

Hopkinton Zoning Board of Adjustment
Notice of Decision
August 4, 2009

Notice is hereby given that the Hopkinton Zoning Board of Adjustment held a meeting on Tuesday, August 4, 2009, at 7:00 PM in the Hopkinton Town Hall. During the hearing, the Hopkinton Zoning Board of Adjustment made the following decision:

Case #: ZO2009-00010 Amy Messer and Jack Ruderman—Applicant requested an AREA VARIANCE for the purpose of constructing a detached shed with less than the required setbacks for the R-1 (high density residential) district. The property is located at 15 Cottage Street, shown on Tax Map 102 as Lot 69. The application was submitted in accordance with Section 4.4.1 of the Hopkinton Zoning Ordinance.

John Boatwright, seconded by Daniel Rinden, moved to vote on the application. Motion carried unanimously. With five members voting, two voted in favor (Boatwright and Koontz) and three voted in opposition (Gray, McLeod and Krzyzaniak). The application as presented failed due the fact that the Applicant had not adequately addressed the following requirements for a Variance:

- ***By Granting the Variance substantial justice would not be done.*** *The injustice (ice build-up and snow storage) represented by the Applicant has been occurring for a number of years. It is believed that a redesign of the existing shed doors could minimize, if not alleviated this issue. The inability to relocate the shed to the location proposed by the Applicant, rather than that suggested the Board, provides no loss to the Applicant or gain to the general public.*

- ***The spirit and intent of the Ordinance will be broken by granting the variance.*** *The granting of the Variance would be contrary to the spirit and intent of the Ordinance as the Ordinance requires a 10-foot setback from existing structures and from the rear and side property lines. The relocating or repositioning of the shed would minimize, if not alleviate the need for an Area Variance.*

- ***Special conditions exist such that literal enforcement of the Ordinance results in unnecessary hardship.*** *While the Applicant indicated that the "special condition" of the property was due to the size of the property a majority of the Board found no sufficient evidence to indicate that the property is unique in its surroundings since there are other properties within the neighborhood similarly situated. The lack of interest in relocating or repositioning the proposed shed so to conform or minimize the Area Variance was due to visual aesthetics and therefore reinforced the majority of the Board's belief that the location as proposed is not necessary, but rather a personal preference. Therefore, the benefit sought by the applicant can be achieved by another method reasonably feasible – that is relocating or repositioning the placement of the proposed shed.*

Karen L. Robertson
Planning/Zoning Director

Pursuant to New Hampshire RSA 677:2, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.