



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance

James R. Labrie and Eugene R. Labrie /Map 254, Lot 10

March 20, 2014

**Applicant: James R. Labrie and Eugene R. Labrie
107 Valley Road
Southampton, MA 01073**

Location: 98 Beede Road, Moultonborough, NH (Tax Map 254, Lot 10)

On March 5, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of James R. Labrie and Eugene R. Labrie (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III (B.3) & (B.4), to construct a single family dwelling, where the side setback proposed would be 13.5', and the shorefront setback proposed would be 41' where 20' and 50' respectively are required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 98 Beede Road (Tax Map 254, Lot 10).
- 2) The applicants are the owners of record for the lot.
- 3) The applicants were represented at the hearing by David M. Dolan.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The applicants are proposing to construct a single family dwelling, where the side setback proposed would be 13.5', and the shorefront setback proposed would be 41'.
- 6) The setbacks affected are the twenty foot (20') side line setback and the fifty foot (50') shoreline setback.

- 7) Members questioned the square footage of the existing grandfathered, nonconforming dwelling (planned to be demolished).
- 8) Members questioned the number of proposed floors.
- 9) Abutter Brian H. Labrie submitted a letter stating he had no objections to the variance request (encroachment) providing the applicant install a natural, vegetated buffer along their mutual property line and guaranteed for a year, as noted in his letter.
- 10) The applicant has received a NH DES Shore land Impact Permit, #2013-03374, to impact 10,760 sq. ft. in order to remove the existing dwelling and out building; construct a dwelling, driveway, new Individual Sewage Disposal System and install a well.
- 11) The applicant has received a NH DES Subsurface Bureau Approval for Construction, #CA2014116719, for a septic system sized for a 3 bedroom dwelling.
- 12) The Public Hearing was continued to March 19, 2014 to allow for an onsite visit of the property, which was held on March 14, 2014.
- 13) The Public Hearing was re-opened at the March 19, 2014 ZBA meeting.
- 14) Granting the Variance would not be contrary to the public interest as the Board felt that the encroachment into the side and lake front setbacks did not alter the character of the neighborhood nor threaten the welfare, safety or health of the public.
- 15) Granting the Variance would be consistent with the spirit of the Ordinance as the Board felt that the encroachment into the side and lake front setbacks did not alter the character of the neighborhood nor threaten the welfare, safety or health of the public, especially given the map with dimensions regarding setbacks around the immediate neighborhood.
- 16) By granting the Variance, substantial justice would not be done because there is already a reasonable use of the property which is substandard in size next to the lake, which when demolished, extinguishes any grandfathered rights, therefore any new dwelling construction must conform to the building envelope. A reasonable dwelling size could be designed for the envelope area.
- 17) Granting the Variance would not diminish the value of surrounding properties as other neighborhood properties have similar sized and aged structures.
- 18) No Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because many of the neighborhood lots are shaped like trapezoids, with narrowing building envelopes. In addition, the request is unreasonable because a dwelling may be located in the building envelope that meets the dimensional requirements and meets the square foot area needs of the applicant.

19) On March 19, 2014, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Bickford, Crowe, Onthank) and none (0) opposed to deny the request for a variance,

...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on April 2, 2014, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Nolin, Bickford, Crowe, Hopkins), none (0) opposed.

The decision made to deny the variance on March 19, 2014 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 4-4-2014