



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance - SETBACK** **Ryan & Jennifer Harrington/Map 245, Lot 109.1**

May 17, 2018

Applicant: **Ryan & Jennifer Harrington**
67 Susan Drive
Pelham, NH 03076

Location: **Whitesell Road, Moultonborough, NH (Tax Map 245, Lot 109.1)**

On May 16, 2018 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Ryan & Jennifer Harrington (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III, Paragraph B(3) to allow for the construction of a single-family home to be located approximately 17'6" at the closest point from the side setback, where a 20 ft. setback is required for the parcel located in the Agricultural Residential (AR) 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 Whitesell Road (Tax Map 245, Lot 109.1).
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 4) Ryan Harrington presented the application at the Public Hearing.
- 5) The proposal is for the construction of a new single-family dwelling unit where a small portion to be located approximately 17'6" at the closest point from the side setback, where 20 ft. is required on the parcel located in the Residential Agricultural (R/A) Zoning District.
- 6) The proposed encroachment to the foundation is 1 foot.
- 7) No members of the public wished to speak during the public hearing.
- 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

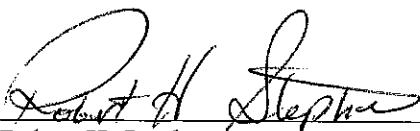


the neighborhood, the trees to the rear of the property will remain, and most importantly, not change the intent of the ordinance for setbacks which is adequate provision of light and air between buildings.

- 9) Granting the Variance would be consistent with the spirit of the Ordinance because the proposed construction will not alter the essential character of the neighborhood and would not adversely affect any neighbor's quality of life, property value, or peaceful co-existence.
- 10) By granting the Variance, substantial justice would be done because there would be no gain to the public by requiring a new dwelling to be constructed entirely within building envelope on the lot given the constraints of the 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 increase the value of the subject property and thereby increase neighborhood valuations.
- 12) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as there are special conditions of the property that distinguish it from other properties, such as a high-water table, the location of the proposed septic system, and the property cannot be reasonably used in strict conformance with the ordinance.
- 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 the variance for the construction of a single-family home to be located approximately 17'6" from the side setback and the line encroached upon being surveyed and pinned to the deck/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 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), 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

