

## Town of Jackson Board of Adjustment

### Notice of Decision (Amended Decision published February 19, 2018) Meeting Date: January 3, 2018

Case 2018-01: Application for a Variance to allow construction of a new shed as an addition to an existing structure. The property is shown on Map R11; and is situated at Lot 8: 276 Iron Mountain Road.

#### Background

- 1) David Mason (The "Applicant") is the owner of the above-referenced parcel which has an existing structure. This existing cabin with shed is entirely within the front and side yard setbacks.
- 2) The Applicant plans to remove the existing shed and construct a slightly larger shed in its place. The proposed shed will also be within the proscribed setbacks.

#### Findings

- 1) The Board finds that the grant of the variance would not be contrary to the Public Interest - given the size of the lot and its location - by a vote of 5-0.
- 2) The Board finds that the Spirit of Ordinance would be observed -by a vote of 5-0.
- 3) The Board finds that the benefit to the applicant in replacing the existing shed is would constitute Substantial Justice and would not be outweighed by any harm to the general public or other individuals - by a vote of 5-0
- 4) The Board finds that the new shed will not diminish the value of surrounding properties, as it is concealed from Iron Mountain Road; which is of seasonal passage. Board Vote: 5-0.
- 5) The Board finds, by a vote of 5-0, that literal enforcement of the zoning ordinance (to wit., the prohibition of construction within the various setbacks) would result in an unnecessary hardship, given the special condition that the Applicant's lot is significantly smaller and more oddly configured than those lots in the surrounding neighborhood. Said special condition distinguishes this property from others in the area and the specific application of the ordinance in this case does not have a fair and substantial relationship between the purpose of the ordinance and its specific application to this property. In making this determination. The Board added the requirement that the addition may not be used as habitable space.

#### Decision

Given the findings cited above, by a vote of 5-0, the Board of Adjustment grants the requested variance from Section 4.3.1.2 to permit the construction of the above-referenced shed adjoining the rear of the existing structure, within the proscribed setback.

The Board did not take any action concerning RSA 674:41 upon the belief that said RSA does not apply to a permit for an action that does not increase habitable living space.

This decision may, for 30 days, be subject to a motion for a re-hearing from any party of interest or the Selectmen. It should not be considered final until lapse of that period.

Copies of this decision are provided to the Applicant, the Planning Board, Board of Selectmen, Town Clerk, Assessor, and Building Inspector. Pursuant to 674:33-I-a, this variance shall be invalid if not exercised within 2 years of the date of final approval.

Frank Benesh, Chairman, Zoning Board of Adjustment