



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance

Robert & Kathie DeCrescenzo /Map 99 Lot 131

September 20, 2018

Applicant: **Robert & Kathie DeCrescenzo**
4 Michael Circle
Stoneham, MA 02180

Location: **Glen Forest Drive, Moultonborough, NH (Tax Map 99 Lot 131)**

On September 5, 2018, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Robert & Kathie DeCrescenzo (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III, B (1, & 2) to construct a 16' x 30' addition to an existing garage which will encroach 16 feet on the front setback, where a 25-ft setback is required and 10 feet from the side property line, where a 20-ft 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 on Glen Forest Drive (Tax Map 99 Lot 131).
- 2) Robert & Kathie DeCrescenzo are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) There was no representation by the applicant or an authorized agent at the Public Hearing.
- 5) On September 5, 2018 the ZBA voted to continue the Public Hearing to September 19, 2018.
- 6) On September 19, 2018 the Board opened the continued Public Hearing.
- 7) There was no representation by the applicant or an authorized agent at the continued Public Hearing.
- 8) On September 19, 2018 it was the consensus of the Board to proceed with the Public Hearing without representation.
- 9) The Applicant is proposing to construct a 16' x 30' addition to an existing garage which will encroach 16 feet on the front setback, where a 25-ft setback is required and 10 feet from the side property line, where a 20-ft is required.

- 10) The setbacks affected are the twenty foot (20') side line setback and the twenty-five foot front setback line.
- 11) It was noted the Applicant had requested relief from Article III paragraphs 1 & 2. Article III paragraphs 1 & 2 are related to the road setback only.
- 12) The Applicant did not apply for relief from the sideline setback requirement (Article III paragraph 3) therefore the Board did not consider the request for relief for the side setback.
- 13) The Site Plan presented with the application was not signed or stamped by a NH Licensed Land Surveyor.
- 14) Two members of the public spoke against the Variance request.
- 15) Granting the Variance would be contrary to the public interest as the Board felt that the encroachment into the front setback did alter the character of the neighborhood and would threaten the welfare, safety or health of the public because of the close proximity of the building to the right-of-way.
- 16) Granting the Variance would be not consistent with the spirit of the Ordinance as the Board felt that the encroachment into the front setback did alter the character of the neighborhood and would threaten the welfare, safety or health of the public because of the close proximity of the building to the right-of-way.
- 17) By granting the Variance, substantial justice would not be done because the Applicant could build a 900 SF apartment above the existing garage with minimal loss to the individual and a positive gain to the public due to the concerns shown in Items 15 & 16 above.
- 18) Granting the Variance could have a potential negative impact and diminish the value of surrounding properties.
- 19) No Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because many of the neighborhood lots are similar in size and the current garage allows for reasonable use of the property.
- 20) On September 19, 2018, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, Jenny, Zewski, Onthank) and none (0) opposed to deny the request for a variance, ...and 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 October 3, 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 five (5) in favor (Stephens, Jenny, DeMeo, Onthank, Hopkins), none (0) opposed.

The decision made to deny the variance on September 19, 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 10-4-18