

APPLICATION FOR A VARIANCE

TOWN OF CENTER HARBOR - ZONING BOARD OF ADJUSTMENT

Name of Applicant: Joseph Battaini

Owner: Joseph & Danielle Battaini

(If different from applicant)

Physical Address: 24 Dew Point Lane, Center Harbor, N.H. 03226

Mailing Address if different: P.O. Box 1082, Worcester, MA 01613

Email: joseph.battaini@marshmma.com Phone: 508-450-8773

Map _____ Lot: _____

Town Office Section Only
Case No. <u>2018-0409</u>
Date Filed: <u>03-22-18</u>
Received By: <u>Robin/AUMS</u>

****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 _____ section _____ of the zoning ordinance to permit _____ See attached.

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:

See attached.

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.

See attached.

Applicant Signature:

Joseph B. Battana

Date:

3/19/2018

Application for Variance – Town of Center Harbor – ZBA

Joseph Battaini

Map 103 Lot 015-000

A variance is requested from 5:3:1 of the zoning ordinance to permit coverage of greater than 150 square feet within the 50 – 75 foot setback zone from lake as determined by comparison of existing conditions versus additions made resulting in net effect.

Facts in support of granting the variance:

1. and
2. Granting the variance would not be contrary to the public interest, and if a variance were granted, the spirit of the ordinance would be observed because:

See Farrar v. City of Keene, 158 N.H. 684, 691, 973 A.2d 326 (2009) and Chester Rod and Gun Club v. Town of Chester, 152 N.H. 577, 581, 883 A.2d 1034 (2005) for the development of the premises that in the first instance, the two criteria are considered together and require a determination of whether the variance would “unduly and in marked degree conflict with the ordinance such that it violates the ordinance’s basic zoning objectives.” 5:3:1 of the zoning ordinance has a limitation of 150 square feet for patio area and like improvements constructed within 50’ to 75’ of the shore. The basic objective is aesthetics and limiting runoff impact concerning the lake. The objectives are met as the design provides that runoff is contained with some placement of stone retaining walls, ample green space, and with numerous plantings at and near the shore. The improvements are of a low profile and not readily noticeable.

3. Substantial justice is done: Approximately 750 square feet of area is to be added with existing of 590 square feet of reconfigured area connecting paths, patio and outdoor entertainment areas and steps to dock. The additional impact is not contiguous with ample spacing of previous areas with plantings containing and controlling runoff. Therefore, net effect is there is no harm to the general public or to other individuals. The general public will not realize an appreciable gain from denying the variances. See generally Malachy Glen Associates v. Town of Chichester, 155 N.H. 102, 109, 920 A.2d.
4. The values of surrounding properties are not diminished: The improvements are in place, albeit through mistake under the assumption only state permitting was required. The area of improvement is landscaped with ample screening. The improvements are level to the ground or low profiles with retaining walls which overall presents a pleasing appearance to the waterfront – not diminishing surrounding properties.
5. Unnecessary Hardships: Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship means:

Because of special conditions of the property that distinguish it from other properties in the area:

- (a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (b) The proposed use is a reasonable one.

Alternatively, unnecessary hardship means that, 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.

The subject lot is irregular in shape having a bow tie appearance with the residence constructed at the wider area comprising the shore lot with other end of lot extending to Whittier Highway. The shore area of the lot falls off to the lake. Because of the sloping conditions toward the lake, the improvements constructed stabilize the slope making for stabilization to the water's edge with stone retaining and leveling of ground to slow runoff. Adjoining lots are level without the degree of sloping the subject lot presents. The general public purpose of the ordinance is for aesthetic and natural conditions for runoff containment. Because of the special conditions, runoff comes from the top of the property and through a narrow neck that funnels runoff to the shore. The improvements make for a more controlled condition for runoff containment. The improvements are reasonable and do not alter the essential character of the neighborhood.



