



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

**Robert E. Foster II and Susan B. Foster
Tax Map 132, Lot 27**

April 20, 2022

**Applicant: Robert E Foster and Susan B. Foster
211 Pleasant Street
Milton, MA 02186**

Location: 42 Toltec Point Road, Moultonborough, NH (Tax Map 132, Lot 27)

On April 20, 2022, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Robert E. Foster II and Susan B Foster (hereinafter referred to as the "Applicant" and/or "Owner") to obtain Variance from Article 3.2.3 of the Zoning Ordinance to permit the construction of a 10' x 15' addition to an existing dwelling to be located 17-ft from the northern side property line at its closest point, where 20 feet is required 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 42 Toltec Point Road (Tax Map 132, Lot 27).
- 2) The Robert E. Foster II Family Trust and the Susan B. Foster Family Trust are the owners of record for the lot.
- 3) Robert Foster presented the application for the variance.
- 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 10' x 15' two-story addition to an existing dwelling to be located 17-ft at its closet point from the northern side property line where 20 feet is required.

- 6) No members of the public spoke on the Variance request.
- 7) Granting the Variance will not be contrary to the public interest because the proposed addition will not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public as other properties have the same kinds of encroachment and it is in keeping with the neighborhood.
- 8) Granting the Variance is consistent with the spirit of the Ordinance for the same reasons as listed above.
- 9) By granting the Variance, 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 two story 10' x 15' addition to an existing dwelling.
- 10) Granting the Variance does not diminish the value of surrounding properties as the proposed addition will not change the character of the neighborhood, will be new construction, and would serve to increase property values in the neighborhood.
- 11) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the placement of the existing dwelling is along the 20-ft setback line, the lot is the narrow and the proposed use is reasonable as the Applicant is proposing a very minimal encroachment.

On May 4, 2022, the Zoning Board of Adjustment decided by a vote of five (5) in favor (St. Peter, Poloian, DeMeo, Mills, Stephens) and none (0) opposed to grant the request for the Variance from Article 3.2.3 for Robert E. Foster II and Susan B. Foster, Tax Map 132 Lot 27 to permit for the construction of a 10' x 15' two-story addition to be located 17 ft. at its closest point from the sideline setback where 20 ft. is required with the following conditions:

- 1) Project shall obtain necessary state and local permits, to include NH DES Shoreland approval and approval of a town building permit, and all conditions of such permits shall be perpetually complied with.
- 2) An approved building permit must be obtained prior to commencing construction and all necessary inspections shall be successfully completed prior to use.
- 3) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
- 4) The applicant and owner are solely responsible to comply with conditions of approval.
- 5) Per RSA 674:33, approval expires on 4/20/2024 if use is not substantially acted on.

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 May 4, 2022, 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

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case file by a vote of five (5) in favor (Stephens, St. Peter, DeMeo, Poloian, Mills), none (0) opposed, and no abstentions.

The decision made to grant the variance on April 20, 2022, 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.

A handwritten signature in black ink, appearing to read "Robert H. Stephens". The signature is fluid and cursive, with the first name "Robert" and last name "Stephens" clearly distinguishable.

Robert H. Stephens
Chairman, Zoning Board of Adjustment

cc. Scott Dvorak – Building Inspector (by email only at sdvorak@moultonboroughnh.gov)
Map Lot Document File

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