

APPLICATION FOR A VARIANCE
TOWN OF CENTER HARBOR - ZONING BOARD OF ADJUSTMENT

Name of Applicant: David M Dolan, LLS; David M Dolan Associates, PC; Agent

Owner: Slava Gauferg

(If different from applicant)

Physical Address: 542 Dane Road

Mailing Address if different: Agent: PO Box 1581 Center Harbor, NH 03226

Email: agent: ddolan@dolansurvey.com Phone: 603-253-8011

Map 215 Lot: 23

Town Office Section Only

Case No. 2018-1105B

Date Filed: OCT 18, 2018

Received By: Aimee

****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. According to the Center Harbor Zoning Board of Adjustment By-Laws, Section 6 (b), the application shall be read into the record by the applicant, applicant's designee or clerk ****

A variance is requested from article V section 5:11:3 of the zoning ordinance to permit construction of an attached deck located a distance of 48' from the shoreline, 75' required.

Facts in support of granting the variance:

1. Granting the variance would not be contrary to the public interest because:

See Attached

2. If the variance were granted, the spirit of the ordinance would be observed because:

See Attached

3. Granting the variance would do substantial justice because:

See Attached

4. If the variance were granted, the values of the surrounding properties would not be diminished because:
See Attached

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

See Attached

and:

ii. The proposed use is a reasonable one because:

B. Explain how, if the criteria in subparagraph (A) are not established, and unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Applicant Signature:  Date: 10/17/16

Application for Variance

**Slava V. Gauferg
Tax Map 215 Lot 23
542 Dane Road**

Abutter's List

Map	Lot	Lot Owner
<hr/>		
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 A Variance

A variance is requested from Article 5 Section 5:11:3 of the zoning ordinance to permit the construction of an attached deck, at a distance of 48 feet from the shore line, 75 feet required. The 'grandfathered' portion of the existing dwelling is located 43.2 feet from the shoreline of Squam Lake.

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 '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.

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.

1. Granting of the variance would be not be contrary to public interest because:

A deck is proposed, at a distance of 48 feet from the shoreline, at its nearest point. The proposed deck will be encroach no further into the shoreline setback than the existing 'grandfathered' portion of the existing dwelling – which is located at a distance of 43.2 feet from the shoreline. The balconies are located above the proposed deck, and will not increase the footprint area of encroachment. The improvements are not contrary to the public interest, as the proposed improvements will not alter the residential character of the neighborhood, nor threaten public health, safety or welfare.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The spirit of the ordinance will be observed as it will provide for the allowed residential use of the property, as zoned, without further encroachment into required setbacks, while minimizing ground disturbing activities, such as regrading

for the construction of a patio and/or retaining walls. The request will not unduly, and in a marked degree conflict with the ordinance's basic zoning objective. The essential character of the neighborhood will not be negatively impacted as the property is heavily wooded on both sides, and neighboring homes have attached open decks on the lakeside.

3. Granting the Variance would do substantial justice because:

It would allow for the provision of an outside living area, without encroaching further into the shoreline setback than the existing 'grandfathered' structure. Denying the variance would limit the accessibility to and use of the lakeside portion of the property by the applicant. Denial of the variance would not provide an outweighing gain to the general public, and loss to the applicant would outweigh negative impact to the Town or the neighborhood.

4. If the variance were granted, the values of surrounding properties would not be diminished because:

The improvements proposed will add value to the property, and will not have a visual impact on surrounding properties. This will increase the value of the property, which typically enhances neighborhood property values, rather than diminishing surrounding property values.

5. Literal enforcement of the provision of the ordinance would result in an unnecessary hardship.; as

A) owing to special conditions of the property that distinguish it from other properties in the area:

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- ii. The proposed use is a reasonable use.

The location of the existing dwelling pre-dates the required 75 foot shoreline setback. The topography of the property, specifically between the location of the existing dwelling and the shorefront portion of the property is relatively steep, limiting available area for an attached outside living area (deck or patio) on the most desirable portion of the property, that which provides a view towards the lake and mountains.

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 purpose of the ordinance is, in part, to provide a buffer along the shore of the lake. The existing buffers will be maintained.

There would be no substantial gain to the general public by denying the variance, and the request for the construction of the deck on the 'view side' of the dwelling is a reasonable use of the property.

- B) Explain how, if the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

Not applicable.