



## BOARD OF ADJUSTMENT

PO Box 120  
Windham, New Hampshire 03087  
Telephone (603) 432-3806

September 14, 2004

Rob Gustafson – Chairman  
Chris Doyle – Vice-Chairman (Excused)  
Georges Roy – Secretary  
Al Souma – Member  
Tony Pellegrini – Member  
Kara DiFruscia – Alternate (Absent)

**Lot #21-K-26, Case #33-2004 (Continued from July 27, 2004)**

Applicant – Shawn Quaglietta  
Owner – Shawn Quaglietta  
Location 35 Turtle Rock Road  
Zone – Residential A

A variance is requested from Sections 401 & 701.1 of the Zoning Ordinance to permit the building of a third floor family room.

Mr. Roy read the case into the record. Attorney Mason presented the case and submitted a certified plot plan marked as Exhibit A and an approved septic plan dated July 1980 marked as Exhibit B. Mr. Quaglietta would like to build a 22' X 22' addition on a 100' X 100' lot. The addition cannot be located on the first floor because the tank and pump chamber are located on the northeast side and there would be flow problems on the other side of the property because of a hill. The proposed addition is for a family room and office. Mr. Tierney, Building Inspector, said that the office does not meet minimum standards for living area because the space is too small. Attorney Mason said that they would work with the Building Department regarding the square footage. Mr. Leo Scanlon of 72 Turtle Rock Road and Mr. Charles Cunningham of 78 Turtle Rock Road spoke in favor of this request. Mr. Tierney said that there is a safety issue regarding the height. The Fire Inspector and the Deputy Chief said that the deck would be in the way if there were a fire and the high power lines would prevent using the ladder truck. The front of the property exceeds the 35' mark. The measurement is taken 6-feet from the foundation wall around the perimeter of the foundation. The 35' rule is based on 8' above the highest most habitable floor. The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mr. Roy seconded the motion to go into Deliberative Session. Passed unanimously.



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### **Deliberative Session, Case #33-2004**

Mr. Pellegrini motioned to grant Case #33-2004 per the plan submitted that does not include the deck and discussion in conjunction with the Building Department as to the interior of the room. Mr. Souma seconded the motion. Passed unanimously 4-0.

### **Lot #13-B-74, Case #38-2004**

Applicant – Joseph Armano/Armco Flooring

Owner – State of New Hampshire

Location – 38 Rockingham Road

Zone – Business Commercial A

A variance is requested from Sections 702-A-1 & 601.3 of the Zoning Ordinance to permit the construction of a permanent building 28-feet from the front setback where 75-feet is required. The building will be constructed in the existing WWPD that will be relocated.

Mr. Roy read the case into the record. Mr. Roy explained that he is an employee of the State of New Hampshire. Mr. Armano and Mr. Fortin presented the case. Mr. Armano explained that on April 27, 2004 the Zoning Board granted a variance for his proposed warehouse lot on a rear setback but unfortunately the state's mapping of the lot was not accurate, the existing lot will be inside the layout of the building. Now Mr. Armano must address the front setback. Mr. Fortin read the five supporting facts into the record. The Chairman closed the public portion of this case. Mr. Roy motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #38-2004**

Mr. Pellegrini motioned to grant case #38-2004 be no closer then 28-feet to the front setback. Mr. Roy seconded the motion. Passed unanimously 4-0. Mr. Gustafson suggested that the applicant work with the Planning Department to see about not encroaching further on the rear and side setbacks.

### **Lot #9-A-963, Case #39-2004**

Applicant – John & Lisa O'Neill

Owner – John & Lisa O'Neill

Location – 4 Dublin Road

Zone – Rural

A variance is requested from Section 702 of the Zoning Ordinance to permit the existing deck of 22 years to remain 26-feet from the setback where 30-feet is required.

Mr. Roy read the case into the record. Mr. O'Neill presented the case and explained that when he purchased this house four years ago nothing came up during the title search regarding the deck that was built over 20 years ago. A building permit was never issued



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for the deck. Mr. O'Neill is now selling the house and the deck was questioned during that process. Mr. O'Neill explained that the 6' X 10' deck does not impede anyone's view. Mr. Pellegrini motioned and Mr. Souma seconded the motion to waive the reading of the five supporting facts. Passed unanimously. The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mr. Roy seconded the motion to go into Deliberation Session. Passed unanimously.

### **Deliberative Session, Case #39-2004**

Mr. Pellegrini motioned to grant Case #39-2004. Mr. Souma seconded the motion. Passed unanimously 4-0.

### **Lot #3-B-260 & 261, Case #40-2004**

Applicant – James Jamieson

Owner – Wayne Paris

Location – 16 & 18 Flat Rock Rd

Zone – Rural

A variance is requested from Section 611.3 & 611.6.5.1 of the Zoning Ordinance to permit the consolidation of two (2) lots of record totaling 6.65 acres and to create a two (2) lot open space subdivision having less than 10 acres and one lot having 62 feet of frontage on an existing road where 175' is required.

