



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Jon & Wendy Clattenburg/Map 235, Lot 9

September 9, 2016

Applicant: **Jon & Wendy Clattenburg**
81 Woodhill Road
Bow, NH 03304

Location: **Solomon Lane, Moultonborough, NH (Tax Map 235, Lot 9)**

On August 17, 2016, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Jon & Wendy Clattenburg (hereinafter referred to as the "Applicant" and/or "Owner") to obtain a Variance from MZO Article III, General Provisions, to allow for the construction of an accessory structure (20' x 45' storage shed / barn) on an undeveloped lot with no principal use 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 on Solomon Lane, Moultonborough, NH (Tax Map 235, Lot 9).
- 2) The applicants are the owners of record for the lot.
- 3) Jon & Wendy Clattenburg presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The proposal is for the construction of an accessory structure (20' x 45' storage shed / barn) on an undeveloped lot with no principal use on the parcel.
- 6) No members of the public wished to speak during the Public Hearing.
- 7) The ZBA had concerns at the August 17th, 2016 meeting with both the Hardship Criteria and their ability to place certain conditions on an approval should they arrive at that decision.

- 8) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, Zewski, St. Peter, DeMeo), and none (0) opposed to continue the Public Hearing to September 7, 2016, allowing the Board the opportunity to seek an opinion from Counsel regarding the Hardship Criteria and any conditions (sunset clause) they may place on an approval if they determine the five criteria has been met for the granting of the requested variance.
- 9) The ZBA re-opened the continued Public Hearing at the September 7th meeting with the Chairman sharing the results of his conversation with Counsel, who indicated that the Board may put whatever conditions they feel are appropriate, up to, and including a sunset clause on this request.
- 10) 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 there would be a Primary structure built within a specified time frame as a condition of approval.
- 11) 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 because there would be a Primary structure built within a specified time frame as a condition of approval.
- 12) By granting the Variance, substantial justice would be done because there is no public benefit to be gained by requiring the Primary structure being constructed prior to the construction of the storage shed / barn, while the loss to the applicant would be great.
- 13) Granting the Variance would not diminish the value of surrounding properties as the proposed addition will increase the value of the subject property and thereby increasing neighborhood valuations.
- 14) Special conditions exist for the subject property, such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship. The lot currently does not have a Primary Structure, therefore the Applicant cannot put up the storage shed / barn, making the Moultonborough Zoning Ordinance in itself the hardship. The Board determined that due to these unique conditions, a variance is necessary to enable the reasonable use of the property.
- 15) On September 7, 2016, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, Zewski, St. Peter, DeMeo) and none (0) opposed to grant the request for the variance with the following conditions; 1) The Applicant shall apply for a Building Permit for the Primary structure within six (6) months from September 8, 2016; 2) The Applicant will be liable for all of the Town's legal costs should any of the conditions of this approval not be met; 3) The Applicant shall provide a security bond in the amount of \$20,000 prior to obtaining a Building Permit for the storage shed / barn; 4) No extensions of the primary structure Building Permit will be granted by the Board or the Code Enforcement Officer (CEO); 5) The Bond will be released upon completion of an approved framing inspection of the primary structure (re: paragraph 15.1) by the CEO, 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 September 21, 2016, 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, Zewski, St. Peter, DeMeo) and none (0) opposed.

The decision made to grant the variance on September 7, 2016, 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 9/22/16