



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance** **Michael & Antoinette Mills/Map 107, Lot 11**

April 6, 2022

Applicant: **Michael & Antoinette Mills**
PO Box 403
Moultonborough, NH 03254

Location: **Deer Crossing, Moultonborough, NH (Tax Map 107, Lot 11)**

On April 6, 2022, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Michael & Antoinette Mills (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article 6.3.1 to allow for the construction of a garage on the lot as an accessory structure to the residential principal use located on adjacent parcel, Tax Map 107, Lot 14 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 on Deer Crossing, Moultonborough, NH (Tax Map 107 Lot 11).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is in the Residential/Agricultural (RA) Zoning District, and the residential use is a use allowed by right in the district.
- 4) Michael Mills presented their application for the variance.
- 5) The applicants are proposing construction a garage as an accessory structure on the Lot.
- 6) In addition to subject Lot 11, the applicants also own Tax Map 107, Lot 14 which is adjacent to Lot 11.
- 7) No members of the public spoke to the Variance request.
- 8) Granting the Variance would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood because the garage is to be used for personal and residential use only as an accessory structure to the residential principal use located on their adjacent property, Tax Map 107, Lot 14.

- 9) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #8 above.
- 10) By granting the Variance, substantial justice would be done because there is no public benefit to be gained by denying the construction of the garage, while the loss to the applicant would be great and denying it would be a substantial injustice.
- 11) Granting the Variance would not diminish the value of surrounding properties as the proposed garage will be new construction which will increase the value of the subject property and thereby increasing neighborhood valuations.
- 12) Special conditions of the property distinguish it from other properties in the area and there is not a fair and substantial relationship between the general public purpose of the ordinance by not allowing someone to have an accessory structure without a principal use in this circumstance because the Applicants live across the street. So, restricting their usage of their property which is separated only by the road, is not fair, and a garage is a reasonable use of the property.
- 13) On April 6, 2022, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, St. Peter, DeMeo, Poloian, Hopkins) and none (0) opposed to grant the request for the variance for the construction of a garage subject to the following conditions: 1) Project shall obtain necessary state and local permits, to include approval of a town building permit, and all conditions of such permits shall be perpetually complied with. 2) Garage shall only be used as accessory to the existing single-family use. Any future changes to the structure or its use shall be subject to required approvals. If garage ceases to be used as approved, necessary relief and/or approvals shall be obtained, or garage shall be removed. 3) An approved building permit must be obtained prior to commencing construction and all necessary inspections shall be successfully completed prior to use. 4) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval. 5) The applicant and owner are solely responsible to comply with conditions of approval. 6) Per RSA 673:33, approval expires on 4/6/2024 if use is not substantially acted on, and further 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 April 20, 2022, 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 five (5) in favor (Stephens, St. Peter, DeMeo, Poloian, Hopkins) and no (0) abstentions.

The decision made to grant the variance on April 6, 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.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

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