



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

### **Notice of Decision**

### **Request for Variance from Article III.B.3**

**Michael & Arlene Fafara**

**Tax Map 245, Lot 51**

**August 19, 2020**

**Applicant:** **Michael & Arlene Fafara**  
**57 Deerfield Avenue**  
**Westwood, MA 02090**

**Location:** **9 Sparrow Lane, Moultonborough, NH (Tax Map 245, Lot 51)**

On August 19, 2020, the Zoning Board of Adjustment of the Town of Moultonborough held a remote public hearing on the application of Michael & Arlene Fafara (hereinafter referred to as the “Applicant” and/or “Owner”) to obtain a Variance from MZO Article III. B (3) to permit the construction of a 25’ x 40’ garage located 12-ft from the sideline where 20 ft. is required 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 9 Sparrow Lane (Tax Map 245, Lot 51).
- 2) Sparrow Lane Realty Trust (Arlene E. Fafara Trustee) is the owner of record for the lot.
- 3) Michael and Arlene Fafara presented the application for the variance using the Zoom web-based platform.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District, and the residential use is a use allowed by right in that district.
- 5) The proposal is to construct a 25’ x 40’ garage (with living space) located 12-ft from the sideline where 20 ft. is required.
- 6) Two members of the public submitted letter of objection for the Variance request.
- 7) Granting the Variance would not be contrary to the public interest as the proposed construction will not alter the essential character of the neighborhood because it would be similar to the other dwellings in the neighborhood, not change the intent of the ordinance for setbacks which is adequate provision of light and air between buildings.

- 8) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as Criteria 1 contained above in #7.
- 9) By granting the Variance, substantial justice would be done there because there is no public benefit to be gained by requiring that the porch be constructed in a conforming location, while the loss to the applicant would be great.
- 10) Granting the Variance would not diminish the value of surrounding properties as the proposed addition will increase the value of the subject property and thereby increasing neighborhood valuations.
- 11) Special conditions exist for the subject property, such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship. The Applicant's lot is fully developed with an existing dwelling, well and septic system. The location of the septic system prevents a garage to be constructed to the rear of the dwelling and the width of the south side of the dwelling is much greater, therefore infringing less on the setbacks. The Board determined that due to these unique conditions, a variance is necessary to enable the reasonable use of the property.
- 12) On August 19, 2020, the Zoning Board of Adjustment by a roll call vote, voted (5) in favor (St. Peter, Jenny, DeMeo, Bickford, Stephens) and none (0) opposed to grant the request for a variance for Michael & Arlene Fafara, TM 245, Lot 51 to construct a 25' x 40' garage with living space 12-ft from the side setback subject to the following conditions: 1) The addition being built in the location that is identified by dimensions on the plan prepared by Ames Associates (Plan Date 4/11/2020) as submitted for the hearing; 2) An overhang no greater than one foot; 3) Installation of stormwater management features such as stone drip line infiltration trenches or rain gutters required along the south and west sides of the proposed addition, and further 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 Zoom meeting.

The Board of Adjustment, on September 2, 2020, 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, Bickford, St. Peter, DeMeo, Jenny) and none (0) opposed.

The decision made to Approve the variance on August 19, 2020, 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  
cc. Map Lot Document File

Date: September 3, 2020