



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision **Request for Variance** **Leon & Cheryl Haydon /Map 252, Lot 23**

November 18, 2016

Applicant: **Leon & Cheryl Haydon**
201 Westledge Road
West Simsbury, CT 06092

Location: **Winaukee Road, Moultonborough, NH (Tax Map 252, Lot 23)**

On November 16, 2016, the Moultonborough Zoning Board of Adjustment opened a public hearing on the application of Leon & Cheryl Haydon (hereinafter referred to as the "Applicant" and/or "Owner") for an amendment to a variance granted by the ZBA on August 17, 2016, to allow for the construction of a garage with the minimum setbacks from Winaukee Road and property lines slightly off from the measured distances previously approved by the ZBA 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 Winaukee Road (Tax Map 252, Lot 23).
- 2) Leon & Cheryl Haydon are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District.
- 4) The applicants were represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella.
- 5) The ZBA granted the Applicant's original Variance Application on August 17, 2016.
- 6) The Applicant submitted an "As-built" Foundation Plan dated 5 October 2016 prepared by David M. Dolan, LLS.

- 7) The foundation was shifted different than what was approved by the ZBA on August 17, 2016 due to concerns by the foundation contractor on the stability of the existing barns stone foundation.
- 8) Crosswinds On Winnipesaukee Association submitted a letter dated October 31, 2016 stating that they had no objection to the Application for Amendment to the prior variance consistent with the Dolan "As-Built" foundation plan.
- 9) No members of the public opposed the Variance Application.
- 10) The Board found the same issues, conditions and concerns applied to the amended application at the original application.
- 11) Granting the Variance would not be contrary to the public interest as a majority of the Board concurred with the applicant's statement that (1) the Proposed Garage would be constructed wholly within the Property and in a location as nearly compliant with the Zoning Ordinance as physically possible; (2) the immediately adjacent Abutters have expressed support for the Variance; and (3) the Town's Highway Forman and Police Chief have both stated that the Proposed Garage would not create a safety hazard so that there will be no alteration of the essential character of the neighborhood or threat to the public health, safety or welfare.
- 12) Granting the Variance would be consistent with the spirit of the Ordinance as a majority of the Board felt that the encroachment into the setbacks did not alter the character of the neighborhood nor threaten the public health, safety or welfare of the public based on input received from the Chief of Police and the Highway Forman.
- 13) By granting the Variance, substantial justice would be done as it would allow the Applicant to construct the Proposed Garage on the Property, which was recognized by the Planning Board in 1992 as a lot which could only be used for storage purposes. The Proposed Garage will improve that storage capability and significantly increasing the taxable value of the Property. There is no perceivable benefit to the community by denying this request, and no expansion activity could be accomplished on this property without a variance.
- 14) Granting the Variance would not diminish the value of surrounding properties in keeping with the residential character of the neighborhood properties as the Proposed Garage fits the neighborhood and will add value to the Property.
- 15) Special conditions of the Property distinguish the Property for other properties in the area and due to the special conditions, the Property cannot be reasonable renovated in strict conformance with the Ordinance, and a variance is therefore necessary to enable a reasonable use of the Property. The special conditions included the lot size, bordered by town roads on two sides and a community septic lot on the other two sides.
- 16) On November 16, 2016, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, Bickford, Zewski, St. Peter) and one (1) opposed (Nolin) to grant the request for an amended variance, ...and 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 December 7, 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 four (4) in favor (Stephens, St. Peter, Jenny, DeMeo) none (0) opposed and one (1) abstention (Nolin).

The decision made to grant the Variance on November 16, 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.



Date 12/12/16

Robert H. Stephens
Chairman, Zoning Board of Adjustment