



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Denial of Request for Variance - Garage Wendy Castleberry Revocable Trust 2008; Wendy Castleberry, Trustee/ Map 171, Lot 3

October 17, 2012

**Applicant: Wendy Castleberry, Trustee
Wendy Castleberry Revocable Trust 2008
PO Box 1467
Center Harbor, NH 03226**

Location: 82 Alpine Park Road, Moultonborough, NH (Tax Map 171, Lot 3)

On October 3, 2012 the Zoning Board of Adjustment of the Town of Moultonborough considered the request and opened a public hearing on the application of the Wendy Castleberry Revocable Trust 2008; Wendy Castleberry, Trustee (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III, B (4) to allow for the reconstruction of a garage located 14.3' from the side line property line for 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 82 Alpine Park Road (Tax Map 171, Lot 3).
- 2) The applicant is the owner of record for the lot.
- 3) The applicants were represented at the Public Hearings by Nicol Roseberry of Ames Associates.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The applicants are proposing to demolish the existing nonconforming (as to side setback) garage and to construct a new garage located within the 20' sideline setback.
- 6) No members of the public spoke for or against the Variance request.
- 7) Granting the Variance would be contrary to the public interest because once the existing nonconforming garage is demolished, a new garage could be constructed that is conforming that would add to the buffer between abutting properties.

- 8) Granting the Variance would not be consistent with the spirit of the Ordinance because the underlying intent of the ordinance is to, through time and fairness, eliminate nonconformities, not to perpetuate them, especially where conformity with reasonableness for the owner is possible.
- 9) By denying the Variance, substantial justice is done as the proposed garage could be constructed within the building envelope.
- 10) The values of surrounding properties would not be diminished as the proposed structure would replace an older, substandard garage.
- 11) There is a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because the proposed demolition of a nonconforming structure and subsequent construction of another nonconforming structure does not need to occur on this property since a conforming garage could be constructed that is functional and meets the needs of the property owner.
- 12) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Crowe, Bickford) 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, to be reviewed by the Board at the October 17, 2012 Regular Meeting.

The Board of Adjustment, on October 17, 2012, approved by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, King) and none (0) opposed, this formal Notice of Decision and authorized the Chairman to sign the Notice of Decision and to send to the applicant and place same in the case file.

The decision made to Deny the variance on October 3, 2012 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 10.17.2012