



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Scott Strynar, Scott Strynar Landscape Architect, LLC (Agent)

Owner: James E. III, & Debra A. Morse/Map 149, Lot 35

February 7, 2019

Applicant: Scott Strynar,
Scott Strynar Landscape Architect, LLC
98 Meehan Lane
North Berwick, ME 03906

Owner: James E. III, & Debra A. Morse

Location: Berndorf Ave & Keller Street, Moultonborough, NH (Tax Map 149, Lot 35)

On February 6, 2019, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Scott Strynar, Agent for James E. III, & Debra A. Morse (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III. B (1) to allow for the construction of a single-dwelling to be located 15 ft. from the edge of the right of way, where 25 ft. setback is required 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 the corner of Berndorf Avenue & Keller Street, Moultonborough, NH (Tax Map 149 Lot 35).
- 2) The applicant is Scott Strynar, Scott Strynar Landscape Architect, LLC, Agent for the Owners.
- 3) James E. III., & Debra A. Morse are the owners of record for the lot.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, with frontage on two private roads and the residential use is a use allowed by right in the district.
- 5) The applicant is proposing construction of a single family dwelling to be located 15 ft. from the edge of the right of way, where a 25 ft. setback is required.
- 6) The setback affected is the twenty-five foot (25') from the edge of the right of way on both Berndorf Avenue and Keller Street.

- 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 it would be similar to the other dwellings in the neighborhood, and the proposed single-family dwelling would not have a negative impact on any of the other residential structures in the area.
- 9) Granting the Variance would be consistent with the spirit of the Ordinance because the proposed construction does not alter the essential character of the neighborhood and it will not change the intent of the ordinance because it would be similar to the other dwellings in the neighborhood, and the proposed single-family dwelling would not have a negative impact on any of the other residential structures in the area.
- 10) By granting the Variance, substantial justice would be done because there is no public benefit to be gained by requiring the single-family home to be constructed in a conforming location due to the restrictions of the subject property, while the loss to the applicant would be great.
- 11) Granting the Variance would not diminish the value of surrounding properties as the proposed new dwelling will be new construction will increase the value of the subject property and thereby increasing neighborhood valuations.
- 12) Special conditions exist for the subject property, such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship. The characteristics of the Applicant's lot include shape of the lot and constraints of the wetlands, street location verses right-of-way setback, and frontage on two roads. The Board determined that due to these unique conditions, a variance is necessary to enable the reasonable use of the property.
- 13) On February 6, 2019, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, St. Peter, Jenny, Onthank, Buy) and none (0) opposed to grant the request for the variance for a setback variance, 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 3, 2019, 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 three (3) in favor (Stephens, St. Peter, Buy), two (2) abstentions (Bickford, Hopkins) none (0) opposed.

The decision made to grant the variance on February 6, 2019, 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 4/4/19