30 foot Abutters List Report

Center Harbor, NH
March 20, 2018

Subject Property:

Parcel Number: 103-015-000
CAMA Number: 103-015-000
Property Address: 24 DEW POINT LANE (PVT)

Mailing Address: BATTAINI, JOSEPH B. AND DANIELLE C.
11 SADDLEBRED DRIVE
LEOMINSTER, MA 01453

Abutters:

Parcel Number: 103-014-000
CAMA Number: 103-014-000
Property Address: DEW POINT LANE (PVT)

Mailing Address: DUYZMAZLAR, MEHMET H
10 SUDBURY DR
NASHUA, NH 03060

Parcel Number: 103-016-000
CAMA Number: 103-016-000
Property Address: 18 DEW POINT LANE (PVT)

Mailing Address: WATSON, HAROLD E & DEBORAH C
639 EAST SHORE RD
JAMESTOWN, RI 02835

Parcel Number: 103-021-000
CAMA Number: 103-021-000
Property Address: 217 WHITTIER HIGHWAY

Mailing Address: RICCIARDI, WM & WEED, JILL
PO BOX 1261
CENTER HARBOR, NH 03226

Parcel Number: 217-007-000
CAMA Number: 217-007-000
Property Address: WHITTIER HIGHWAY

Mailing Address: GEORGE, PAUL E & HELEN D
57 TYLER ROAD
BELMONT, MA 02478



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3/20/2018

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Center Harbor, NH

1 inch = 537 Feet

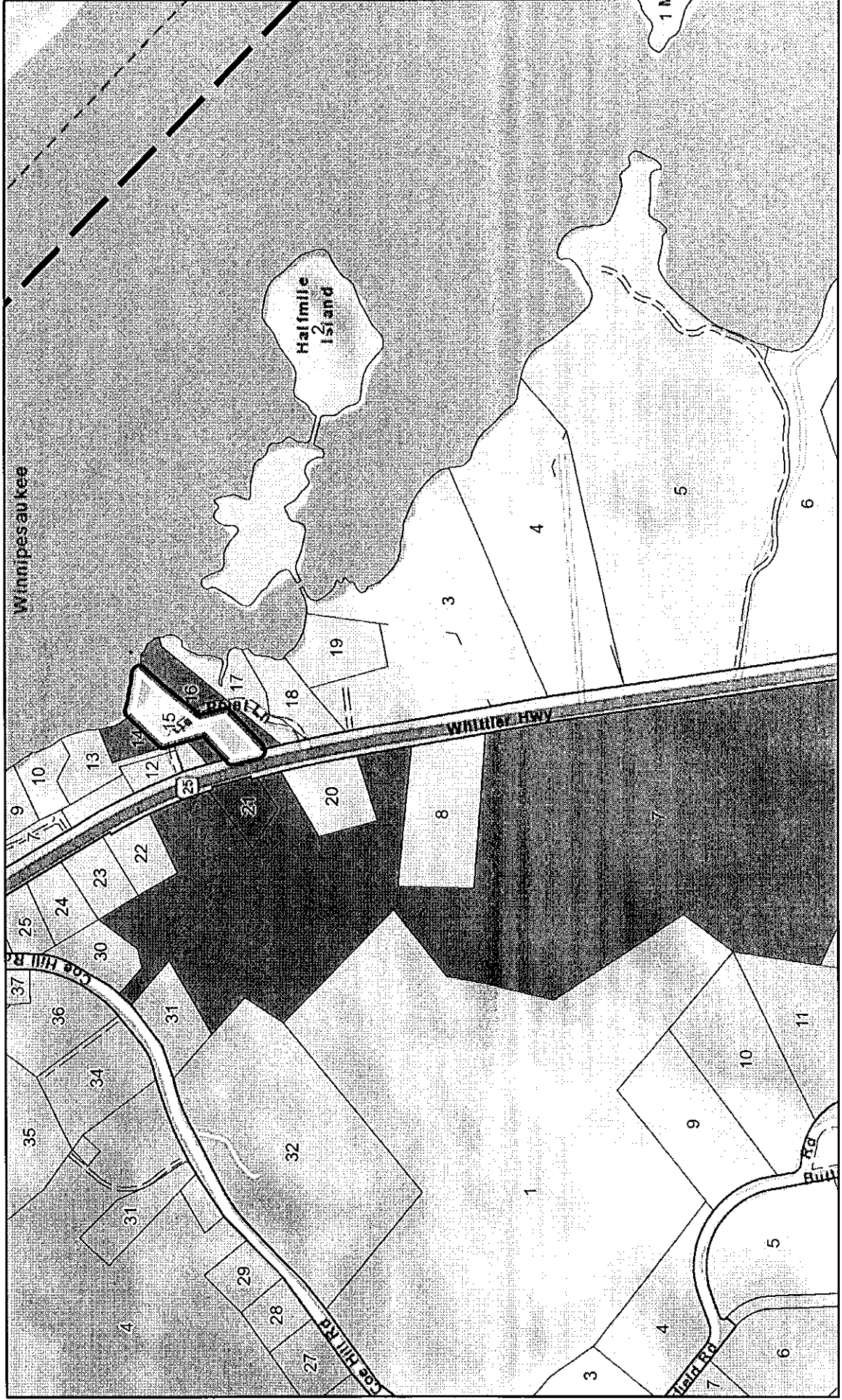
0 537 1075 1613

March 20, 2018



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ADD NATIVE PLANTINGS ALONG THE ENTIRE SHORELINE

NEW 4' GRANITE STEPS FOR ACCESS TO THE DOCK/LAKE

225 SQ FT IRREGULAR PATIO & KITCHEN BETWEEN 20-50' OF THE LAKE
(152 LN FT OF SHORELINE - 225 SQ FT OF ALLOWING ACCESS/STEPS)

890 SQ FT IRREGULAR BLUESTONE PATIO BEHIND 50'

NEW LAYOUT OF EXISTING STEPS AND LANDING PATIO. NO ADDITION IN IMPERVIOUS AREA.

LAKE WATER SAUCE V 504.32

DOCK

152 LINEAR FT OF LAKE FRONTAGE

20' SETBACK

50' SETBACK

20' SETBACK

50' SETBACK

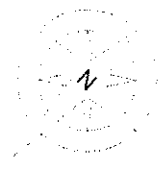
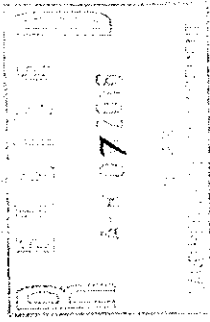
150' SETBACK

