



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

### **Notice of Decision**

#### **Request for Variance**

**Kevin Quinlan/ Balmoral Improvement Association/Tax Map 99, Lot 102**

**February 7, 2017**

**Applicant:** **Kevin Quinlan  
Balmoral Improvement Association  
PO Box 625  
Moultonborough, NH 03254**

**Location:** **294 Paradise Drive (Tax Map 99, Lot 102)**

On February 1, 2017, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Kevin Quinlan (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article VI, Paragraph E (Criteria 1b) to provide a 12-ft. vegetated buffer on all sides of the lot where a 50-ft. vegetated buffer is required for the property located in the Residential / Agricultural Zoning District.

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

- 1) The property is located at 294 Paradise Drive, Moultonborough, NH (Tax Map 99, Lot 102).
- 2) Joseph Costa is the owner of record for the lot.
- 3) Kevin Quinlan, President of Balmoral Improvement Association was the applicant.
- 4) The applicant was represented by Dan Ellis of Ames Associates.
- 5) The lot is located in the Residential / Agricultural Zoning District Board.
- 6) The existing site contains a residential garage.
- 7) Abutter Jim Nestor noted his concerns with the measurements to the water, enforcement issues, the lot surface being gravel, proposed plantings and the fence.
- 8) Abutters James and Carol Gourgoumis noted their concerns with the diminution of property values and their opposition to the project.

- 9) Granting the Variances would not be contrary to the public interest as it would not alter the essential character of the neighborhood because the parked vehicles for the beach use are already there on the street in the neighborhood. Reducing the buffer requirement from 50-ft. to 12-ft. would not threaten the public health, safety or welfare because its end effect would be to lessen congestion in the streets, enhance safer pedestrian movement to the beach and improve the quality of the neighborhood by removing many parked vehicles from neighbors' front yards and views.
- 10) Granting the Variances would be consistent with the spirit of the Ordinance because the applicant testified, and the plan depicts, a bermed, vegetative buffer (and a fence) that shall have the effect of containing noise, light and other impacts of the site so as to minimize the disturbance of the site on neighboring properties.
- 11) By granting the Variances, substantial justice would be done because the general public does not gain anything since the reduced width buffer would still contain berms, vegetation, and is bordered by a Town road and a public way on three sides, and a fence on the abutter's property that would serve to prevent disruption and reduction in the quality of life for the neighborhood.
- 12) Granting the Variances would not diminish the value of surrounding properties because an unsafe, chaotic and disruptive practice of parking along the streets for beach access would be replaced by a safer, controlled, less disruptive parking area solution with disturbance mitigation in place.
- 13) Literal enforcement of the Ordinance would result in unnecessary hardship because the lot is situated at the convergence of two roadways in a wye shape (one is a Town-maintained highway and the other is a privately-maintained Association road) which has created a small, triangularly-shaped lot with road frontage on all sides except one. Because of this special condition, the lot is burdened by the 50-ft. buffer requirement in a manner that is different and distinct from all other properties in the neighborhood. The 50-ft. buffer width requirement would render the lot unusable for the special exception use of beach parking area. The purpose of the buffer is to mitigate disruptions to the residential quality of life, however, since the buffer requirement when applied reduces the usable area of the lot to just four or less parking spaces, the buffer width requirement does not serve its purpose in a fair and substantial way. The restriction of the requirement is not necessary to give full effect to the purpose of the Ordinance section. The proposed use is a reasonable one because the 50-ft. buffer width is not tenable for the use and the proposed 12-ft. buffer width with mitigation techniques does serve to mitigate disruptions and therefore does not alter the character of the neighborhood.

On February 1, 2017, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, St. Peter, Jenny, Hopkins) and one (1) opposed (Nolin) to grant the request for a setback variance and further 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 15, 2017, 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 four (4) in favor (Stephens, Nolin, St. Peter, Jenny), one (1) abstention (Bickford) and none (0) opposed.

The decision made to approve the variance on February 1, 2017, 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 H. Stephens  
Chairman, Zoning Board of Adjustment

Date 2-16-17