



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision
Request for Variance
TYBX2, LLC
Tax Map 142, Lot 2

October 18, 2018

Applicant: **TYBX2, LLC**
41 Glendale Place
Gilford, NH 03249

Location: **Whittier Highway and Redding Lane (Tax Map 142, Lot 2)**

On October 17, 2018, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of TYBX2, LLC (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article VI, C (Table of Permitted Uses) requesting to permit 14 gated residential privately owned (condominium) storage units on the property located in the Commercial A Zoning District.

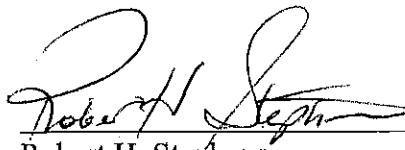
Based on the application, testimony given at the hearing, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at Whittier Highway and Redding Lane, Moultonborough, NH (Tax Map 142 Lot 2).
- 2) The owner of record for the Lot is Sharen J. Fuller Revocable Trust 2005.
- 3) The Applicants were represented at the Public Hearing by Dave Dolan of David M. Dolan Associates P.C and Steven T. Nix, Esquire.
- 4) The Lot is located in the Commercial A Zoning District.
- 5) The applicant is proposing construction of 14 gated residential privately owned (condominium) storage units.
- 6) Three members of the public spoke to the Variance request.

- 7) Granting the Variances would not be contrary to the public interests as the proposed use will not alter the essential character of the neighborhood because the property abutting to the north is developed with a high volume business and the proposed use is a low intensity commercial use and is less intense than otherwise allowed in the Commercial A zone.
- 8) Granting the Variances would be consistent with the spirit of the Ordinance for the same reasons as stated above.
- 9) A variance is required because the use is not listed in the table of uses in the zoning ordinance. The zoning ordinance allow much more intense commercial uses on the Property without a variance. There is less gain to the public by denying the variance as the proposed use is less intense than other commercial uses allowed in the Commercial A zone.
- 10) Granting the Variance would not diminish the value of surrounding properties as the property is located in Commercial Zone A and the proposed use will represent minimal value impact compared to other allowed uses that could be developed on the site without a variance.
- 11) Special conditions of the property include the location on the corner of Redding Lane. The board felt the use was not excluded but omitted from the Table of Uses when the ordinance was written. The proposed use is a reasonable use as the lot is located in the Commercial A zone
- 12) On October 17, 2018, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, St. Peter, DeMeo, Onthank) and none (0) opposed to grant the request for the variance as requested, subject to the following conditions: 1) The Applicants provide a substantial buffer between the commercial development of the Property and the residential property to the south; 2) The Applicant comply with the representation provided in the plans submitted to the Zoning Board of Adjustment in regards to the foliage depicted; 3) The requirement that the foundation be pinned by a licensed NH Surveyor at the time of building permit and prior to pouring the foundation, 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 December 5, 2018, 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 four (4) in favor (Stephens, Bickford, St. Peter, Onthank), none (0) opposed and one (1) abstention (Jenny).

The decision made to approve the variance on October 17, 2018, 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 December 5, 2018