



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Todd A. & Brenda M. Pulis/Map 271, Lot 13

July 9, 2014

**Applicant: Todd A. & Brenda M. Pulis
112 Deerhaven Road
Moultonborough, NH 03254**

Location: 112 Deerhaven Road, Moultonborough, NH (Tax Map 271, Lot 13)

On July 2, 2014, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Todd A. & Brenda M. Pulis (hereinafter referred to as the "Applicant" and/or "Owner") to obtain an Expansion of a Nonconforming Residential Structure greater than 20% maximum Variance from MZO Article VII (E) (1) to permit the expansion of an existing nonconforming dwelling structure by constructing an attached garage addition of 1200 sq. ft. that would meet all dimensional requirements of the ordinance on the parcel located in the Residential Agricultural (RA) Zoning District.

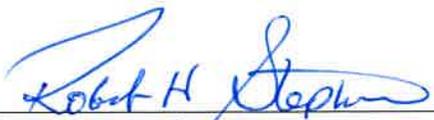
Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 112 Deerhaven Road (Tax Map 271, Lot 13).
- 2) The applicants are the owners of record for the lot.
- 3) The applicants were represented at the Public Hearing by Christopher L. Boldt, Esquire. Present for the hearing was Todd Pulis.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 5) The proposal is for the construction of an attached garage without living space outside of the 50 foot setback from Lake Winnepesaukee as an addition to an existing nonconforming structure partially built within that 50 foot setback.
- 6) The existing house was built circa 1990 prior to the enactment of the 50 ft. lake front setback and 50 ft. stream setback requirements and the 2013 amendment of MZO Article VII (E) (1).

- 7) The existing house is located with a small portion within the 50 ft. setback from the Lake and an additional portion within the 50 ft. stream setback.
- 8) The attached garage will meet all dimensional requirements of the ordinance.
- 9) No members of the public spoke in favor or against the Variance request.
- 10) One abutter submitted a letter supporting the granting of the Variance.
- 11) Granting the Variance would not be contrary to the public interest as the addition will employ storm water best practice treatments for ensuring best water quality to the lake.
- 12) Granting the Variance would be consistent with the spirit of the Ordinance because the residential use is a permitted one, therefore expanding the use is not contrary to the intent of the ordinance, and the addition will be constructed entirely within the existing building envelope.
- 13) By granting the Variance, substantial justice would be done because there is no public benefit to be gained, while the loss to the applicant would be great.
- 14) Granting the Variance would not diminish the value of surrounding properties as the property would more closely resemble the neighboring properties development and it is new construction in keeping with the residential character of the neighborhood.
- 15) A literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because the intent of this provision is to sunset nonconforming uses in a zoning district by not allowing them to expand (or capping said expansion), and in the instant case, this is not a nonconforming use, therefore the ordinance provision itself is the hardship.
- 16) On July 2, 2014, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, Crowe) and none (0) opposed to grant 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 July 16, 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, Zewski, Crowe, Hopkins), none (0) opposed.

The decision made to Grant the variance on July 2, 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 7/18/2014