



## Decision

December 9, 2016

On December 1, 2016, the Brookfield NH Zoning Board of Adjustment considered the application of Zip Tie LLC for a special exception or Variance with respect to Map 28 Lot 3.

The board first deliberated and agreed that the application should be considered as a special exception and not a variance. This determination was supported by Article IV A (Non-Conforming Lot) of the Brookfield zoning ordinance.

The board then listened to comments by the applicant, abutters and other residents attending the meeting.

The board deliberated with regards to comments made by the applicant, abutters and the residents who spoke as well as material provided by the applicant.

### **Topics discussed were:**

- 1) The existing structure was in fact in nonconformance with the Brookfield Zoning Ordinance but was constructed prior to the adoption of the ordinance. Specifically, the existing structure was not in conformance with the required setbacks of the ordinance.

- 2) Although the proposed structure would meet the required side line setbacks, it still would not meet the frontage setback requirement of 75' to the water's edge. The plan presented to the board showed the proposed four bedroom home being constructed 52' from the water's edge not the 75' required. The board did consider that the proposed structure would conform to the 50' set back required by the Shore Land Protection Act and Mr. Gutadaro produced the approval from the State of NH, DES supporting that.
- 3) The proposed structure would still not be in compliance with the zoning requirements but would improve the situation on this pre-zoning, non-conforming lot. Those improvements would be :
  - A) State approved Septic system replacing the current outhouse
  - B) Merging the lots would eliminate one Non- Conforming lot.
  - C) Road improvements would improve access for emergency vehicles
  - D) The new structure with new wiring would reduce the possibility of a structure fire in this remote location of town.
- 4) The possibility of requiring the applicant to move the proposed structure back from the water's edge to be in conformance with the towns set back requirement. During this discussion, the applicant stated that requiring this would require him to excavate into a steep embankment that was thought to be ledge.

**The board then deliberated the merits of the application which were:**

- 1) Would approval of the application comply with the spirit of the zoning ordinance.
- 2) Would denying the application cause undue hardship to the applicant.

**The board concluded that:**

- 1) The proposed structure would maintain the rural character of the town and comply with the spirit of the zoning ordinance as specified in Article IV A1, a&b and Article IV A2, a,b and c ( Non-Conforming Lots).

2) Denying the application and requiring the applicant to excavate the steep embankment and contend with the possibility of ledge would bring undue hardship to the applicant and only result in changing the distance to the water's edge by approximately 23'.

Based on the merits of this application and the resulting improvement of the situation, the board unanimously approved the applicants request for a special exception with this approval being contingent on the applicant recording the merger of the lots at the Carroll County Registry of Deeds.

*Paul Tremblay*

*Chairman, Brookfield Zoning Board of Adjustment*