



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision Request for Variance Richard D. Jr. & Margaret Frame Tax Map 162, Lot 82**

**December 16, 2020**

**Applicant:** Richard D. Jr., & Margaret Frame  
25 Shingle Camp Hill Road  
New Hampton, NH 03256  
**Location:** 37 Jeremiah Smith Road, Moultonborough, NH (Tax Map 162, Lot 82)

On December 16, 2020, the Zoning Board of Adjustment of the Town of Moultonborough held a remote public hearing on the application of Richard & Margaret Frame (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from Article 3.0 Sections 3.1 & 3.6.1 of the Moultonborough Zoning Ordinance to permit two dwelling units on a lot where the lot does not meet unit density requirements 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 37 Jeremiah Smith Road, Moultonborough, NH (Tax Map 162, Lot 82).
- 2) The applicants are the owners of record for the lot.
- 3) Rick and Peg Frame were present at the Public Hearing, with Mrs. Frame presenting the application using the Zoom web-based platform.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and single family residential, (two-family residential with Planning Board review and approval of an application certifying that the minimum lot size requirement (unit density) for the second dwelling or unit on a lot has been met as per the requirements of Section 3.0, 3.1 and 3.1.3) are both uses allowed by right in that district.
- 5) The proposal is for the construction of two dwelling units on a lot where the lot does not meet unit density requirements.
- 6) One member of the public spoke in favor of granting the variance as requested.
- 7) Granting the Variances would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood or threaten the health, safety, or general

welfare of the public because the combined square footage of the two dwelling units is less than one average sized unit, approximately 1,600 square feet combined, and because siting two small dwellings are more beneficial for the land given its previous gravel pit history.

- 8) Granting the Variances would be consistent with the spirit of the Ordinance because the proposed construction will not alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public because the request would not result in a lessening of the buffers, light, or air between abutters.
- 9) By granting the Variances, substantial justice would be done because there is no public benefit to be gained by mandating the standard requirements, while the loss to the applicant would be great in that an adjoining structure, with foundation and walls, would need to be constructed to combine the dwellings on their own property and because of the man-made steep slopes and depressions would not be a beneficial fit.
- 10) Granting the Variances would not diminish the value of surrounding properties as the proposed construction would be new construction, thereby increasing neighborhood valuations and would be keeping with what is existing in the area.
- 11) There is an unnecessary hardship owing to special conditions of the property that distinguishes it from other properties in the area because of the prior gravel pit changing the topography of the land making steep slopes and depressions creating wet areas, and by depositing large boulders across the lot making it unique, needlessly expensive site work would be needed to remove the boulders and regrading of the slopes and that is not reasonable, and that the variance is necessary to enable the reasonable use as a residential property.
- 12) On December 16, 2020, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, St. Peter, DeMeo, Jenny) and none (0) opposed to permit two dwelling units on a lot where the lot does not meet unit density requirements subject to the following conditions: 1) The combined square footage of the two dwellings should be no more than approximately 2,000 square feet (give or take 100 sq.ft.); 2) Receipt of NHDES Septic Approval, and further to close the Public Hearing, and further 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 January 6, 2021, 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, Bickford, St. Peter, Jenny, DeMeo), none (0) opposed.

The decision made to Approve the variance on December 16, 2020, 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: January 6, 2021

cc. Map Lot Document File