



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

### **Notice of Decision**

### **Request for Variance**

**Perry QPRT Realty Trust, Stephen H. & Andrea H. Perry Trustees  
Tax Map 186, Lot 17**

**May 11, 2020**

**Applicant: Perry QPRT Realty Trust  
Stephen H. & Andrea H. Perry, Trustees  
5000 Old Buncombe Road, Suite 27-9  
Greenville, SC 29617**

**Location: 5 Ridge Road, Moultonborough, NH (Tax Map 186, Lot 17)**

On May 6, 2020, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Perry QPRT Realty Trust (hereinafter referred to as the “Applicant” and/or “Owner”) to obtain Variance from MZO Article III. B (1 & 3) and Article VII. (E) (1) to allow for the reconstruction & expansion (180 sq. ft.) of an existing non-conforming garage located 2-ft from the side property line and approximately 20-ft +/- from the front setback. The proposed new garage, with addition, to be located 2-ft from the side property line where 20 feet is required and no closer to the road than existing garage 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 5 Ridge Road (Tax Map 186, Lot 17).
- 2) The Perry QPRT Realty Trust is the owner of record for the lot.
- 3) George Longo, agent presented the application for the variance using the Zoom web-based platform.
- 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 reconstruction & expansion (180 sq. ft.) of an existing non-conforming garage located 2-ft from the side property line and approximately 20-ft +/- from the front setback. The proposed new garage, with addition, to be located 2-ft from the side property line where 20 feet is required and no closer to the road than existing garage.

- 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 because the request would not result in a lessening of the buffers, light or air between abutters, and other properties have the same kinds of encroachment and size similarities.
- 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 new 30' x 30' garage with 180 sq. ft. of additional space.
- 10) Granting the Variance does not diminish the value of surrounding properties as the new construction would serve to increase property values in the neighborhood.
- 11) A literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because the intent of this provision is to sunset nonconforming uses in a zoning district by not allowing them to expand (or capping said expansion), and in the instant case, this is not a nonconforming use, therefore the ordinance provision itself is the hardship. In addition, the proposed 30' x 30' garage will not encroach any further into the front or side setback than the existing non-conforming garage. Special conditions exists in that Bald Peak Land Company will not allow the applicant to rebuild in another location as they consider the property historical.
- 12) On May 6, 2020, the Zoning Board of Adjustment by a roll call vote, voted (5) in favor (Stephens, Bickford, DeMeo, St. Peter, Jenny) and none (0) opposed to grant the request for a variance for Perry QPRT Realty Trust, TM 186 Lot 17 for the reconstruction & expansion (180 sq. ft.) of an existing non-conforming garage located 2-ft from the side property line and approximately 20-ft +/- from the front setback. The proposed new garage, with addition, to be located 2-ft from the side property line where 20 feet is required and no closer to the road than existing garage, 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 Zoom meeting.

The Board of Adjustment, on May 20, 2020, approved this formal Notice of Decision language at their remote Zoom meeting and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a roll call vote of five (5) in favor (Stephens, Bickford, St. Peter, DeMeo, Jenny), none (0) opposed.

The decision made to Grant the variance on May 6, 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: May 21, 2020

cc. George Longo