



OLD VALUES - NEW HORIZONS
COMMUNITY DEVELOPMENT

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Draft Zoning Board of Adjustment Minutes
November 12, 2013

Board Members:

Heath Partington Chairman – Present
Jim Tierney, Vice-Chairman – Excused
Mark Samsel, Secretary – Excused
Jay Yennaco, Member – Present

Mike Scholz, Member – Excused
Mike Mazalewski, Alternate – Present
Tony Pellegrini, Alternate - Present

Staff:

Nancy Prendergast, ZBA/Code Enforcement Administrator
Laura Accaputo, ZBA Minute Taker

Call to Order/Attendance

The Chair called the meeting to order at 7:30 pm, introduced the Board, and explained the meeting process.

The Chair appointed Mr. Mazalewski to sit for Mr. Samsel and Mr. Pellegrini to sit for Mr. Tierney.

Public Hearings

Mr. Mazalewski read Case #34-2013 into the record along with the list of abutters and a letter of authorization from Ralph Glynn on behalf of Windham Plaza Trust permitting Edward N. Hebert & Associates to represent him at any and all necessary meetings in reference to the variance required for Lot 21-D-107, Case #34-2013.

Lot 21-D-107, Case #34-2013

Applicant – Edward N. Herbert Assoc, Inc.
Owner – Windham Plaza Trust; Beverly Glynn, Trustee
Location – 4 Cobbetts Pond Road
Zone – Commercial A, Neighborhood Business District, Residence A, Aquifer Protection District, WWPD

Variances from the following sections of the Zoning Ordinance are requested to allow a canopy to be constructed over an existing gas pump island:

Sections 702, 702.6 & Appendix A-1 - to permit a canopy to be constructed 10 feet from the side property line where 20 feet is required.

The Chair asked the applicant if they would like to proceed with the Hearing as there was not a full Board in attendance. Mr. Shayne Gendron of Edward N. Hebert & Associates stated they did wish to go ahead with the Hearing.

- Mr. Shayne Gendron addressed the board. The request is for an awning over an existing gas island with two pumps. Due to the location of the pumps and entrance area to the plaza they are unable to meet the side setback requirements. They are asking for relief to go to 10 feet where 20 feet is required. The height of the awning will be 14ft 6 inches with a total height of about 25ft. The main purpose for the awning is to

keep employees out of the weather. It will also be safer for petroleum spills. He read the five criteria into the record and distributed additional photos which the Chair accepted as Exhibit A.

Questions/Comments from the Board.

- Mr. Mazalewski asked if there would be a fire suppression system in the proposed awning. Mr. Gendron stated since this is a full service station it is not required and is not being proposed at this time.
- The Chair asked Mr. Gendron if there would be the same number of pumps and was told yes.

The Chair opened the hearing to the public at 7:43pm, hearing no comments the public portion was closed.

Mr. Yennaco motioned to go into Deliberative Session, seconded by Mr. Pellegrini. Motion passed 4-0.

- Mr. Pellegrini stated he did not have any issues.
- Mr. Mazalewski felt it was a reasonable request and had no issues.
- The Chair stated there will be no change in character to the area and no issues of safety and welfare. The awning will benefit the owner and employees without loss to the public. The existing location of the gas pumps is unique and this is a very reasonable request.

Mr. Yennaco motioned in consideration of the 5 criteria to grant the variances for Case #34-2013 on lot 21-D-107, from the following sections of the Town of Windham Zoning Ordinance: Sections 702, 702.6 & Appendix A-1 to permit a canopy to be constructed over an existing gas pump island 10ft from the side property line where 20ft is required, seconded by Mr. Mazalewski. Motion passed 4-0.

The Chair advised of the 30 day appeal period.

Mr. Mazalewski read Case #35-2013 into the record along with the list of abutters.

