



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance**

William J. & Elda R. Daly and Mark S. Jr. & Kimberly MacDonald
Tax Map 137, Lot 25

May 17, 2018

Applicant: **William J. & Elda R. Daly and**
Mark S. Jr. & Kimberly MacDonald
14 Avon Shores Road
Moultonborough, NH 03254

Location: **14 Avon Shores Road, Moultonborough, NH (Tax Map 137, Lot 25)**

On May 16, 2018, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of William J. & Elda R. Daly and Mark S. Jr. & Kimberly MacDonald (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III.M. (VI.B. 4 & 8) to allow for the construction of an accessory dwelling unit (ADU), where the main exterior entrances will be on the same side of the building and there will be an exterior stairway leading to the ADU on the front of the house 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 14 Avon Shores Road, Moultonborough, NH (Tax Map 137, Lot 25).
- 2) The applicants are the owners of record for the lot.
- 3) William & Elda Daly and Kimberly MacDonald were present at the Public Hearing, with Mrs. Daly presenting the application to the Board.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use and ADU are both uses allowed by right in that district.
- 5) The proposal is for the construction of an ADU where the main exterior entrance will be on the same side of the building as the existing single-family home, and where there will be an exterior stairway leading to the ADU on the front of the house.
- 6) One member of the public spoke in favor of granting the variance as requested.

- 7) Granting the Variances would not be contrary to the public interest as the proposed construction 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.
- 8) Granting the Variances would be consistent with the spirit of the Ordinance because the proposed construction 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.
- 9) 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 a needed front entrance and stairs for access/egress on their own property would be denied.
- 10) Granting the Variances would not diminish the value of surrounding properties as the proposed construction would be new construction, thereby increasing neighborhood valuations.
- 11) Pursuant to RSA 674:33.V, the Zoning Board of Adjustment may grant a variance from the terms of a zoning ordinance without finding a hardship arising from the condition of a premises subject to the ordinance when reasonable accommodations are necessary to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that: (a) Any variance granted under this paragraph shall be in harmony with the general purpose and intent of the zoning ordinance. (b) In granting any variance pursuant to this paragraph, the zoning board of adjustment may provide, in a finding included in the variance that the variance shall survive only so long as the particular person has a continuing need to use the premises. The applicant averred that a member of the family did in fact have said physical disability, therefore the hardship criterion does not apply in this case.
- 12) The Zoning Board of Adjustment decision specifically excludes a sunset clause as referred to in RSA 674:33. V (b).
- 13) On May 16, 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 to allow for the construction of an 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 there will be an exterior stairway leading to the ADU on the front of the house, 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 June 6, 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, Bickford, St. Peter, DeMeo, Onthank) and none (0) opposed.

The decision made to grant the variance on May 16, 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 6/18/18