

Town of Sanford
Zoning Board of Appeals

917 Main Street, Suite 300
Sanford, Maine 04073
(207) 324-9145 Fax (207) 324-9166

September 10, 2012

To: Michael Hall & Jessica Durgin
33 Farview Drive
Sanford, ME 04073

Dear Michael Hall & Jessica Durgin:

This is to inform you that the Board of Appeals has voted to act on your application for a Dimensional Variance as presented in our meeting of September 10, 2012.

A. Findings of Fact

1. Name of applicant: Michael Hall & Jessica Durgin
2. Mailing address: 33 Farview Drive, Sanford, ME 04073
3. Telephone: 207-432-3625
4. Location of property for which variance was sought: 93 Brown Road, Sanford, Maine
5. Tax Map - Lot Number: Map R20 – Lot 21
6. Zoning district in which property is located: Rural Residential zone & Shoreland zone
7. Name of current property owner: Michael Hall & Jessica Durgin
8. The applicant is the owner of record according to the current records of the Town of Sanford.
9. The applicant has requested a Dimensional Variance from the required 75-foot high water line setback of the Shoreland zone.
10. A hearing on the variance request was conducted on September 20, 2012 before the Board of Appeals, with 6 of the 7 members present.

B. Conclusions of Law

1. The evidence **does not** establish that the land in question cannot yield a reasonable return unless a variance is granted because the original variance was granted for the house without a deck. Board voted 6 in favor, 0 against.
2. The evidence **does** establish that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood because the property is located on a grandfathered lot with water on 2 sides controlled by a dam. Board voted 6 in favor, 0 against.
3. The evidence **does** establish that granting the variance will not alter the essential character of the locality because of the similar nature of the property to the other waterfront cottages. Board voted 6 in favor, 0 against.

4. The evidence **does not** establish that the undue hardship is not the result of action taken by the applicant or a prior owner because given the evidence of a previous ZBA 1985 variance submission of a site plan which shows a setback of 75 feet without a deck. The construction of the deck by the previous owner violated the shoreland setback and was done without the benefit of a permit and is the fault of the previous owner. Board voted 6 in favor, 0 against.

C. Decision

On the basis of the foregoing Findings of Fact and Conclusion of Law, the Board of Appeals voted 6 to 0 to **deny** the dimensional variance. The application **does not** meet the undue hardship criteria for a dimensional variance because 2 of the 4 criteria were not met. Board voted 6 in favor, 0 against.

D. Conditions

None

E. Appeals

Parties aggrieved by this decision may appeal it to Superior Court within 45 days of the date of decision September 10, 2012 pursuant to 30-A M.R.S.A. 2691 and 4353 and Maine Rule of Procedure, Rule 80B.

Date: September 10, 2012

Applicant: Michael Hall & Jessica Durgin