

Zoning Board of Adjustment
2 Town Hall Road
Newton, NH 03858
(603) 382-4405 X327



NOTICE OF DECISION

The application submitted by **Charles & Wendy Doherty Newton, NH at 20 Wilder's Grove Road, Newton, NH** for a rehearing from April 12, 2021, relating to a decision of the Newton Board of Adjustment regarding Tax Map 2, Block 4, Lot 31, to wit:

(Granting) a special exception to Mr. and Mrs. Charles and Wendy Doherty located at 20 Wilders Grove, tax map 2-4-31. A special exception will be granted to permit the reconstruction of a structure within the shoreline protection district if all the following conditions are found to be assessed. Reference Newton zoning law section XXIX, (section 3) shoreline protection district overlay to be reviewed and enforced by the Newton building inspector. We are requiring the Doherty's to remove 7 feet (from the newly built deck).

In rehearing the ZBA reviewed the evidence; reviewed the new applications supplied; and took testimony from the applicants and abutters. The ZBA found the following:

As regards: A variance from **SECTION XXIX SHORELAND PROTECTION DISTRICT (OVERLAY)**

III. PERMITTED USES

- a) *Any use otherwise permitted by the Zoning Ordinance and by State and Federal laws that does not involve the erection of a structure and does not alter the surface configuration of the land by the addition of fill or by dredging, except as a common treatment associated with a permitted use, and provided that a buffer strip of natural vegetation 75 feet in width along Country Pond, and 50 feet in width elsewhere, be maintained between the area of use and the shoreline.*

The ZBA found that the criteria were not met, and the **Variance was denied on a vote of 3 to 2**. The ZBA stipulated that granting the Variance would not do substantial justice nor was there any evidence of a hardship if denied.

As Regards: a special exception from SECTION XI NON-CONFORMING LOTS, STRUCTURES, AND USES

3. EXPANSION OF NON-CONFORMING STRUCTURES

Non-conforming structures may be expanded in accordance with the terms of a special exception issued by the Zoning Board of Adjustment, which must find the following factors to exist before issuing such a special exception:

- a. The proposed expansion must intrude no further into any setback area than does the existing structure.*
- b. The expansion must have no further adverse impact on the view, light and air of any abutter.*
- c. The expansion must not cause property values to deteriorate.*
- d. The expansion must not impede existing rights of access or egress.*
- e. That portion of the proposed expansion, which will intrude into the setback, must, in no event, exceed the footprint square footage of that portion of the structure which presently intrudes into the setback, regardless of the number of applications made over time under this subsection.*
- f. In the event the non-conforming structure contains a commercial use, there must be no adverse impact on access, traffic, parking, lighting or other safety or visibility features of the existing structure.*
- g. A special exception under this subsection may be granted only as to expansions into the side, front, and rear setbacks, and is not available for expansions which violate height restrictions of this ordinance.*

The ZBA found that the criteria were not met, and the **Special Exception** was denied on a **vote of 3 to 2**. The ZBA stipulated in denying the special exception that factors A & E were not met

As Regards: a variance from SECTION XI NON-CONFORMING LOTS, STRUCTURES, AND USES

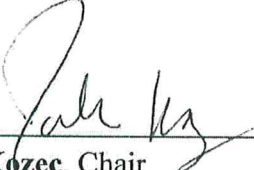
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- c. *The expansion must not cause property values to deteriorate.*
- d. *The expansion must not impede existing rights of access or egress.*
- e. *That portion of the proposed expansion, which will intrude into the setback, must, in no event, exceed the footprint square footage of that portion of the structure which presently intrudes into the setback, regardless of the number of applications made over time under this subsection.*
- f. *In the event the non-conforming structure contains a commercial use, there must be no adverse impact on access, traffic, parking, lighting or other safety or visibility features of the existing structure.*
- g. *A special exception under this subsection may be granted only as to expansions into the side, front, and rear setbacks, and is not available for expansions which violate height restrictions of this ordinance.*

The ZBA found that the criteria were not met, and the **Variance** was **denied** on a **vote of 4 to 1**. The ZBA stipulated that granting the Variance would not do substantial justice nor was there any evidence of a hardship if denied.



John Kozec, Chair
 Newton Zoning Board of Adjustment
 August 16, 2021

cc:

Charles & Wendy Doherty

Building Department	Fire Department	Fire Department	Police Department
Health Department	Conservation Commission		Board of Selectmen
Assessor's Office	Planning Board	ZBA Files	

Any person affected has a right to appeal this decision. If you wish to appeal, you must act within thirty (30) days of this notice. The requirement for a rehearing been met and any further action must be taken with the N. H. Superior Court in Rockingham County. See New Hampshire Statutes, RSA Chapter 677, for details.