Mr. Roy read the case into the record. Attorney Mason presented the case. The intended open space development of the two lots will be single-family homes. This plan represents a development option that preserves environmentally sensitive areas of the site. There is no other land available to the Applicant to form a 10-acre parcel. The 5.47 acres, which would remain as open space, is very close to the 6.5 acres of open space, which would be created by the development of a 10-acre parcel. With the exception of road frontage on one lot and a 1-acre short fall on the open space parcel the development of the site would meet all other regulations. Attorney Mason read the five supporting facts into the record. Mr. Roy read into the record a letter addressed to the Planning Board from the Conservation Commission that states the Conservation Commission supports the requested variance for a two-house open space subdivision providing the applicant can demonstrate that the site can support two conforming lots. The Chairman closed the public portion of this case. Mr. Roy motioned and Mr. Souma seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #40-2004**

Mr. Roy motioned to grant Case #40-2004 as presented. Mr. Pellegrini seconded the motion. Passed unanimously 4-0.



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### **Lot #17-C-27, Case #42-2004**

Applicant – Charles Cimalore  
Owner – Charles Cimalore  
Location – 21 Sawtelle Road  
Zone – Residential A

A variance is requested from Section 702 of the Zoning Ordinance to permit the replacement of an existing deck off of the rear of the house. The current plans for replacement include a 5-foot section of the deck that exceeds the required setback by 5-feet.

Mr. Roy read the case into the record. Mr. Cimalore presented his case and submitted a photograph that was marked as Exhibit A. The existing deck will be replaced using the same footprint. The property is in a heavily wooded area on a private road. The deck is not visible from the road and would not have an impact to abutting lots. Mr. Cimalore read the five supporting facts into the record. The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mr. Souma seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #42-2004**

Mr. Roy motioned to grant Case #42-2004. Mr. Pellegrini seconded the motion. Passed unanimously 4-0.

### **Lot #17-J-106, Case #46-2004**

Applicant – Alfred & Wilda Schommer  
Owner – Alfred & Wilda Schommer  
Location – 10 Rocky Ridge Road  
Zone – Residential A

A variance is requested from Sections 401 & 702-A-1 of the Zoning Ordinance to permit the construction of a partial second story over the kitchen area 12-feet from the right side setback where 30-feet is required and 8-feet from the left side setback where 30-feet is required.

Mr. Roy read the case into the record. Mr. Schommer presented his case. The existing home is less than 1000 square feet. The proposed partial second story addition would be 479 square feet. The height of the dwelling with the proposed addition would be 24.7-feet. There is a proposed 6-foot wide deck off the west side of the building. Mr. Tierney said that the deck was not included in the application for a variance. After checking and some discussion it was decided that the calculations included the deck. Mr. Schommer



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read the five supporting facts into the record. Eric & Jennifer Meyer of 12 Rocky Ridge Road and Patrick Frawley of 8 Rocky Ridge Road spoke in favor of this request. Mr.

Tierney explained in order for the applicant to get his approval for the holding tanks the state required no expansion to the building. Mr. Tierney said in reviewing the property there is a front deck that encroaches on the road was built without building permit. Mr. Schommer explained that he purchased the house in February 2003 and the front deck was already built. Mr. Schommer will apply for a variance for the front deck. The Chairman closed the public portion of this case. Mr. Roy motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously 4-0.

### **Deliberative Session, Case #46-2004**

Mr. Pellegrini motioned to grant Case #46-2004 as proposed with the side deck. Mr. Souma seconded the motion. Passed unanimously 4-0.

### **Minutes**

Mr. Pellegrini motioned and Mr. Souma seconded the motion to approve the August 10, 2004 minutes as written. Passed unanimously 4-0.

### **Other Business**

Mr. Tierney provided forms for both Area & Use Variances and advised the Board that Attorney Campbell recommended using the applications. The Chairman asked that approval of the forms be posted for the next meeting.

### **Mail**

- August 12, 2004 Letter from Jim Tierney regarding ZBA forms.
- August 12, 2004 Letter from Attorney Campbell regarding Town of Windham/Allfrey.
- September 1, 2004 letter from State of NH, Office of Energy & Planning regarding the Annual Fall Conference for Planning Board Members scheduled for October 30, 2004.
- August 9, 2004 Invitation from the Salem Boys & Girls Club to attend a tour and reception on August 24, 2004.
- Nomination form for Municipal Volunteer Award.
- Copy of letter from Mr. Gustafson to the Board of Selectmen regarding Building Inspectors attending the ZBA meeting.
- July 29, 2004 Letter from the Abutters on Cobblestone Road regarding ZBA Case #8-2002, Lot #14-A-925.



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Mr. Roy motioned and Mr. Pellegrini seconded the motion to adjourn at 9:40 PM. Passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for September 28, 2004 at 7:30 PM in the Planning & Development Office.

These minutes are in draft form and are respectfully submitted for approval by Patricia Kovolyan.