



# TOWN OF WAKEFIELD, NEW HAMPSHIRE

LAND USE DEPARTMENT

2 HIGH STREET  
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## **Notice of Decision Map 180, Lot 002 ZBA Variance - Granted**

**Applicant:** Donald Lesperance

**Date:** January 11, 2024

**Owner:** Donald Lesperance

**Location:** 21 Cosmar Drive, TM 180-0002

**Subject:** Request for a variance seeking relief from Wakefield Zoning Ordinance, Article 3, Table 3, Density and Minimum Dimensional Requirements in order to add a second story on a commercial building, with a proposed use as an Accessory Dwelling.

### **Findings:**

1. The Zoning Board of Adjustment (ZBA) conducted a site walk on January 6, 2024 to view the subject property.
2. The ZBA held a hearing on January 11, 2023 to consider the Variance Application.
3. Mr. Stewart explained to the applicant that there was not a full board present at the meeting. The applicant consented to proceed with only 4 members of the board present.
4. The subject parcel is .251 acres located in the Village Residential Zone.
5. The applicant intends to invest in exterior improvements to the structure and as part of that process seeks to add a second story apartment to live and work at the same location.
6. The increased density is a result of building a second story on the existing structure.
7. The existing structure has a 1,750 square footprint upon which the second story will be constructed. There is an existing deck beyond the building footprint. There is a proposed exterior second means of egress in addition to the second floor addition.
8. Mr. Stewart advised the applicant that there is a 30-day appeal period. Any work conducted before conclusion of that period is at the applicant's risk. It is recommended to wait until the appeal period is concluded before commencing the proposed improvements.

**Decision:**

Relative to each of the following five variance criteria, the board voted 3-0-0 to use the applicant's submission, and approve the criteria.

1. The value of surrounding properties would not be diminished, because it would update an older building, improving appearance, and likely increasing property values.
2. The variance is not contrary to the public interest because it would remain in current conditions with the proviso that it is not expanded beyond the submitted plans and the exterior egress would not be allowed to become interior livable space.
3. Granting the variance would do substantial justice because it would allow the applicant to retire and live out their life in a more comfortable setting.
4. The spirit of the ordinance would be observed because the footprint of the current building will not be increased, the addition will be for a second floor, and given the condition that it will not be expanded beyond the second floor.
5. Literal enforcement of the ordinance would result in an unnecessary hardship because the applicant has already invested in this project working with the building inspector, contractors, and bank.

**The board voted 4-0-0 to GRANT the variance request with the following conditions:**

- 1. The second floor will not be increased beyond the footprint and proposed plans as included in the variance application.**
- 2. There will be no further use of the second floor beyond what is proposed.**
- 3. The rear emergency egress will be strictly conforming to that proscribed by the building inspector and shall not be converted to livable space.**

Please note that the selectmen, any party to the action, or any person directly affected has the right to appeal this decision within 30 days from the Notice of decision. Before any appeal to the courts, the appellant must apply to the ZBA for a rehearing of the original application, but submitting a signed written request for hearing and specifying therein all grounds on which the rehearing is requested. See RSA 677:2 and 677:3 to ensure full compliance. See also RSA 677:4 for appeal procedures, in the event of a decision by the Board on motion for rehearing. The statutes are available online or in the Wakefield Land Use office.

Donal E Stewart  
Don Stewart, Zoning Board of ZBA

1/17/2024  
Date