

Center Harbor Zoning Board of Adjustment
P.O. Box 140
Center Harbor, NH 03226

Town Office Section Only

Case No. 2018-1105 A

Date Filed: Oct 18, 2018

Received By: Aimee

Application for an Equitable Waiver of Dimensional Requirements

Name of applicant: David M Dolan, LLS; David M Dolan Associates, PC

Address: PO Box 1581, Center Harbor, NH 03226

Owner: Slava Gaufberg
(if same as applicant, write "same")

Location of property: Tax Map 215 Lot 23; 542 Dane Road
(Street, number, tax map & lot number)

NOTE: This application is not acceptable unless all required statements have been made. Additional information may be supplied on a separate sheet if the space provided is inadequate.

APPLICATION FOR AN EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

An Equitable Waiver of Dimensional Requirements is requested from article V
paragraph 5:11:3 of the zoning ordinance to permit a recently constructed two-story addition
located a distance of 69.7 feet from the shoreline, 75 feet required

1. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town _____

or

Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser _____
See Attachment _____

_____ and how the violation was not an outcome of ignorance of the law or a bad faith but resulted from a legitimate mistake

see attachment

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of the property in the area _____

see attachment

4. Explain how the cost of correction far outweighs any public benefit to be gained _____

see attachment

Applicant _____

[Signature]
(Signature)

Date 10/17/18

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**Application for a
Request for an Equitable Waiver
Slava V. Gauferg
Tax Map 215 Lot 23
542 Dane Road**

Abutter's List

Map	Lot	Lot Owner
Owner of Record:		
215	23	Slava V. Gauferg 25 Swan Road Winchester, MA 01890
Owner's Agent:		
		David M. Dolan, L.L.S. David M. Dolan Associates, P.C. PO Box 1581 Center Harbor, NH 03226
Contractor:		
		Joe Keller Aztec Woodworks 116 Holland Street Moultonborough, NH 03254
Plan for Sewage Disposal System:		
		Peter S. Schauer 138 Cross Brook Road Loudon, NH 03307
Abutters:		
215	22	Matthew and Susan B. Weatherbie POB 269 Center Harbor, NH 03226
215	24	James Swain and Elizabeth Peress 141 East Lane Stamford, CT 06905
215	9	Amanda J. King and Clinton C. King POB 253 Meredith, NH 03253
215	8	Carol A. Sullivan Revocable Trust POB 1044 Center Harbor, NH 03226

**SLAVA GAUFBERG
TAX MAP 215 LOT 23
542 DANE ROAD, CENTER HARBOR**

**Attachment to Application for
An Equitable Waiver of Dimensional Requirements**

The property is part of a subdivision approved by the Center Harbor Planning Board in 1978. (Lot 2 on a plan entitled "Plan of Subdivision for Owner Coosauke Corporation ..." recorded at Belknap County Registry of Deeds Book 68 Page 63.) The lot is approximately 4.09 acres in area, and has over 300 feet of frontage on both Squam Lake and Dane Road. The original dwelling was constructed in the late 1970's, per the Town of Center Harbor Assessor's records, available online.

The property is heavily wooded, with a cleared area encompassing the existing dwelling, and the shorefront area in the vicinity of the dock.

The property is served by a private well and an on-site private sewage disposal system (NH-DES Construction Approval Number eCA2016120614-A, for a 3 Bedroom dwelling). Electricity, telephone, and CATV are provided by above-ground facilities which will not change.

The 'grandfathered' portion of the existing dwelling is located 43.2 feet from the shoreline of Squam Lake. In 2017 an addition to the building was constructed, extending the building in a southerly (away from the lake) and westerly. A portion of the 'recently constructed addition' is in violation of the required 75 foot setback from the lake.

The portion of the 'recently constructed addition' that is in violation of the 75 foot setback is located a distance of 69.8' feet from the lake, and has a footprint area of approximately 42.5 square feet.

1. **Explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser:**

Plans provided to the Town as part of the Building Permit application for the 2017 building addition depicted the required 75' foot setback, as well as the shoreline location. The proposed building addition was depicted as being compliant with required 75 foot shoreline setback. This office was recently hired to perform a survey and prepare a plan of a portion of the property, as needed for permitting and applications as needed for the construction of a proposed attached deck. In the execution of our work, it was discovered that the required shoreline location, and thus the 75 foot shoreline were incorrectly depicted on the plans as submitted for the

2017 building addition, and that a portion of the 'recently constructed addition' was in violation of the required 75 foot setback.

- 2. The violation was not an outcome of ignorance of the law or a bad faith but resulted from a legitimate mistake.**

The violation appears to be a legitimate mistake in the drafting of the 75 setback, as being drawn from the location of the location of the lake, based on the location of the water as mapped at the time of field work, rather than the correct location of the "Full Lake Elevation" of 562.5 of Squam Lake.

- 3. The dimensional violation does not constitute a public or private nuisance, nor diminish the value or interfere with future uses of other properties in the area:**

The portion of the 'recently constructed addition' that is in violation of the 75 foot setback is located a distance of 69.8' feet from the lake, and has a footprint area of approximately 42.5 square feet.

The subject addition is located at a greater distance from the lake than the existing grandfathered 'non-conforming' dwelling.

Mature trees surround the existing dwelling, and provide a visual buffer between the existing dwelling and the lake, as well as abutting properties. Those trees will remain and continue to provide the same benefit to the general public and those abutting properties.

The addition does not result in a visual impact on surrounding properties. The addition has also resulted in an improvement in the value of the property, and is not anticipated to diminish surrounding property values.

- 4. Explain how the cost of correction far outweighs any public benefit to be gained.**

The 'recently constructed addition' is two story constructed on a concrete foundation. The removal of the triangular shaped 43 square foot portion of said addition, and modification of the remaining portion of the addition would provide not public benefit, as there would be virtually no visual impact to neighboring properties or the general public. The cost to remove and modify that portion of the structure would cost tens of thousands of dollars, which greatly outweighs any public benefit to be gained.