



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Section 3.2.2.3 & 3.2.2.4 Costas Realty Trust II, Nicholas C. Costas, Trustee Tax Map 174, Lot 57

May 9, 2024

Applicant: Costas Realty Trust II
Nicholas C. Costas, Trustee
20 Greystone Drive
Middleton, MA 01949

Location: 252 Krainewood Drive (Tax Map 174, Lot 57)

On May 1, 2024, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Nicholas C. Costas, Trustee of the Costas Realty Trust II (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Articles 3.2.2.3 & 3.2.2.4 of the MZO for a parcel located at 252 Krainewood Drive, Tax Map 174 Lot 57. The applicant proposes to construct a portion of the deck and stairs no closer than 37 feet from the Lake where 50 feet is required and no closer than 19 feet from the Easterly Side Setback where 20 feet is required on a parcel located in the Residential/Agricultural (RA) Zoning District.

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

- 1) The property is located at 252 Krainewood Drive (Tax Map 174, Lot 57).
- 2) The Costas Realty Trust II is the owner of record for the lot.
- 3) The lot is in the Residential Agricultural (R/A) Zoning District.
- 4) Attorney Christopher Boldt of Donahue Tucker & Ciandella, PLLC represented the Applicant.
- 5) The proposal for the reinstallation of a set of stairs and a portion of the deck to be located no closer than 37' from the Lake where 50-ft is required and no closer than 19' from the Easterly Boundary Line where 20-ft is required.
- 6) The Applicant has received a NH DES Shoreland Impact Permit #2022-00881.
- 7) The Impervious Surface Percentage Approved by DES is 28.5%.
- 8) No members of the public spoke in favor of or against the application.

- 9) Granting the Variance would not be contrary to the public interest as the proposed construction is very minimal and it does not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public as all structures are close in this neighborhood and it does not change.
- 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 because there would be a clear loss to the Applicant that is not outweighed by any gain to the public as the intent of the ordinance regarding setbacks (to curtail overcrowding, ensure safe access, ensure adequate space for buildings and septic systems, and to ensure the lake water quality is protected) is not negated at all and denying it would be a substantial injustice.
- 12) Granting the Variance would not diminish the value of surrounding properties as it will not cause any overcrowding or change in the character of the neighborhood, and it will be new construction adding value to the property and surrounding properties.
- 13) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as special conditions of the Property distinguish it from other properties in the area which include the size, shape, and Lake-frontage. The Property has the existing stand of mature trees on both sides of the easterly boundary line, and the existence of the necessary Shoreland and Septic Permits from DES for the project.

On May 1, 2024, the Zoning Board of Adjustment voted by a vote of four (4) in favor (McDonough, Merrill, Poloian, Stephens) and one (1) opposed (Mills) to grant the request for the variance from Sections 3.2.2.3 and 3.2.2.4 for Nicholas Costas, Trustee of The Costas Realty Trust, Tax Map 174, Lot 57 to construct a portion of the deck and stairs within the Lake and Side Setback subject to the following conditions:

- 1) Structure limits shall be located and pinned in accordance with this approval by a 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, and 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 wetlands requirements, including setbacks, buffers, planting requirements, vegetation removal restrictions and impervious surface limitations.
- 4) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
- 5) The applicant and owner are solely responsible for complying with the conditions of approval.
- 6) Per RSA 674:33, approval expires on 5/1/2026 if use is not substantially acted upon.
- 7) The area of encroachment in the Lake and Side Setbacks directly underneath deck and the stairs shall be constructed in such a way that they are pervious to water and runoff, the deck and stairs be constructed/spaced in a manner to allow water to pass through and there shall be no roof covering over the deck and stairs.

Further, the Board voted 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 May 15, 2024, 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 (Mills, McDonough, Poloian, Merrill, Stephens), none (0) opposed.

The decision made to grant the variance on May 1, 2024, 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

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

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