

# NOTICE OF DECISION

## Washington Zoning Board of Adjustment

**Case No:** 20-138

**Date of Decision:** 2/1/2023



The Selectmen, any party to the action, or any person directly affected has a right to appeal this decision. For complete information, see [RSA 677:2 Rehearing and Appeal Procedures](#). This notice has been placed on file and made available for public inspection in the records of the ZBA. Copies of this notice have been distributed to the applicant and the Board of Selectmen.

<b>Applicant</b>	Nancy Caruso
<b>Address</b>	656 Highland Haven Rd
<b>Owner</b>	Nancy Caruso
<b>Lot</b>	20-138

You are hereby notified of the decision by unanimous vote of the ZBA of the following variances.

	<b>Variance</b>	<b>LUO</b>	<b>Decision</b>
<b>1</b>	Front setback of 17' 1" where 50' required	202	Deferred <sup>[1]</sup>
<b>2</b>	Side setback of 9' 8" where 25' required	403.1	Deferred <sup>[1]</sup>
<b>3</b>	Building coverage of 20.1% where 10% allowed	201.5	Denied
<b>4</b>	Impermeable coverage of 23.6% where 20% allowed	201.5	Denied

<sup>[1]</sup> The Board holds these variance requests in abeyance, without prejudice to either itself or the applicant, for possible reconsideration in a future application.

The Board's decision is subject to the following conditions subsequent.

	<b>Conditions Subsequent</b>
<b>1</b>	Prior to any request for a rehearing or the submission of a new proposal, the applicant shall file an amended permit application, correcting the arithmetic and measurement errors found on pages 4 and 6, as disclosed during the public hearing.

## References

<b>RSA 674:33</b>	Powers of Zoning Board of Adjustment	<a href="https://tinyurl.com/3s33w79d">https://tinyurl.com/3s33w79d</a>
<b>RSA 677:2</b>	Rehearing and Appeal Procedures	<a href="https://tinyurl.com/mr3erk82">https://tinyurl.com/mr3erk82</a>
<b>LUOs</b>	Washington Land Use Ordinance	<a href="https://tinyurl.com/yrdscxba">https://tinyurl.com/yrdscxba</a>
<b>Rehearing NoD</b>	Notice of Decision regarding Rehearing 7/27/2022	<a href="https://tinyurl.com/5cxekt4n">https://tinyurl.com/5cxekt4n</a>
<b>Application</b>	Application for a Variance	<a href="https://tinyurl.com/murrptc4">https://tinyurl.com/murrptc4</a>

## Findings of Fact

Variance Criteria	Satisfied?
Variations must not be contrary to the public interest	No
The spirit of the Land Use Ordinance will be observed	No
Substantial justice will be done	Undecided
The values of surrounding properties will not be diminished	Yes <sup>[1]</sup>
Literal enforcement of the Land Use Ordinance would result in unnecessary hardship	No

<sup>[1]</sup> The Board accepts the representations of the applicant in support of these variance criteria.

**[Prongs 1 & 2]:** The applicant's land coverage variances are contrary to the public interest and do not observe the spirit of the LUO

The Board concludes that the building and impermeable coverage variances unduly, and to a marked degree, conflict with the LUO such that they violate its basic zoning objectives. The

Board refers to the [Rehearing NoD Findings of Fact ¶4](#) for the justification for this determination.

## [Prong 5]: The applicant fails to identify special conditions of the property

The Board concludes that the applicant fails to identify special conditions of the property, and refers to the [Rehearing NoD Findings of Fact ¶5](#) for the justification for this determination.

Additionally, the Board concludes that, even if the claimed special conditions were established, they do not render the requested variances reasonable, due to the fact that the proposed large two-story addition to the property is overly aggressive with respect to the small size of the applicant's lot.