



## BOARD OF ADJUSTMENT

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

July 13, 2004

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

### **Lot #11-C-425, Case #29-2004**

Applicant – Barlo Signs  
Owner – Anthony Mesiti  
Location – 61 Indian Rock Road

A variance is requested from Section 706.6 of the Zoning Ordinance to permit the alteration of an existing non-conforming sign. To replace the existing reader board with a new electronic message board which will be 20.167 square feet where 20 square feet is permitted and to allow the existing sign to remain at 18-feet high where 14-feet is permitted and to allow the existing top cabinet sign to remain at 64 square feet where 60 square feet is permitted.

Mr. Pellegrini read the case into the record. Mr. Don Reed of Barlo signs presented the case. Mr. Reed explained that the existing sign is to be modified. The existing 24 square foot reader board will be removed and replaced with an electronic reader board. The existing reader board is actually 24 square feet. Granting this request would bring the sign more into compliance. The reader board will be smaller than the existing reader board. The Board questioned why the sign is not in compliance. Susan Karalis of Real Estate Results said that the Planning Board approved the sign. Ms. Karalis went on to say that originally she did not want the sign up on the hill because she thought it would be better if it was on a level where people could ride by and read it. Ms. Karalis said that she was told by an engineer and the sign company that there was no way to relocate the sign and that the Planning Board would prefer to leave the sign in the same spot. Ms. Karalis said that she would prefer the sign to be more visible and off the hill. Mr. Tierney, Building Inspector, said that the Planning Board approved a sign but the sign was actually built larger than what was approved. Mr. Tierney said that the dimensions of the sign did not come into question until this application was submitted. Mr. Tierney said he thought that no one ever physically measured the sign. Mr. Reed read the five supporting facts into the record. Mr. Tierney questioned the size of the message board and the lighting color. Mr. Doyle closed the public portion of this case. Mr. Pellegrini motioned and Mr. Souma seconded the motion to go into Deliberative Session. Passed unanimously 4-0. Mr. Doyle asked the Members if they wanted to go back into Public Session and ask the Applicant to agree to make the sign smaller. Mr. Souma motioned and Mr. Roy seconded the motion to go back into Public Session. Passed unanimously 4-0. Ms. Karalis said that maybe she should withdraw the case because she was not aware, until this meeting, that the current sign was not in conformance. Mr. Bruce Breton said



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that the Applicant is trying to bring the sign into compliance and by granting the variance you would bring the sign into compliance. Mr. Pellegrini said that to bring the sign into compliance is not part of the variance. Mr. Roy said that there are enough questions regarding this case and suggested that the Building Department look into this. Mr. Pellegrini motioned and Mr. Roy seconded the motion to have the sign measured exactly and continue this case to the July 27, 2004 meeting. Passed unanimously 4-0. Mr. Tierney said that he would verify the size of the sign.

### **Lot #19-B-2019, Case #32-2004**

Applicant – Edward N. Herbert Associates, Inc.

Owner – David & Rebecca Husak

Location – 15 Lancaster Road

A variance is requested from Sections 601.1 & 601.3 of the Zoning Ordinance to permit the building of an arbor/pool house partially in the WWPD, an in-ground pool partially in the WWPD, retaining walls, stairs, fire pit, walkways, patio and lawn area within the WWPD and a garage and some additional driveway within the WWPD.

Mr. Pellegrini read the case into the record. Mr. Peter Zohdi, of Herbert Associates, representing the owner, presented the case. Mr. Zohdi gave a brief history of the two lots being combined to create this 10.48-acre lot. The proposed impact to the WWPD will be 4,329 square feet. The configuration of wetland and the WWPD present special conditions. The only other area outside the WWPD is over 300 feet to the southeast. This is not feasible because it would require more extensive impacts to the WWPD and a wetland permit to build a driveway to the location and would present a safety problem to put a pool so far from the house. The buildings and structures being proposed will not contribute to surface or groundwater contamination or reduce surface or groundwater supplies. Wetland areas will be fully protected during construction. The property has two existing garages. Mr. Zohdi explained that he presented this plan to the Conservation Commission and they would be in favor of this plan if the owner put the balance of the land into a conservation easement. The owner believes that if they put the balance of the land into a conservation easement anyone on Saturday mornings could come and walk their land and take away their privacy. Mr. Dennis Senibaldi stated that he was not representing the Conservation Commission but that in addition to a conservation easement a deed restriction was also discussed by the Conservation Commission. Mr. Senibaldi said that the Commission looked at the overall damage that would be done if the project had to be moved to another part of the property. Mr. Tom Case said that when he first heard about this case he thought this would be a lot of intrusion into the WWPD which we have always thought as bad. When this was presented to the Conservation Commission and an offer was made for some land, the Commission didn't seem to have any problem with it, so apparently having these things in the WWPD is not as bad as they keep saying it is. Mr. Case said that the WWPD should be re-addressed in the Zoning regulations. Mr. Zohdi said the owner is willing to put a deed restriction on the land. Mr. Pellegrini read into the record a letter from Glenn E. Rosenholm of 101 Karen Road opposing this request. Mr. Rosenholm's letter states that any significant additional construction on this property will only serve to disrupt the local ecosystem further. Mr. Joseph Tully representing his



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daughter Siobhan Tully of 2 Karen Road spoke against this request. Mr. Tully said that he had not heard hardship mentioned and asked if there are criteria for the variance and asked if the five supporting facts should be addressed before he spoke. Mr. Tully was told to go ahead and the five supporting facts would be read. Building within the buffer is not in the spirit of the ordinance. Mr. Tully pointed out that there are currently two garages on the property. There should be another place on a 10-acre parcel to build the pool and garage etc. There is no good reason to destroy wetlands for a garage and pool. Mr. Tierney pointed out that there is 130 feet on the side of the property that can be utilized to locate the pool, pool house and garage with zero impact to the WWPD. Mr. Tierney also said that there is a difference in elevation of 10-feet from where the proposed pool would be to the retaining wall and this could be a dangerous situation. Mr. Doyle read the five supporting facts into the record at the request of Mr. Zohdi. Mr. Souma asked if a structure could be placed somewhere else on the property that would not affect the WWPD. Mr. Zohdi said that if the Board does not want to approve the garage tonight he would take it off the plan. Mr. Doyle closed the public portion of this case. Mr. Pellegrini motioned and Mr. Roy seconded the motion to go into Deliberative Session.

### **Deliberative Session – Case #32-2004**

Mr. Souma said that the Applicant is agreeable to removing the garage from the plan. Mr. Pellegrini asked what was the *big deal* with the garage. Mr. Souma replied why approve the garage in the WWPD when it could be placed somewhere else. Mr. Roy said if it can be put somewhere else why not. The Members discussed putting a restriction on the property. Mr. Roy motioned to grant Case #32-2004 as presented but with no more development on the property. Mr. Pellegrini seconded the motion. Mr. Pellegrini, Mr. Roy and Mr. Doyle voted to grant this variance. Mr. Souma voted to deny. Motion passed 3-1.

### **Minutes**

Mr. Roy motioned and Mr. Souma seconded the motion to accept the June 22, 2004 minutes as written. Passed 3-0-1. Mr. Doyle abstained since he was not at the June 22, 2004 meeting.

### **Mail**

None

Mr. Pellegrini motioned and Mr. Souma seconded the motion to adjourn at 9:15 PM. Passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for July 27, 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.