

THE ZONING BOARD OF APPEALS
TOWN OF MOUNT DESERT
21 SEA ST/PO BOX 248
NORTHEAST HARBOR, MAINE 04662

NOTICE OF DECISION OF THE ZONING BOARD OF APPEALS

APPELLANT: **OWNER(S):** Granville E. & Marjorie A. Walls, Trustee
APPLICANT(S): Lot 35, LLC
AGENT(S): Michael L. Ross, Esq.
LOCATION: 21 Mitchell Road, Mount Desert
TAX MAP: 9 **LOT(S):** 35 **ZONE(S):** Shoreland Residential 5
PURPOSE: Setback Variance (AB# 005-2012)

APPELLEE: Town of Mount Desert, Zoning Board of Appeals

The Zoning Board of Appeals, at a Public Hearing held the December 6, 2012, on the above described request, decided as follows:

Findings of Fact:

- 1) Michael Ross, Esq. appeared as the authorized agent for Lot 35 LLC.
- 2) Lot 35 LLC is the purchaser under purchase and sale agreement dated August 31, 2012, with Granville Eugene Walls Living Trust.
- 3) Property is located in Tax Map 9, Lot 35 in Shoreland Residential 5.
- 4) Variance was granted to the then owner of the property by decision of the Board of Appeals on August 25, 1986.
- 5) The application before the board was an application for clarification of the previously granted variance and for issuance of recordable variance.

MR. WALLS MOVED, WITH MR. COOMBS SECONDING, TO ADOPT THE FINDINGS OF FACT IN TOTO. MOTION APPROVED 5-0.

Conclusion of Law:

It was agreed the Conclusion was: *Going back to Section 4, to amend or clarify the variance made 26 years ago is outside the Zoning Board of Appeals jurisdiction.*

MR. COOMBS MOVED, WITH MR. BRIGHT SECONDING, GOING BACK TO SECTION 4, AND FINDING TO AMEND OR CLARIFY THE VARIANCE MADE 26 YEARS AGO OUTSIDE THE ZONING BOARD OF APPEALS JURISDICTION. MOTION APPROVED 5-0.


Decision:

1. ~~The Appeal is sustained and the matter is remanded for action consistent with this decision.~~
2. **The Appeal is DENIED; Zoning Board of Appeals lacks jurisdiction to hear it.**
3. ~~The Appeal is remanded for further proceedings.~~

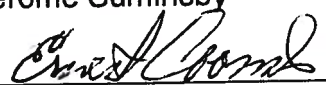
Voting in Favor:



William Ferm, Chairman



Kevin Walls

Jerome Suminsby


Ernest Coombs

James R. Bright

Edie Dunham

Julianna Reddish

Voting Against:

William Ferm, Chairman

Kevin Walls

Jerome Suminsby

Ernest Coombs

James R. Bright

Edie Dunham

Julianna Reddish