



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

### **Notice of Decision Request for Variance Robert A. Mykytiuk Tax Map 99 Lot 36**

**January 16, 2019**

**Applicant:** Robert Mykytiuk  
PO Box 842  
Moultonborough, NH 03254  
**Location:** 17 Mayflower Lane, Moultonborough, NH (Tax Map 99 Lot 36)

On January 16, 2019, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Robert Mykytiuk (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III.M. (V.I.B. 1 & 4) to permit a 1,540 square foot accessory dwelling unit (ADU), where the main size shall not exceed 1,000 square feet in area and also to permit the ADU entrance to be located on the front façade of the building where the Zoning Ordinance requires that the ADU main exterior entrance be on a different side of the building on the parcel located in the Residential Agricultural (RA) Zoning District.

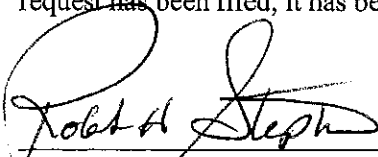
Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 17 Mayflower Lane, Moultonborough, NH (Tax Map 99 Lot 36).
- 2) The applicant is the owner of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) Robert Mykytiuk presented the application for the variance.
- 5) The proposal is to permit a 1,540 square foot Accessory Dwelling Unit (ADU), where the main size shall not exceed 1,000 square feet in area.
- 6) The existing 35' x 44' garage was constructed in 2014, prior to the adoption of the amendment to Article III of the Zoning Ordinance establishing the creation of an Accessory Dwelling Unit.
- 7) The ZBA determined an additional variance would be necessary as the Zoning Ordinance states that the main exterior entrances may not be on the same side of the building.

- 8) The Applicant amended his application during the hearing process to include relief from MZO Article III.M. (VI.B 4).
- 9) No members of the public were present for the hearing.
- 10) Granting the Variances would not be contrary to the public interest as the proposed increase in square footage 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 the second door serves as both an entrance to the garage and the ADU.
- 11) Granting the Variances would be consistent with the spirit of the Ordinance because the proposed increase in square footage 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 the second door serves as both an entrance to the garage and the ADU.
- 12) 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 the structure presently exists and moving the multi-purpose door will not benefit the general public by either denial or moving of the door.
- 13) Granting the Variances would not diminish the value of surrounding properties as the proposed construction would be new construction, thereby increasing neighborhood valuations.
- 14) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the area in question was developed prior to the 2017 ADU ordinance restricting size to 1,000 square feet, and the location of the primary ADU access to a side other than the same as the primary structure door. The request for the ADU is a reasonable use as the structure was built prior to the restriction so denial of use as an ADU is a hardship itself.
- 15) On January 16, 2019, 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 grant the request for to permit a 1,540 square foot accessory dwelling unit (ADU) where the main exterior entrance will be on the same side of the building as the existing single-family dwelling, 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 February 6, 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 five (5) in favor (Stephens, St. Peter, Jenny, Onthank, Buy) and none (0) opposed.

The decision made to grant the variance on January 16, 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 2/7/19