



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance** **John Kosta/Map 174, Lot 33**

April 18, 2012

Applicant: **John Kosta**
P.O. Box 603
Middleton, MA 01949

Location: **181 Krainewood Drive, Moultonborough, NH (Tax Map 174, Lot 33)**

On April 4, 2012, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of John Kosta (hereinafter referred to as the “Applicant” and/or “Owner”) for variances from Article III (B)(1, 3 & 4) and Article VII (B)(3) to allow for removal of the existing house (foundation to remain) and reconstruction within the same footprint, with modifications to the deck & porch and the addition of a mud-room entry on the parcel located in the Residential Agricultural (RA) Zoning District, to be located within the required road and lake setback.

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 181 Krainewood Drive (Tax Map 174, Lot 33).
- 2) The applicant is the owner of record for the lot.
- 3) The applicant was represented at the Public hearing by Dan Ellis of Ames Associates.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The existing house is located less than twenty-five (25) feet from the edge of the right of way, within the fifty (50) foot lake setback and within the twenty (20) foot sideline setback.
- 6) The proposed total footprint area will not change. The existing distance to the side line = 12.5' (12.5' proposed). Existing distance to road centerline = 31.5' (31.5' proposed) Existing distance to lake = 10.6' (proposed 11.0').
- 7) The existing non-conforming lot of record was created in 1976, and is approximately 0.23 ± acres.

- 8) An approved NH DES Shoreland Permit will be required to be submitted to the Development Services Office.
- 9) The new structure shall meet the 32' height limitation as required in the Moultonborough Zoning Ordinance.
- 10) No members of the public wished to speak on the application.
- 11) Granting the Variance will not be contrary to the public interest as there is no increase in footprint area. The new structure will not become more non-conforming.
- 12) Granting the Variance is consistent with the spirit of the Ordinance as this is an existing, non-conforming lot of record created in 1976. The lot is $0.23\pm$ acres. There is no area on the lot that meets current building setbacks. The spirit of the ordinance was not to eliminate an owner's right to repair, renovate or replace an existing, non-conforming house.
- 13) By granting the Variance, substantial justice is done as denial of the variance would deny the owner of their right to repair, renovate or replace the existing "grandfathered" structure, without any outweighing benefit to the public.
- 14) Granting the Variance does not diminish the value of surrounding properties as the new residence will be of modern, attractive construction and will only increase surrounding property values.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as this is an existing, non-conforming lot of record created in 1976. The lot is $0.23\pm$ acres. There is no area on the lot that could meet current building setbacks. Therefore, application of current zoning would render this grandfathered lot "un-buildable".
- 16) The Zoning Board of Adjustment voted five (5) in favor (Stephens, Nolin, Crowe, Bickford, King), and none (0) opposed to continue the Public Hearing to April 18, 2012, and to direct staff to draft a Notice of Decision to Grant the variance, to be reviewed by the Board at the April 18, 2012 Regular Meeting.

The Public Hearing was continued to April 18, 2012. The Board of Adjustment closed the Public Hearing on April 18, 2012. Based on the above Findings of Fact, the Board of Adjustment voted five (5) in favor (Stephens, Nolin, Crowe, Bickford, Zewski), none (0) opposed, to **GRANT** the request for variance.

This decision 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.

Date _____

Robert H. Stephens
Chairman, Zoning Board of Adjustment