of a town building permit and NH DES Shoreland approval. All conditions of such permits shall be perpetually complied with, and all necessary inspections shall be successfully completed prior to use. 3) Project shall comply with all state and local shoreland, timber and wetland requirements, including setbacks, buffers, planting requirements, vegetation removal restrictions and impervious surface limitations. 4) All representations made by the applicant and applicants' agent shall be incorporated as a condition of approval. 5) The applicant and owner are solely responsible for complying with all conditions of approval. 6) Per RSA 674:33, approval expires on 2/5/2027 if use is not substantially acted upon. 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, 2025, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision, send to the applicant and place same in the case file by a vote of five (5) in favor (McDonough, DeMeo, Merrill, Stephens, Sperry), none (0) opposed, and one (1) abstained (Mills).

The decision made on February 5, 2025, granting the Variances and Special Exception, 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.



Robert Stephens
Chairman
Zoning Board of Adjustment

cc. Jeff Blackwell – Building Inspector (by email only at jblackwell@moultonboroughnh.gov)
Christopher Boldt – Attorney (by email only at cboldt@dtclawyers.com)
Map Lot Document File