



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance from Section 3.2.2.3

**Ronald J. Nathan
Tax Map 217, Lot 41**

August 7, 2024

**Applicant: Ronald J. Nathan
8 Panther Path
Moultonborough, NH 03254**

Location: 8 Panther Path (Tax Map 217, Lot 41)

On August 7, 2024, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Ronald J. Nathan (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Article 3.2.2.3 of the MZO for a parcel located at 8 Panther Path, Tax Map 217 Lot 41. The applicant proposes the construction of a new two-car garage to be located no closer than 10 ft. from the southwesterly boundary line where 20 ft. is required on a parcel located in the Residential/Agricultural Zoning District.

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 8 Panther Path (Tax Map 217, Lot 41).
- 2) Ronald J. & Constance M. Nathan 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 Applicant.
- 5) The proposal is to construct a new detached two-car 22' x 24' garage to be located no closer than 10 feet at its closest point, from the southwesterly boundary line where 20-ft is required.
- 6) The Applicant has received a NH DES Shoreland Impact Permit #2024-00852.
- 7) The Impervious Surface Percentage Approved by DES is 20.8%.
- 8) One letter of support for the project was submitted with the application for relief.
- 9) No members of the public spoke in favor of or against the application.

- 10) Granting the Variance would not be contrary to the public interest as the project would not “alter the essential character of the neighborhood: or “threaten the public health, safety or welfare” because there is still an area where light, view, access, etcetera is maintained both on the northerly side of the lot and to a certain extent on the southerly side of the lot., and the Proposed Garage is in a location already approved by the most directly impacted abutter.
- 11) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #10 above.
- 12) By granting the Variance, substantial justice would be done because there would be a clear loss to the Applicant that is not outweighed by any gain to the public as the request to construct the Proposed Garage as it is largely in a conforming over pre-existing pavement and a decorative stone wall and in an area screened by existing vegetation and mature trees from the Orpins’ abutting lot, and denying it would be a substantial injustice.
- 13) Granting the Variance would not diminish the value of surrounding properties as it will not change the character of the neighborhood, the Proposed Garage is in a screened location and has the support of the Orpins. None of the other abutters to the Property have expressed any negative opinions or concerns concerning Applicant’s improvements at issue in this Application. Due to the configuration and existing uses of the Property in this section of Black Cat Island, this Project will not negatively impact any abutter. The Proposed Garage will be new construction adding value to the Applicant’s Property and the value of the surrounding properties in keeping with the lake-side residential character of the neighborhood.
- 14) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship as special conditions of the Property distinguishes it from other properties in the area which include the size, keystone shape, and Lake-frontage of and building placement on the Property. Special conditions of the Property that distinguish it from other properties in the area include the Proposed Garage is in a screened location from the Orpin property and will not harm abutting properties; The Project as a whole will significantly reduce the existing lot coverage from 34.5% to 21.7%, is reasonable and in conformity with the general character of this neighborhood. The Proposed Garage is in keeping with the size of the Property and the existing lake-front development of this portion of Black Cat Island. The proposed use is reasonable.

On August 7, 2024, the Zoning Board of Adjustment voted by a vote of four (4) in favor (McDonough, DeMeo, Merrill, Mills) and one (1) opposed (Jakobsen) to grant the request for the variance from Section 3.2.2.3 for Ronald J. Nathan, Tax Map 217, Lot 41 to construct a new detached garage which encroaches into the southwesterly side setback, with the following conditions:

- 1) Structure limits shall be located and pinned in accordance with this approval by a NH licensed surveyor prior to construction.
- 2) Project shall obtain necessary state and local permits, to include approval of a town building permit and NH DES Shoreland approval. All conditions of such permits shall be perpetually complied with, and all necessary inspections shall be successfully completed prior to use.
- 3) Project shall comply with all state and local shoreland, timber and wetlands requirements, including setbacks, buffers, planting requirements, vegetation removal restrictions and impervious surface limitations.
- 4) All representations made by the applicant and applicant’s agent shall be incorporated as a condition of approval.
- 5) The applicant and owner are solely responsible for complying with the conditions of approval.
- 6) Per RSA 674:33, approval expires on 8/7/2026 if use is not substantially acted upon.

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 August 21, 2024, approved this formal Notice of Decision language and authorized the Vice 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 (McDonough, DeMeo, Merrill, Sperry), one (1) abstention (Stephens).

The decision made to grant the variance on August 7, 2024, 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 D. Mills
Vice Chairman

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