



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - SHED

Request for Variance

James S. Schiemer and Nancy E. Schiemer

Tax Map 129, Lot 82

July 17, 2024

**Applicant: James S. & Nancy E. Schiemer Revocable Trust
James S. & Nancy E. Schiemer, Trustees
PO Box 640
Moultonborough, NH 03254**

Location: 264 Castle Shore Road, Moultonborough, NH (Tax Map 129, Lot 82)

On February 7, 2024, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of James S. & Nancy E. Schiemer, Trustees of the James S. & Nancy E. Schiemer Revocable Trust (hereinafter referred to as the "Applicant" and/or "Owner"). The Applicants requested a Variance from MZO Article 3.2.2.3 to retain the existing Shed, that encroaches into the side setback, located 19.63 feet and 18.36 feet from the southeasterly boundary line, where 20 ft. is required on the parcel located in the Residential Agricultural (R/A) Zoning District.

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

- 1) The property is located at 264 Castle Shore Road (Tax Map 129, Lot 82).
- 2) James S. & Nancy E. Schiemer, Trustees of the James S. & Nancy E. Schiemer Revocable Trust are the owners of record for the lot.
- 3) The Applicants were represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC.
- 4) The lot is located in the Residential Agricultural (R/A) Zoning District, and the residential use is a use allowed by right in that district.

- 5) Prior to public input on July 17, 2024, the Zoning Board of Adjustment voted five (5) in favor (Mills, McDonough, DeMeo, Jakobsen, Stephens) and none (0) opposed that the proposal did not have the potential for Regional Impact.
- 6) The proposal is to retain the existing Shed, which encroaches into the side setback, located 19.63 feet and 18.36 feet from the southeasterly boundary line, where 20 ft. is required.
- 7) The applicants have received a NH DES Shoreland Permit (2023-00358) to retain impacts of 357 (SF) of protected shoreland associated with the construction of a 77 SF addition to the existing primary structure and add a 280 SF shed.
- 8) On February 7, 2024, upon the request of the applicant's agent, due to there not being a 5 member board, the Public Hearing was continued to March 6, 2024.
- 9) The Public Hearing was re-opened at the March 6, 2024 ZBA meeting, and at the request of the applicant's agent, and was continued to, was continued to May 1, 2024 to allow time for a full Existing Conditions Plan to be prepared by a licensed land surveyor.
- 10) The Public Hearing was re-opened at the May 1, 2024 ZBA meeting, and at the request of the applicant's agent, was continued to July 17, 2024, to allow time for the full Existing Conditions Plan to be completed by James Hambrook.
- 11) A plan prepared by Hambrook Land Surveying, titled Boundary and Existing Conditions Plan, signed/dated 6/7/24 by Matthew Hayden, was submitted on June 10, 2024, as additional information.
- 12) One abutter spoke in opposition to the project.
- 13) Granting the Variance will not be contrary to the public interest as the proposed single story Shed is significantly further back from the common boundary line than the pre-existing Garage and located behind the existing vegetation and mature trees along the bound line which shield the Shed for the Jowdy Property to the southeast. Additionally, the structures on the Jowdy Property are largely in the center to the opposite side of that lot. Accordingly, the proposed Shed will not threaten the public health, safety or welfare and will not change the character of the neighborhood in any negative way. Accordingly, this proposed Shed slightly within the Side Setback should not be viewed as contrary to the Public Interest. Based on photographic evidence submitted by the Applicant, the proposed Shed is less intrusive into the Side Setback than the previous shed.
- 14) Granting the Variance would be consistent with the spirit of the Ordinance for the same reasons as stated in Item #9 above.
- 15) By granting the Variance, substantial justice would be done as there is no public benefit to be gained by requiring Applicant to place the proposed Shed in a conforming location to be removed. There is a clear loss to the Applicants that is not outweighed by any gain to the community if this Variance were denied. The Variance will allow Applicants to construct the

proposed Shed which minorly encroaches into the Side Setback significantly further back than the pre-existing Shed.

- 16) Granting the Variance does not diminish surrounding property values as Exhibits A and D indicate the proposed Shed is in a screened location and comprises a minimal encroachment into the Side Setback and will not diminish surround property values.
- 17) Special conditions of the Property that distinguish it from other properties in the area include:
 - a. The size, shape, and Lake-frontage of and building placement within the Side Setback on the Property of the pre-existing house and garage, and the proposed Shed in this neighborhood;
 - b. The fact that the Property has the existing vegetation inside the boundary line and a row of mature trees along the common property line with the Jowdy Property;
 - c. Underlying ledge would prevent the proposed Shed from being set back to meet the required Side Setback.

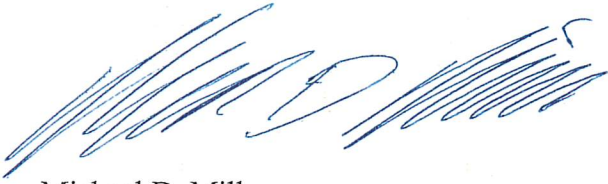
On July 17, 2024, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Mills, McDonough, DeMeo, Jakobsen, Stephens), none (0) opposed, to grant the request for the Variance from Section 3.2.2.3 of the Zoning Ordinance for James S. Schiemer and Nancy E. Schiemer, Trustees of the James S. Schiemer and Nancy E. Schiemer Revocable Trust, located at 264 Castle Shore Road, Tax Map 129, Lot 82, for a proposed Shed, subject to 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) All representations made by the applicant and applicant's agent shall be incorporated as a condition of approval, including the 6-12-2024 plan, and without limitation, statements by the Applicant's agent that there is no water or plumbing to be installed in the proposed Shed, and that the proposed Shed will not be used for sleeping purposes and the proposed Shed will be used for storage purposes only.
- 3) The applicant and owner are solely responsible for complying with the conditions of approval.
- 4) Project shall conform to Plan prepared by Hambrook Land Surveying, titled Boundary and Existing Conditions Plan for the Applicants, revision date 6-12-2024.
- 5) Per RSA 674:33, approval expires on 7/17/2026 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 7, 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 five (5) in favor (McDonough, DeMeo, Jakobsen, Mills, Merrill), and none (0) opposed.

The decision made to grant the variance on July 17, 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,
Zoning Board of Adjustment

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

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