Lot 17-L-78, Case #35-2013

Applicant – Michael J. & Michelle C. Fontaine

Owner – Michelle C. Fontaine Recovable Trust; Michelle C. Fontaine, Trustee

Location – 30 Horseshoe Road

Zone – Residence A, Cobbetts Pond & Canobie Lake Watershed Protection Overlay

Variances from the following sections of the Zoning Ordinance are requested to allow an existing 6 foot high fence to be replaced with an 8 foot high fence along the southerly property line:

Section 710.3.1 – to permit an 8 foot high fence within the minimum required side and rear yards where a maximum of six feet (6') in height is allowed; and to permit an 8 foot high fence within the minimum required front yard where a maximum of four feet (4') in height is allowed.

The Chair asked the applicants if they would like to proceed with the Hearing as there was not a full Board in attendance. Mr. Michael Fontaine stated they wished to go ahead with the Hearing.

- Mr. Michael Fontaine of 30 Horseshoe Road addressed the Board. The request is to replace an existing 6ft high stockade fence with an 8ft high vinyl decorative fence on the south border of the property. The fence will gradually increase within the first 14ft from 4ft to 8ft high; the section closest to the road will have a lower fence at 4ft high than currently exists. An additional section of 83ft will be 8ft high and the remaining section will be 7ft high. He stated both abutters on that side of the property support this request. He distributed the letters of support and additional photos which the Chair accepted as Exhibit A. He also stated the Road Agent came out to look at the property and indicated the current fence did not create an obstruction from his perspective. He then read the 5 criteria into the record.

Questions/Comments from the Board.

- Mr. Yennaco asked Mr. Fontaine if the fence will be on the lot line and was told yes.
- Mr. Yennaco asked Ms. Prendergast if the adjacent property which is grandfathered as commercial use would need a variance to put up an 8ft fence and was told yes.
- Mr. Pellegrini stated he had no issues with the request and felt having the portion of fence closest to the road lower as proposed would be better.
- The Chair stated he looked at the property and did not believe there are sight line issues and he verified with the Code Enforcement Officer that the adjacent property is grandfathered as commercial property.

The Chair opened the hearing to the public at 8:03pm. Hearing no comments the public portion was closed.

Mr. Yennaco motioned to go into Deliberative Session, seconded by Mr. Pellegrini. Motion passed 4-0.

- Mr. Yennaco stated this situation is unique with a grandfathered business in a neighborhood setting. He has no issue with the fence as long as it is in the same place, same distance.
- Mr. Mazalewski stated he is familiar with the area and believes this a reasonable request considering the commercial business next door.
- Mr. Pellegrini agrees it is a unique situation.
- The Chair believes the business next door and the unique character of the land can be used as the hardship criteria.

Mr. Yennaco motioned in consideration of the 5 criteria to grant the variances for case #35-2013, Lot 17-L-78, from the following sections of the Town of Windham Zoning Ordinance: Section 710.3.1 to permit an 8 foot fence within the minimum required side and rear yards where a maximum of 6 feet in height is allowed, and to permit an 8 foot high fence within the minimum required front yard where a maximum of 4 feet in height is allowed, seconded by Mr. Mazalewski. Motion passed 4-0.

The Chair advised of the 30 day appeal period.

1. Review and Approval of Draft Meeting Minutes – 9/24/2013, 10/08/2013, 10/22/2013

Mr. Yennaco motioned to approve the draft minutes of September 24, 2013 as amended, seconded by Mr. Pellegrini. Motion passed 4-0.

The draft minutes of October 8, 2013 and October 22, 2013 were postponed.

2. Old/New Business

a. Pledge of Allegiance discussion

- The Chair stated at this time the majority of the Board does not support changing the beginning of the meeting by incorporating the Pledge of Allegiance.

3. Binder Updates – Table of Contents, Tab 4 – Variance Application, Tab 6 – ZBA Rules of Procedure

- The Chair advised the Board Members that each agenda packet contained updated rules and procedures.

Mr. Yennaco motioned to adjourn, seconded by Mr. Mazalewski. Motion passed 4-0. Meeting adjourned @ 8:16pm

These minutes are in draft form and respectfully submitted for approval by Laura Accaputo, ZBA Minute Taker.