



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision Request for Variance Hettie Buck, Trustee/Map 107, Lot 21

September 18, 2014

**Applicant: Hettie Buck
13 Heatherwood Drive
Moultonborough, NH 03254**
Location: 13 Heatherwood Drive, Moultonborough, NH (Tax Map 107, Lot 21)

On September 17, 2014 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Hettie Buck (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III.B (3), to allow the construction of a 20 ft. x 24 ft. carport located 5 ft. from the side boundary line 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 13 Heatherwood Drive (Tax Map 107, Lot 21).
- 2) Hettie Buck is owner of record for the lot.
- 3) Hettie Buck presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The side setback requirement for the parcel is twenty (20) feet from the property line.
- 6) No members of the public spoke during the public hearing.
- 7) Granting the Variance would not be contrary to the public interest as there is a woodland buffer that mitigates the need for a full setback on the lot, and the proposed carport in the proposed location does not alter the essential character of the neighborhood.

- 8) Granting the Variance would be consistent with the spirit of the Ordinance because the proposed carport does not alter the essential character of the neighborhood, and the woodland buffer serves the purpose of the setback requirement in this instance.
- 9) By granting the Variance, substantial justice would be done because the harm to the applicant would be great, while the gain to the public would be none because the applicant cannot reasonably construct a garage or carport in any other location because of physical issues, and allowing it does not affect the public in any way because the buffer acts as a required setback distance would.
- 10) Granting the Variance would not diminish the value of surrounding properties as the new construction would increase the property value and that the benefit from the relief given outweighs any gain to the public interest from strictly adhering to the requirements of the ordinance.
- 11) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as there are special conditions of the property that distinguish it from other properties, such as size, shape, steep slopes, location of existing septic field and the carport cannot be reasonably located anywhere on the property except for the proposed location. In addition, others in the neighborhood have garages.
- 12) On September 17, 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 to Grant the Variance to allow construction of a 20 ft. x 24 ft. carport located 5 ft. from the side boundary line

The Board of Adjustment, on November 5, 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 four (4) in favor (Stephens, Nolin, Bickford, Crowe), none (0) opposed.

The decision made to Approve the variance on September 3, 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 11/6/2014