



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance

Hamilton and Margaret McLean/Map 245, Lot 90

August 2, 2018

Applicant: **Hamilton and Margaret McLean**
7 Spinnaker Drive
Moultonborough, NH 03254

Location: **7 Spinnaker Drive, Moultonborough, NH (Tax Map 245, Lot 90)**

On August 1, 2018, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Hamilton and Margaret McLean (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III. B (3) to allow for the construction of a covered roof attached to the garage along the northeast side of the property to be located 13'9" at its closest point and 17'2" at its furthest point from the rear property line, where a 20-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 at 7 Spinnaker Drive, Moultonborough, NH (Tax Map 245, Lot 90).
- 2) The applicants are the owners of record for the lot.
- 3) Hamilton McLean presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 5) The applicant is seeking an after-the-fact variance for the constructed covered roof attached to the garage along the northeast side of the property to be located 13'9" at its closest point and 17'2" at its furthest point from the rear property line.
- 6) The setback affected is the twenty foot (20') side line setback.
- 7) One member of the public spoke against 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 like the other dwellings in the neighborhood, and the proposed covered roof would not have any impact on the light, health or safety on the general public 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 nor threaten the welfare, safety or health of the public because of the existing grade differential and rock wall along the common property boundary.
- 10) By granting the Variance, substantial justice would be done because there is no public benefit to be gained by mandating the dimensional requirement, while the loss to the applicant would be great.
- 11) Granting the Variance would not diminish the value of surrounding properties as the proposed covered roof will allow the applicant to store miscellaneous yard equipment under cover, out of sight, would be new construction, and will increase the value of the subject property, thereby increasing neighborhood valuations.
- 12) No special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because most of the neighborhood lots are quarter acre lots with small building envelopes. In addition, the request is unreasonable because there are other locations on the property where the covered roof structure could conform to the building envelope and be reasonable with regard to siting, usability and aesthetics.
- 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 deny the request for the variance for a covered roof attached as requested, 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 deny 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