



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

### **Notice of Decision Request for Variance John P. Jr. and Shannon Schlemmer Tax Map 18, Lot 38**

**October 19, 2022**

**Applicant: John and Shannon Schlemmer  
PO Box 566  
Moultonborough, NH 03254**

**Location: 1252 Whittier Highway, Moultonborough, NH (Tax Map 18, Lot 38)**

On October 19, 2022, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of John and Shannon Schlemmer (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Section 12.5.2 of the Zoning Ordinance to permit a post development storm water volume that exceeds the predevelopment level for a 50 year storm event on the parcel located in the Commercial Zone B.

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 1252 Whittier Highway (Tax Map 18, Lot 38).
- 2) The applicants are the owners of the record for the lot.
- 3) The lot is located in the Commercial Zone B Zoning District.
- 4) The applicants were represented at the hearing by Mark R. Moser, P.E. from Moser Engineering. Present for the hearing were John Schlemmer, Jr. and Shannon Schlemmer.
- 5) The applicants were requesting relief from the Section 12.5.2 of the Zoning Ordinance to permit a post development storm water volume that exceeds the pre-development level for a 50 year storm event.
- 6) Members questioned the maintenance of the retention ponds, drainage, wetlands, impacts and effects on culvert under Whittier Highway, impacts and effects on down gradient

properties, volume of water entering and exiting the site pre and post development. The applicant's representative answered questions from the Board members.

- 7) Members questioned the need for removal of trees for the installation of the retention ponds, and if the proposal still required action from the Planning Board for site plan review.
- 8) No members of the public spoke in favor or against the Variance request.
- 9) The applicant and agents presented supporting documents showing that the proposed Engineering and drainage would have no adverse effect on down gradient properties.
- 10) Granting the Variance would not be contrary to the public interests as the proposed use will not alter the essential character of the neighborhood because the engineering plans provide the necessary measures for the proposed development and provide adequate protections to surrounding properties.
- 11) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated 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 applicant's agent has provided plans which demonstrate that there would be no adverse effect due to stormwater runoff.
- 13) Granting the Variance would not diminish the value of surrounding properties as it is in keeping with both the residential character and commercial uses of the neighborhood properties. The proposed development fits the neighborhood and will add value to the Property and will not diminish surrounding property values, and the property is located in Commercial Zone B.
- 14) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship. The lot is uniquely encumbered by shallow ledge, wetlands and a fire protection cistern, and the proposed use is a reasonable use as the lot is located in the Commercial B zone.

---

On October 19, 2022, the Zoning Board of Adjustment decided by a vote of four (4) in favor (St. Peter, Poloian, DeMeo, Stephens) and one (1) abstention (Hopkins) to grant the request for the variance from Article 12.5.2 for John P. Jr. and Shannon Schlemmer, Tax Map 18, Lot 38 to permit post-development runoff volume which will exceed pre-development runoff volume for a 24-hour, 50-year storm event with the following conditions:

1. All required federal, state, and local approvals, including site plan review approval shall be obtained prior to furtherance of commercial development activity.
2. All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval.
3. The applicant and owner are solely responsible to comply with conditions of approval.

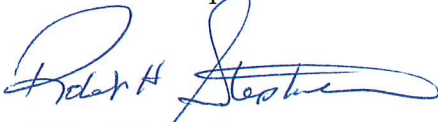
4. Per RSA 674:33, approval expires on 10/19/2024 if use is not substantially acted on.

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 November 2, 2022, 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 five (4) in favor (St. Peter, Poloian, DeMeo, Stephens), one (1) abstention (Hopkins).

The decision made to grant the variance on October 19, 2022, 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. Mark Moser ([mosereng@tds.net](mailto:mosereng@tds.net))  
Scott Dvorak ([sdvorak@moultonboroughnh.gov](mailto:sdvorak@moultonboroughnh.gov))  
Map Lot Document File

COPY