



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance

Brian Lynah/Map 130, Lot 57

October 17, 2013

Applicant: Brian Lynah
1 Warren Street, Unit 108
Charlestown, MA 02129

Location: 40 Gansy Lane, Moultonborough, NH (Tax Map 130, Lot 57)

On October 2, 2013, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Brian Lynah (hereinafter referred to as the “Applicant” and/or “Owner”) for a variance from Article III (B.3) & (B.4), to permit a shed to be placed 10 feet from the side line setback and 20 feet from the shoreline setback 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 40 Gansy Lane (Tax Map 130, Lot 57).
- 2) The applicant is the owner of record for the lot.
- 3) Brian Lynah presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The proposal calls for the placement of a shed on the residential lot.
- 6) The setbacks affected are the twenty foot (20’) side line setback and the fifty foot (50’) shoreline setback.
- 7) Members questioned the dimensions of the proposed shed.

- 8) The applicant has received a NH DES Shoreland Permit by Notification (PBN), #2013-01017, for a Shed/Garage no more than 288 square feet in size to be located in the North West corner which is no closer than 20 feet from one side and 37 feet from the lake on the other side.
- 9) The Public Hearing was continued to October 16, 2013 to allow for an onsite visit of the property, which was held on October 5, 2013.
- 10) The Public Hearing was re-opened at the October 16, 2013 ZBA meeting.
- 11) One (1) member of the public spoke in favor of the Variance request.
- 12) One (1) member of the public spoke against the Variance request.
- 13) Granting the Variance would be contrary to the public interest as the Board felt that the concentration of storm water runoff from the roof of the shed/garage would be detrimental to the water quality of the lake given the large amount of impervious surface on the small lot that is surrounded on three sides by water.
- 14) Granting the Variance would not be consistent with the spirit of the Ordinance because the intent of the requirement is to protect the water quality of the lake and this request adds to runoff and overcrowds the lot and neighborhood.
- 15) By granting the Variance, substantial justice would not be done because there is already a reasonable use of the property which is substandard in size next to the lake.
- 16) Granting the Variance would not diminish the value of surrounding properties as other neighborhood properties have similar accessory structures.
- 17) No Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the need for such an accessory structure was not demonstrated by the applicant, that such a structure is not a necessity and that a better runoff mitigation plan was needed.
- 18) On October 16, 2013, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Nolin, Bickford, Crowe, King) and one (1) opposed to deny the request for a 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 November 6, 2013, 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, Nolin, Zewski, Bickford, Crowe), none (0) opposed.

The decision made to Deny the variance on October 16, 2013 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 _____