



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance - Section 3.2.2.3

**Joseph & Victoria Callahan
Tax Map 160, Lot 007**

July 16, 2025

Applicant: Callahan Family Trust, Joseph T. & Victoria E. Callahan, Trustees,
7 Black Point Road
Moultonborough, NH 03254

Location: 7 Black Point Road, Moultonborough, NH (Tax Map 160 Lot 007)

On July 16, 2025, the Zoning Board of Adjustment of the Town of Moultonborough held a public hearing on the application of Callahan Family Trust, Joseph T. & Victoria E. Callahan, Trustees (hereinafter referred to as the “Applicant” and/or “Owner”) for a Variance from Section 3.2.2.3 regarding adding an exercise shed to their property.

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 7 Black Point Road, Moultonborough, NH (Tax Map 160, Lot 007)
- 2) Callahan Family Trust, Joseph T. & Victoria E. Callahan, Trustees is the owner of record for the lot.
- 3) Joseph T. Callahan was present for the hearing.
- 4) The lot is in the Residential Agricultural (R/A) Zoning District, and the residential use is a use allowed by right in that district.
- 5) The proposal is to permit the construction of a 20 ft x10 ft workout shed in the side setback to be located four ft eleven inches from the southeast property line where twenty feet is required.
- 6) The applicants have received a NH DES Shoreland Permit (2021-01580) to retain impacts of 7,039 square feet of protected shoreland associated with the construction of a single-family dwelling with

attached garage, two sheds, and a new septic system.

- 7) On February 19, 2025, upon request of the Applicant to resolve some issues, the Board continued the request for a variance from section 3.2.2.3 to March 5, 2025.
- 8) On March 5, 2025, upon request of the Applicant, the Board continued the request for a variance from section 3.2.2.3 to March 19, 2025.
- 9) On March 19, 2025, upon request of the Applicant, the Board continued the request for a variance from section 3.2.2.3 to April 16, 2025.
- 10) On April 6, 2025, upon request of the Applicant, the Board continued the request for a variance from section 3.2.2.3 to June 4, 2025.
- 11) On June 4, 2025, upon request of the Applicant, the Board continued the request for a variance from section 3.2.2.3 to June 18, 2025.
- 12) On June 18, 2025, Mr. Mills stated that it had come to his attention that there has been an agreement between the Applicant, and the Land Use Office to continue the case to a date certain, which was July 16, 2025.
- 13) The public hearing took place on July 16, 2025 ZBA meeting. The Applicant presented his case, stating his request to place a 10'x20' shed within the setback area due to topographical and space constraints on the lot. Concerns regarding wetlands delineation and impervious surface coverage were discussed, including clarification that the DES had approved the plan with 21% impervious surface noted.

On July 16, 2025, the Zoning Board of Adjustment voted one (1) in favor (Stephens) and four (4) opposed (Jakobsen, Merrill, DeMeo, McDonough), to grant the request for variance from Section 3.2.2.3 for the Applicant , 160 Black Point Rd, Tax Map 160, Lot 007.

As the motion to grant the variance failed by a 1 in favor, 4 opposed, Mr. DeMeo made a motion to deny the request for a variance from Article 3.2.2.3 for construction of a shed within the side setback at 7 Black Point Road, Lot 160-7 and further to close the public hearing and to direct staff to draft a formal Notice of Decision, for Board discussion only, based on the findings during tonight's hearing, which will be reviewed for accuracy only by the Board at their next meeting. The motion was seconded by Mr. McDonough. Reasons cited for denial by Mr. DeMeo included conflict with the spirit of the ordinance, lack of demonstrated hardship, and encroachment into the entire side setback. Prior to a vote on the Motion, certain members of the Board discussed the reasons for the denial, which were those matters noted by Mr. DeMeo and those matters discussed during the deliberative session and included, but were not limited to, the following:

- 14) Spirit Of Ordinance. Criteria not satisfied. The granting of the variance would violate the spirit of the ordinance because it would unduly and in a marked degree conflict with the ordinance such that it violates the basic zoning objectives.
- 15) Public Interest. Criteria not satisfied. See #1 above
- 16) Substantial Justice. Criteria satisfied
- 17) Diminution In Value. Criteria satisfied.
- 18) Hardship. Criteria not satisfied. The applicant has not shown that the restriction in the ordinance if applied to the property unduly burdens the use of the property that is subject to the zoning ordinance. The applicant has failed to show that the property is burdened by the zoning restriction in a manner that is distinct from other land in the area.

Based on the evidence presented, the Board of Adjustment four (4) in favor (Jakobsen, Merrill, DeMeo, McDonough) and one (1) opposed (Stephens), to deny the request for a variance from Section 3.2.2.3 for the Applicant , 160 Black Point Rd, Tax Map 160, Lot 007, as the Applicant failed to meet all of the criteria as referenced during the Board's deliberation.

Further, the Board voted to close the Public Hearing and to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting on August 6, 2025.

The Board of Adjustment, on August 6, 2025, 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 four (4) in favor and none (0) opposed.

The decision made to deny the variance on July 16, 2025, 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