



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Carlene Porter-Holmes and Myron Holmes/Map 74, Lot 14

December 15, 2010

**Applicant: Carlene Porter-Holmes and Myron Holmes
143 Lees Mill Road
Moultonborough, NH 03254**

Location: 143 Lees Mill Road, Moultonborough, NH (Tax Map 74, Lot 14)

On November 17, 2010 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Carlene Porter-Holmes and Myron Holmes (hereinafter referred to as the "Applicant" and/or "Owner") for a Variance from Article III (B)(1) to allow for new construction of a twenty (20) foot by twenty (20) foot attached garage with connecting stairway to the house on the parcel located in the Agricultural Residential (AR) Zoning District to be located with the required front setback.

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 143 Lees Mill Road (Tax Map 74, Lot 14).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Agricultural Residential (AR) Zoning District.
- 4) The applicants' representative waived their right to a five (5) member Board of Adjustment, there being only four (4) members present and able to review the application on November 17th.
- 5) The proposal calls for new construction of a twenty (20) foot by twenty (20) foot attached garage and stairway to the existing house on the residential lot.
- 6) The proposed addition would be located within the fifty (50) foot front setback to roadway centerline and the twenty-five (25) foot setback from Right Of Way.

- 7) There is a small brook on the approx. ½ acre lot with a fifty (50) wetlands foot setback that the applicant cannot build within.
- 8) During the Public Hearing, it was indicated by Mr. Hopkins that the application requested relief from Art. III (B)(1) for the fifty (50) foot road setback, but would also be within the twenty-five (25) foot front setback from the Right Of Way and that both kinds of relief would be necessary. The applicant requested, and was granted by the Board, an amendment to their application to add relief from the Right Of Way setback as well.
- 9) The Board requested that the approximate distance from the centerline and Right of Way setback be indicate on the plans by the applicant, and continued the Public Hearing to December 1, 2010 to allow the applicant time to get these figures.
- 10) The Public Hearing was re-opened at the December 1, 2010 ZBA meeting with five (5) Board members in attendance.
- 11) The applicants indicated that the proposed attached structure would be approximately sixteen (16) feet from the Right of Way and twenty-five (25) feet from the centerline of the roadway.
- 12) The applicant indicated that there were nine (9) other houses on Lees Mill Road, eight (8) of which had attached garages.
- 13) A letter from Verne L. Richardson was submitted to the ZBA regarding an easement on the site. It was indicated that the easement was on the other side of the house and did not effect the application currently before the Board.
- 14) No members of the public wished to speak on the application.
- 15) Mr. Hopkins asked if any other locations on the lot were considered for the location of the garage, such as the location of the structurally reinforced septic system?
- 16) Granting the Variance will not be contrary to the public interest as the location of the attached garage is the least-intrusive site and there are similar configurations of dwellings and attached garages on Lees Mill Road.
- 17) Granting the Variance is consistent with the spirit of the Ordinance as the proposal is allowing a reasonable use of the lot and is locating the structure outside of the wetlands setback and not within the side setbacks.
- 18) By granting the Variance, substantial justice is done.
- 19) Granting the Variance does not diminish the value of surrounding properties as the neighborhood is largely comprised of single family homes with attached garages and the impact to the brook is avoided.

20) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the lot size was determined prior to the current zoning ordinance being in effect and the location of the brook on this ½ acre lot creates a hardship for the reasonable use of this land.

21) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Hopkins, Nolin, Heal, Zewski), and none (0) opposed to continue the Public Hearing to December 15, 2010, and to direct the Town Planner to draft a Notice of Decision to Grant the Variance with the condition that the Road Agent approve the location of the driveway, to be reviewed by the Board at the December 15, 2010 Regular Meeting.

The Public Hearing was continued to December 1, 2010, and December 15, 2010. The Board of Adjustment closed the Public Hearing on December 15, 2010. Based on the above Findings of Fact, the Board of Adjustment voted by a vote of three (3) in favor (Stephens, Roseberry, Zewski), none (0) opposed, to **GRANT** the request for variance with the following conditions:

- 1.) The Road Agent must approve the driveway location.

This decision 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 _____