



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision** **Request for Variance** **Owen Mangan** **Tax Map 174, Lot 14**

**August 21, 2024**

**Applicant:** Owen Mangan  
37 Salmon Meadow Lane  
Moultonborough, NH 03254

**Location:** 37 Salmon Meadow Lane, Moultonborough, NH (Tax Map 174, Lot 14)

On May 15, 2024, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Owen Mangan (hereinafter referred to as the "Applicant" and/or "Owner") to obtain Variance from Article 3.2.2.3 of the Zoning Ordinance to permit the construction of a 10' x 13.5' addition to an existing legally non-conforming structure (built before the adoption of the zoning ordinance) to be built on the property no closer than the existing structure currently encroaches into the side 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 37 Salmon Meadow Lane (Tax Map 174, Lot 14).
- 2) Owen and Sheila Mangan are the owners of record for the lot.
- 3) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 4) The proposal is for the construction of a 10' x 13.5' addition to an existing legally non-conforming structure (built before the adoption of the zoning ordinance) to be built on the property no closer than 14.85 feet from the southerly side setback where 20 feet is required.

- 5) The applicant has received a NH DES Shoreland Permit by Notification (2024-00755) for a 13.5' x 10' expansion of an existing bedroom.
- 6) On May 15, 2024 the Board continued the request for a variance from Article 3.2.2.3 to August 7, 2024, to allow time for the applicant to obtain a survey of the line affected.
- 7) On August 7, 2024, prior to public input, the Zoning Board voted five (5) in favor (McDonough, DeMeo, Merrill, Jakobsen, Mills) that the proposal did not have the potential for Regional Impact.
- 8) The Public Hearing was re-opened at the August 7, 2024 ZBA meeting, and at the request of the Board Members, was continued to August 21, 2024, to allow time for Land Use Staff and Board Members to review the Plan presented by the Applicant at the meeting.
- 9) A plan prepared by Lakes Region Survey Service, titled Certified Plat Plan, signed/dated 24Jul2024 by Tyler A. Rigazio, was submitted by Mr. Mangan at the ZBA hearing on August 7, 2024, as requested by the Board.
- 10) One abutter (Tocco) submitted an email in support of the granting of the Variance request.
- 11) Granting the Variance would not result in an increase in traffic, it would not alter the essential character of the neighborhood, and the intrusion into the setback would not threaten public health, safety, or welfare or otherwise injure public rights. The goals of the side setback ordinance, light, air, view, access, all appear to remain substantially unimpeded given the current intrusion into the setback of part of the existing dwelling.
- 12) Granting the Variance is consistent with the spirit of the Ordinance for the same reasons as listed above.
- 13) By granting the Variance, substantial justice is done as there would be a clear loss to the Applicant that is not outweighed by any gain to the community if the variance were denied. Given the location of the existing dwelling on the site, and the interior layout, the variance will allow the Applicant to construct an addition to their existing dwelling.
- 14) Granting the Variance does not diminish the value of surrounding properties as the Addition will not change the character of the neighborhood as it is a minor intrusion, will be new construction, adding value to the Applicant's Property and will not negatively impact value of the abutter's property, who has submitted a letter in support of the project.
- 15) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as special conditions of the Property distinguish it from other properties in the area which includes the existing structure being located on the southerly portion of the lot, and the interior layout of the existing dwelling effectively negates any possibility of moving the addition to a more conforming area. The proposed use is reasonable.

On August 21, 2024, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Sperry, McDonough, DeMeo, Merrill, Stephens) and none (0) opposed to grant the request for the variance from Section 3.2.2.3 for Owen Mangan, Tax Map 174, Lot 14 to construct a 10' x 13' addition which encroaches no closer than 14.85 feet from the southerly side setback, with the following conditions:

- 1) Project shall obtain necessary state and local permits, to include approval of a town building permit, NH DES Shoreland approval and septic approval. All conditions of such permits shall be perpetually complied with, and all necessary inspections shall be successfully completed prior to use.
- 2) 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.
- 3) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
- 4) The applicant and owner are solely responsible for complying with the conditions of approval.
- 5) Per RSA 674:33, approval expires on 8/21/2026 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.

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The Board of Adjustment, on September 18, 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 three (3) in favor (McDonough, DeMeo, Stephens), and two (2) abstentions (Mills, Jakobsen).

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The decision made to grant the variance on August 21, 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.



Robert H. Stephens  
Chairman

cc. Jeff Blackwell – Building Inspector (by email only at [jblackwell@moultonboroughnh.gov](mailto:jblackwell@moultonboroughnh.gov))  
Map Lot Document File