



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision - DENIAL** **Request for Variance** **David DeVito /Map 282, Lot 27**

**April 21, 2014**

**Applicant: David DeVito**  
**12 Arlington Pond Court**  
**Salem, NH 03079**

**Location: 23 Adams Shore Road, Moultonborough, NH (Tax Map 282, Lot 27)**

On April 16, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of David DeVito (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III (B.3), to construct a deck attached to a garage structure located 13 ft. from the side boundary line, where a minimum of 20 ft. is 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 23 Adams Shore Road (Tax Map 282, Lot 27).
- 2) The applicant is a co-owner of record for the lot.
- 3) David DeVito presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The applicant is proposing to construct a deck attached to a garage structure located 13 ft. from the side boundary line, where a minimum of 20 ft. is required. The applicant stated that it was his intent to store/park a boat under the proposed deck instead of paying for winter storage.
- 6) The setback affected is the twenty foot (20') side line setback.
- 7) Members questioned if the deck could be constructed on the other (left) side of the garage.

- 8) Members questioned the width of the proposed deck, the use of the area above the garage and the use of the deck.
- 9) The garage is currently under construction at this time. The deck was not in the original plans and was an afterthought.
- 10) Abutter Muriel B. Gagne submitted a letter stating she had no objection to the variance request.
- 11) No members of the public spoke in favor or against the Variance request.
- 12) Granting the Variance would not be contrary to the public interest as the Board felt that the encroachment into the side setback did not alter the character of the neighborhood nor threaten the welfare, safety or health of the public.
- 13) Granting the Variance would be consistent with the spirit of the Ordinance as the Board felt that the encroachment into the side setback 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 and the fact the abutting parcel was a septic system only lot and the next parcel over was a conservation only lot.
- 14) By granting the Variance, substantial justice would not be done because there is already a reasonable use of the property which is a dwelling structure and garage structure now under construction. There are no other special features on the lot other than the siting of the garage that would make no granting the request an injustice to the applicant.
- 15) Granting the Variance would not diminish the value of surrounding properties as it would be new construction.
- 16) No Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because the garage could have been situated farther over to the left, thereby allowing for the deck's construction. In other words, the hardship was self-made in this case.
- 17) On April 16, 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,

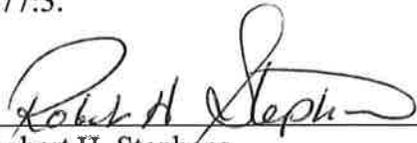
...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on May 7, 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, Zewski, Hopkins), none (0) opposed.

The decision made to deny the variance on April 16, 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 5-9-2014