HOUSE

BARN

DRIVEWAY

DEWPOINT LAKE



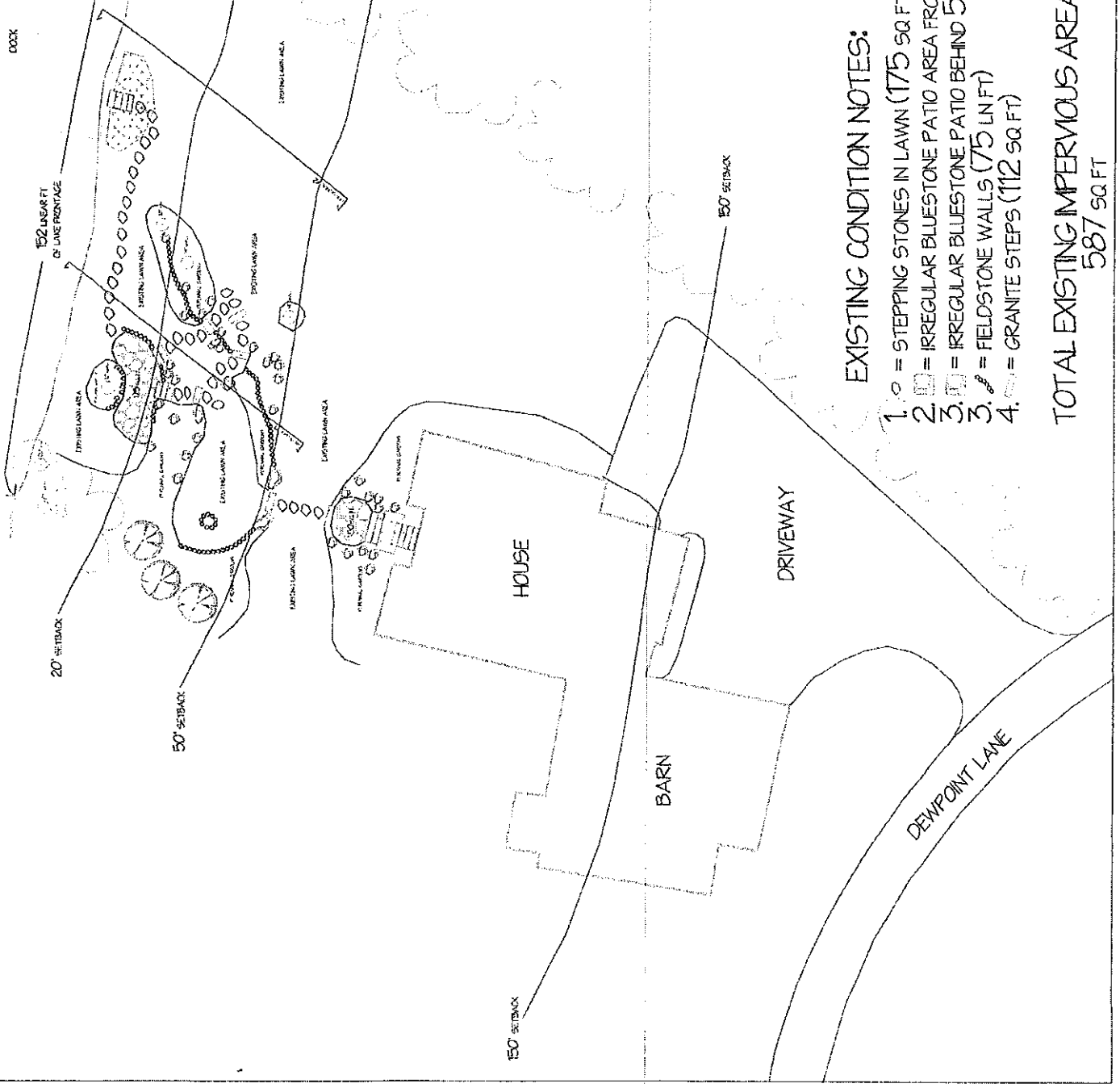
PROPOSED CONDITIONS:

- 00 1 = STEPPING STONES (90 SQ FT)
- 2 = IRREGULAR BLUESTONE PATIO/KITCHEN AREA BETWEEN 20'-50' SETBACK (225 SQ FT)
- 3 = IRREGULAR BLUESTONE PATIO/BAR BEHIND 50' SETBACK (879 SQ FT)
- 4 = FIELDSTONE BUILT WALLS TO SPLIT GRADES (50 LN FT)
- 5 = GRANITE STEPS IN NEW LAYOUT (112 SQ FT)

(TOTAL IMPACT) TOTAL PROPOSED IMPERVIOUS AREA 1336 SQ FT
 (TEMPORARY IMPACT) MINUS EXISTING IMPERVIOUS AREA - 587 SQ FT
 (PERMANENT IMPACT) EQUALS NEWLY ADDED IMPERVIOUS AREA 749 SQ FT

ADDITIONAL 150 SQ FT OF TEMPORARY IMPACT AREA ABUTTING HARDSCAPE INSTALLATIONS + 587 SQ FT = 767 TOTAL TEMP IMPACT

LAKE WINNEPEGOSIS 504.32
 DOCK



APR 07 2016

EXISTING CONDITION NOTES:

1. ○ = STEPPING STONES IN LAWN (175 SQ FT)
2. □ = IRREGULAR BLUESTONE PATIO AREA FROM 50' SETBACK TO LAKE (175 SQ FT)
3. ▤ = IRREGULAR BLUESTONE PATIO BEHIND 50' SETBACK (50 SQ FT)
3. ▩ = FIELDSTONE WALLS (75 LN FT)
4. ▨ = GRANITE STEPS (112 SQ FT)

TOTAL EXISTING IMPERVIOUS AREA =
 587 SQ FT