



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance** **Steven and Mary-Ann Schmidt/Map 169, Lot 51**

August 2, 2018

Applicant: **Steven Lyle & Mary-Ann Schmidt**
PO Box 1651
Center Harbor, NH 03226

Location: **66 Lake Shore Drive, Moultonborough, NH (Tax Map 169, Lot 51)**

On August 1, 2018, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Steven Lyle and Mary-Ann Schmidt (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III. B (2) & (3) to allow for the construction of a dwelling 23.2 ft. from the front property line, where 25 ft. is required and 6.4 ft. from the easterly property line and 16.0 ft. from the westerly property line, where 20 ft. 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 at 66 Lake Shore Drive, Moultonborough, NH (Tax Map 169 Lot 51).
- 2) The applicants are the owners of record for the lot.
- 3) The applicants were represented at the Public Hearing by Dave Dolan of David M. Dolan Associates P.C.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, with approximately 700 sq. ft. located in Commercial Zone A and the residential use is a use allowed by right in those districts.
- 5) The applicant is proposing construction of a single family dwelling to be located 23.2 ft. from the front property line, where 25 ft. is required and 6.4ft. from the easterly property and 16.0 ft. from the westerly property line.
- 6) The setbacks affected are the twenty foot (25') front property line and the twenty foot (20') side line setback.
- 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 unique shape 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 width of the Applicant's lot is narrow at the road, and narrows more towards the lake, and the existing dwelling is non-conforming to the property lines. The Board determined that due to these unique conditions, a variance is necessary to enable the reasonable use of the property.
- 13) On August 1, 2018, 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 the variance for a setback variance, subject to the following conditions: 1. Add note to plan stating they will Maintain vehicle clearance along westerly side of the proposed house; 2. Deck stairs to remain within footprint complying with side setback; 3. Add drip edge to plan; 4. 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 August 15, 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, St. Peter, DeMeo, Jenny, Zewski) and none (0) opposed.

The decision made to grant the variance on August 1, 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 8/17/18