



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Variance Articles 3.2.2.1, 3.2.2.3 & 4.7.1.6.4

David & Nelia Amato

Tax Map 173, Lot 20

July 19, 2023

Applicant: David & Nelia Amato
205 Hanson Drive
Moultonborough, NH 03254

Location: 205 Hanson Drive, Moultonborough, NH (Tax Map 173, Lot 20)

On July 19, 2023, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of David & Neila Amato (hereinafter referred to as the "Applicant" and/or "Owner"). The Applicant requested Variances from MZO Sections 3.2.2.1, 3.2.2.3 and 4.7.1.6.4.

At the regular meeting held on Wednesday, July 19, 2023, the Zoning Board of Adjustment (the Board) voted by a vote of five (5) in favor (Mills, McDonough, Jakobsen, Poloian, Stephens), none (0) opposed, to conditionally **grant** the variances for David & Neila Amato, Tax Map 173, Lot 20 at 205 Hanson Drive from Sections 3.2.2.1, 3.2.2.3 and 4.7.1.6.4 to allow for the construction of a detached (20' x 24') garage to be located no closer than 6.6 ft. from the from the southerly side boundary line, where 20 ft. is required, no closer than 15.9 ft. from the edge of the R.O.W, where 25 ft. is required, and to allow construction which will increase impervious cover percentage beyond 20% on a waterfront lot with less than 100 tree points per waterfront grid, without having to install tree points on the parcel located in the Residential Agricultural (RA) Zoning District.

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

- 1) The Property is located at 205 Hanson Drive (Tax Map 173, Lot 20).
- 2) David A. & Nelia G. Amato are the owners of record for the lot.
- 3) The Applicants were represented by Bryan Berlind, LLS, Land Tech.
- 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) Prior to public input, the Zoning Board voted five (5) in favor (Mills, McDonough, Jakobsen, Poloian, Stephens) that the proposal did not have the potential for Regional Impact.
- 6) The proposal is for the construction of a single-story detached (20' x 24') garage to be located no closer than 6.6 ft. from the from the southerly side boundary line, where 20 ft. is required, no closer than 15.9 ft. from the edge of the R.O.W, where 25 ft. is required, and to allow construction on a waterfront lot with less than 100 tree points per waterfront grid, without having to install tree points.
- 7) No member of the public spoke to the request for the variance.
- 8) Granting the Variance from Sections 3.2.2.1 and 3.2.2.3 will not be contrary to the public interest as the property is located near the end of a dead-end road and the garage will allow the applicant to keep their vehicles off the street, allowing greater access for fire/safety access on the street and that the proposal does not threaten public health, safety or welfare.

Granting the Variance from Section 4.7.1.6.4 will not be contrary to the public interest as a condition of approval, the applicant will be required to submit adequate drainage and plantings that will be provided to and approved by the Code Enforcement Officer as part of the Building Permit process.

- 9) Granting the Variance is consistent with the spirit of the Ordinance for the same reasons as listed above.
- 10) By granting the Granting the Variance from Sections 3.2.2.1 and 3.2.2.3, substantial justice is done as there would be a clear loss to the Applicant that is not outweighed by any gain to the community if the variance were denied. The variance will allow the Applicant to construct a garage for vehicles in a reasonable location given its size and topography.

By granting the Granting the Variance from Section 4.7.1.6.4, substantial justice is done as there would be a clear loss to the Applicant that is not outweighed by any gain to the community if the variance were denied. As a conditional off approval, the board is requiring drainage and some plantings to mitigate runoff to deal with the ecological objective.
- 11) Granting the Variance from Section 3.2.2.1 and 3.2.2.3 does not diminish the value of surrounding properties as the garage will not change the character of the neighborhood, will be new construction, and by adding storage space under the garage to store items from view and the value of the surrounding properties, therefore increasing taxes.
- 12) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the lot is the smallest in the area, the size and shape of the Property limits the location for the garage, and there are no existing trees on the lot. The proposed use is reasonable.

On July 19, 2023, the Board decided by a vote of five (5) in favor (Mills, McDonough, Jakobsen, Poloian, Stephens) and none (0) opposed to grant the request for the Variance from Sections 3.2.2.1, 3.2.2.3 and 4.7.1.6.4 for David & Neila Amato, Tax Map 173, Lot 20 at 205 Hanson Drive from Sections 3.2.2.1, 3.2.2.3 and 4.7.1.6.4 to allow for the construction of a single-story detached (20' x 24') garage to be located no closer than 6.6 ft. from the from the southerly side boundary line, where

20 ft. is required, no closer than 15.9 ft. from the edge of the R.O.W, where 25 ft. is required, and to allow construction which will increase impervious cover percentage beyond 20% on a waterfront lot with less than 100 tree points per waterfront grid, without having to install tree points, subject to the following conditions:

1. Garage limits shall be located and pinned in accordance with this approval by a NH licensed surveyor prior to construction.
2. Project shall obtain necessary state and local permits, to include approval of a town building permit, NH DES Standard Shoreland approval and all conditions of such permits shall be perpetually complied with, and all necessary inspections shall be successfully completed prior to use.
3. Project shall comply with all (other) state and local shoreland, timber and wetlands requirements, including setbacks, buffers, planting requirements, vegetation removal restrictions and impervious surface limitations.
4. Garage shall only be used as accessory to the existing single-family use. Any further changes to the structure or its use shall be subject to required approvals.
5. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
6. The applicant and owner are solely responsible for complying with the conditions of approval.
7. Per RSA 674:33, approval expires on 7/19/2025 if use is not substantially acted on.
8. The garage shall be a single-story with a walkout basement/cold storage only.
9. The existing non-conforming shed shall be removed.
10. An approved drainage and associated planting plan shall be provided to and approved by the Code Enforcement Officer as part of the Building Permit process.

Further, the Board voted 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 August 2, 2023, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision, send to the applicant and place same in the case file by a vote of four (4) in favor (Mills, McDonough, Jakobsen, Stephens), none (0) opposed, and one (1) abstention (DeMeo).

The decision made to grant the variance on July 19, 2023, 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

- cc. Scott Dvorak – Building Inspector (by email only at sdvorak@moultonboroughnh.gov)
Bryan Berling (by email only at bryan@land-tech.com)
Map Lot Document File