

VARIANCE

Findings of Fact:

The appellants are David A. & William Weare, 291 Pine Hill Road, Cape Neddick Maine 03902. The property in question is located at 1815 US Route One, Cape Neddick ME, identified as Map 6 Lot 8 and is in the Route 1-6 zone.

Copies of letter from Matt Howell to Chairman Lascelles dtd 7/26/18, application for general variance dtd 6/7/18, excerpt of BOA minutes of 1/22/14 granting a variance to the appellants, letter from Matt Howell to Chairman Lascelles dtd 1/15/14, application for general variance dtd 10/11/13, application for attorney or personal representative, building permit application dtd 10/4/13 Denied, Letter of Denial dtd 10/4/13, deed of distribution from David A. Weare to David A. Weare and William H. Weare, GIS map of subject property, CLD sketch plans of current and 1986 setbacks, appraisal report of subject property as of 12/18/13, e-mail from appellant to Chairman Lascelles, e-mail from chairman of Conservation Commission to CEO are all made a part of the record.

The appellants request a General Variance in regards to a decision by the Town of York Code Enforcement Office concerning required setback. Timeliness does not need to be considered because this is a variance appeal. The appellants have standing as the property owners. There were no conflicts of interest on the Board.

The relevant sections of the ordinance are §18.8.3.7, §18.8.2.4.c, §8.1.4.B, §18.8.2.4.f, §18.8.2.4.a, §8.1.4, §18.8.2.4, §18.8.2.3, 8.3.13.

The appeal was heard on August 22, 2018 and continued to September 12, 2018. Video recordings of the meetings were made as part of the official record.

Relevant facts are: 1) A general variance was granted 4 years ago and was never recorded. 2) A general variance must be recorded at the Registry within 90 days of the grant. 3) It appears that a certificate for recording wasn't prepared. 4) The same ordinance is in effect and the lot is still vacant. 5) The earlier variance was granted for a single family residence with 30 ft. setbacks, and no further

subdivision of the lot was permitted. The maximum footprint allowed was 1,000 sq. ft. 6) §18.8.2.4.a requires notification to the York County Conservation Commission and under §18.8.2.4.f the DEP must be notified. 6) The Board voted unanimously to continue the appeal until both agencies had a chance to provide input. Neither agency objected to granting the variance. 7) The 4 criteria for a variance were reviewed and found to be still met. The setbacks and footprint would remain the same. 8) §8.1.4 re: Shoreland Overlay Zone limits dwellings to single family

MOTION: Motion by Mr. Swant seconded by Mr. Kraus: The Board finds that all undue hardship criteria of §18.8.2.3 have been met as have Shoreland Overlay District Standards §8.1.1 through §8.1.5, Standards for Review of Shoreland Permits §18.2.6 and per §18.8.2.4.d.2 and §8.1.4.A and hereby grants the following General Variance: One single family “residential dwelling unit” with a footprint of no more than 1,000 sq. ft. may be placed as shown on the CLD Consulting Engineers Sketch Plan of Tax Map 6 Lot 8 dated Jan. 2014 with a front setback of 30 ft. from the “Current Right-Of-Way Limits” and a Side setback of 30 ft. from the side boundary of Map 6 Lot 9. Upon utilization of this Variance by the owner of record and as evidenced by the recording thereof, the following conditions shall apply: 1) there shall be no further division of the instant 8.85 acre parcel (identified as Tax Map 6 Lot 8); 2) there shall be no accessory structures placed on the parcel; 3) the driveway/parking area shall be located as shown on the CLD Sketch Plan dated Jan. 2014 and shall be constructed of pervious material and designed to mitigate the flow of any run-off into the adjacent Wetland area as much as possible; and 4) land owner shall comply with all applicable provisions of the Shoreland Overlay District Ordinance Section 8.3, Land Use Standards.

VOTE: Passed 5-0 (In favor Mr. Lascelles, Mr. Carr, Mr. Swant, Mr. Kraus and Mr. Manougian).

Opposed: None

Judgment on Findings of Fact: September 26, 2018

Approved: 4-0-1 (In Favor: Swant, Kraus, Manougian & Lascelles Opposed : NONE Abstained: Carr)

 9/27/2018