



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Leonard & Janis Banos Moultonboro Trusts

Leonard C. & Janis LB Banos Trustees

Map 255, Lot 21

March 6, 2020

**Applicant: Leonard & Janis Moultonboro Trusts
Leonard C. & Janis LB Banos Trustees
3 Westminster Roadway
Andover, MA 01810**

Location: 51 Oak Landing Road, Moultonborough, NH (Tax Map 255, Lot 21)

On March 4, 2020, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of the Leonard & Janis Moultonboro Trusts, Leonard C. & Janis LB Banos Trustees (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III. B (3) to allow for the construction of a basement egress structure extending 10 ft into the side setback, where a 20 ft. setback is required on the parcel located in the Residential Agricultural (RA) Zoning District.

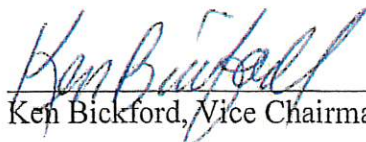
Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 51 Oak Landing Road, Moultonborough, NH (Tax Map 255, Lot 21).
- 2) The owner of the property is the Leonard & Janis Moultonboro Trusts.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 4) The applicants were represented at the Public Hearing by Robert Stephens from RH Stephens Building Contractor.
- 5) The proposal is for construction of a basement egress structure extending 10 ft into the side setback, where a 20 ft. setback is required on the parcel located in the Residential Agricultural (RA) Zoning District.
- 6) No members of the public spoke in favor of or against the request for variance.

- 7) 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 structure will have a small footprint of 60 Sq. Ft. which will not cause overcrowding or have an impact on light, air or the general welfare of the public.
- 8) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated above in number 7.
- 9) By granting the Variance, substantial justice would be done because there would be no gain to the public benefit by requiring the basement egress to be constructed entirely within the building envelope given the location of the existing dwelling, while the loss to the applicant would be great by denying an additional layer of safety (egress).
- 10) Granting the Variance would not diminish the value of surrounding properties as the proposed basement egress will not create overcrowding or change in character of the neighborhood.
- 11) There is an unnecessary hardship owing to special conditions of the property that distinguishes it from other properties in the area due to the placement of the existing home on the lot and the intrusion is minimal (60 Sq. Ft.) and will not cause overcrowding. The proposed use is reasonable given the interior basement layout this is the only option (location) to provide this additional egress.
- 12) On March 4, 2020, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Bickford, St. Peter, DeMeo, Jenny, Buy) and none (0) opposed to grant the request for the variance for the construction of a basement egress structure extending up to 10 ft into the side setback with the following condition: 1) Receipt of the NH DES Shoreland Permit by Notification, 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, at their remote meeting held on April 15, 2020, approved this formal Notice of Decision language and authorized the Vice-Chairman to sign the Notice of Decision and send to the applicant and place same in the case file. A roll call vote was taken: Nick – Aye; Rob – Aye; Rich – Aye; Ken – Aye; Bob – Abstained. Motion Carried.

The decision made to grant the variance on March 4, 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.


Ken Bickford, Vice Chairman

Date: April 17, 2020