



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Zoning Article 6.3.1
56 Kona Bay Road Realty Trust
Tax Map 200, Lot 2

December 21, 2023

Applicant: **56 Kona Bay Realty Trust**
Lawrence Hughes & Dianne C. Hughes, Trustees
8111 Bay Colony Drive
Naples FL 34108

Location: **Kona Bay Road (Tax Map 200, Lot 2)**

On December 20, 2023, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of 56 Kona Bay Realty Trust (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Article 6.3.1 for a parcel located at Kona Bay Road, Tax Map 200 Lot 2. The applicants propose to place a garage on an otherwise vacant parcel located in the Residential/Agricultural Zoning District, where garages are not a permitted primary use.

Based on the application, testimony given at the hearing, and supporting documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at Kona Bay Road Road (Tax Map 200, Lot 2).
- 2) 56 Kona Bay Road Realty Trust, Lawrence Hughes & Dianne C. Hughes, Trustees are the owners of record for the lot.
- 3) The lot is in the Residential Agricultural (R/A) Zoning District.
- 4) Attorney Christopher Boldt of Donahue Tucker & Ciandella, PLLC represented the Applicants.
- 5) The proposal is to place a garage on an otherwise vacant lot where garages are not a permitted primary use.
- 6) A small corner of the property sits within the 250-foot protected shoreland buffer.
- 7) Granting the Variance would not be contrary to the public interest because it would result in the placement of a personal-use garage which shall serve a primary residential use, and that by placing a condition, the Board could require that this relationship be maintained.
- 8) Granting the Variance would be consistent with the Spirit of the Ordinance for the same reasons as stated in Item #7 above.

- 9) By granting the Variance, substantial justice would be done as no harm would come to the neighborhood by allowing someone to use their property in such manner, and there would be little to no gain to the public from denying the request.
- 10) Granting the Variance would not diminish the value of surrounding properties as the new construction would be similar to the style of the associated home and because the applicant has attested that the garage will match the architectural style of the neighborhood.
- 11) Denial of the application would constitute an unnecessary hardship because:
 - a) the properties are, and shall remain, uniquely tied which upholds the public purpose of requiring such association between primary and accessory uses, and
 - b) a garage used in conjunction with a residence is a reasonable use.

On December 20, 2023, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Mills, McDonough, Jakobsen, Poloian, DeMeo) and none (0) opposed to grant the request for the variance from Zoning Article 6.3.1 for 56 Kona Bay Realty Trust, Tax Map 200, Lot 2 to place a garage on an otherwise vacant parcel located in the Residential/Agricultural Zoning District, where garages are not a permitted primary use, with the following conditions:

1. Project shall obtain necessary state and local permits, to include approval of a town building permit, and all conditions of such permits shall be perpetually complied with, and all necessary inspections shall be successfully completed prior to use.
2. Garage shall only be used as accessory to the existing single-family use on Lot 200/13. Any future changes to the structure or its use shall be subject to required approvals. If garage ceases to be used as approved, necessary relief and/or approvals shall be obtained, or garage shall be removed.
3. As offered by the applicant, the property shall not be sold separately from adjacent Lot 200-13 unless a separate dwelling unit with well and septic is built upon the property.
4. Notice of Decision shall be recorded at the Carroll County Registry of Deeds.
5. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
6. The applicant and owner are solely responsible for complying with the conditions of approval.
7. Per RSA 674:33, approval expires on 12/20/2025 if use is not substantially acted on.

Further, the Board voted 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 January 17, 2024, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision, send to the applicant and place same in the case file by a vote of four (4) in favor (Mills, Poloian, McDonough, DeMeo), one (1) abstention (Stephens), and none (0) opposed.

The decision made to grant the variance on December 20, 2023, 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.



Michael Mills
Vice Chairman, Zoning Board of Adjustment

cc. Scott Dvorak – Building Inspector (by email only at sdvorak@moultonboroughnh.gov)
Christopher Boldt, Esq. (by email only at cboldt@dtclawyers.com)
Map Lot Document File