



BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes March 28, 2006

Rob Gustafson - Vice-Chairman
Tony Pellegrini - Secretary (Excused)
Mark Samsel - Member
Dianna Fallon - Member
Gail Webster - Member
Jim Tierney - Alternate
Al Souma - Alternate (Excused)
Tom Murray - Alternate

Mr. Gustafson was Acting Chairman for this meeting.

Seat Alternates

Mr. Murray was appointed to replace Mr. Pellegrini for this meeting.

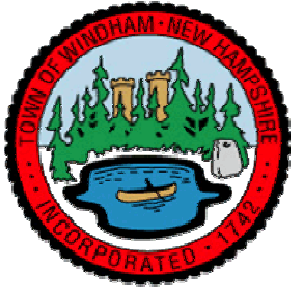
Mrs. Fallon advised the Board that the Town Clerk told her that she did not need to be sworn in. Mr. Gustafson wanted the applicants to be aware that Mrs. Fallon was elected and she sought swearing in. Mr. Samsel said that RSA 42:1 states that if someone forgets or has not taken the oath that member is considered defacto and the only challenge would be if there is a lawsuit challenging the member's right to sit.

Lot #21-K-45, Case #13-2006

Applicant - Herbert Associates
Owner - Alan & Michelle Leclair
Location - 34 Turtle Rock Road
Zone - Residential A

A variance is requested from Sections 401, 406, & 700 Appendix A-1 of the Zoning Ordinance to permit the expansion of the volume of living space of a house on an existing non-conforming lot and to add a 24' X 26' garage that has a side setback of 12.5 feet where 30-feet is required.

Mr. Murray read the case into the record. Mr. Peter Zohdi of Herbert Associates, representing the applicant, presented the case. The applicant would like to add a second floor to the existing house. The existing house has a right side setback from the property line of 5.2' and 5.4' and a left side setback of 4.8'. The setbacks on both the northeast and northwest sides of the garage will be 12.9'. Mr. Gustafson asked Mr. Zohdi if he is seeking relief from Section 406 or just Section 406.2. Mr. Zohdi confirmed that he is only seeking relief from Section 406.2. Mr. Murray read the supporting facts into the record. Mr. Donald Leclair of 36 Turtle Rock Road



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spoke in favor of this request. Mr. John Madden of Lexington, Massachusetts voiced his concerns regarding the height of the proposed addition and requested consideration of the timing of the construction. Veronica Madden of Hingham, Massachusetts said that the additional elevation would affect their view and the amount of light to their property. Ms. Madden requested shrubs be planted along the property line for privacy. Mr. Zohdi said that the applicant would work with the neighbors regarding privacy shrubs. Mr. Gustafson closed the public portion of this case. Mr. Murray motioned and Miss Webster seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, Case #13-2006

Mr. Samsel motioned and Mr. Murray seconded the motion to grant Case #13-2006 from Sections 401, 406.2 and 700 Appendix A-1 of the Zoning Ordinance. Passed unanimously 5-0.

Lot #9-A-400, Case #15-2006

Applicant - Brian Bauchman, Jr.

Owner - Brian Bauchman, Jr.

Location - 120 Haverhill Road

Zone - Rural

A variance is requested from Sections 400, 404, 405.2 & 503 of the Zoning Ordinance to permit the installation of a 50' X 60', three bay addition to an existing garage at the rear of the property. This addition would replace the four bay garage that was at the front of the property until it collapsed during a snowstorm. By moving it to the rear the closest point to the lot line would be 61-1/2'.

Mr. Murray read the case into the record. Mr. Bauchman explained that the Town of Windham requested that he keep his trucks in a garage. A four-bay garage that was located at the front of the property collapsed. Mr. Bauchman would like to build a garage at the back of the property because it would utilize the use of the existing garage already located in the rear of the lot, and would provide storage for stock currently kept outside. The garage would not be visible from any of the homes abutting the property. There is over 200-feet of natural buffers between any of the abutting structures. The proposed garage would be 61.5-feet from the rear property line. No trees would need to be removed because this area is already cleared and is the area where the trucks are currently parked. Mr. Bauchman submitted an aerial photo of his property. Mr. Gustafson marked the photo as Exhibit A. Mr. Michael McGuire, Building Inspector, submitted two photos taken on March 28, 2006, by Mr. Al Turner, Director of Planning & Development. The photos were taken because of a complaint received by the Building Department. Mr. Gustafson marked the two photos as Exhibit B. Mr. McGuire said that there is an issue whether or not there is an auto repair business at this site. Mr. Bauchman said he has four employees and identified the cars in the photo as belonging to his children and himself. Mr. Samsel asked the applicant if he would be expanding his business. Mr. Bauchman replied that he would not be expanding the business.



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Mr. Bauchman read the supporting facts into the record. The following abutters spoke in support of this request:

- Mr. Jeffrey Mitrou of 118 Haverhill Road
- Mr. David Howes of 62 North Lowell Road
- Mr. Philip Park of 109 Haverhill Road

The following abutters spoke in opposition of this request:

- Mr. Joseph Collins of 9 Galway Road
- Mr. George Davidovich of 7 Galway Road
- Mr. Donald Bergstresser of 11 Galway Road

The five photos submitted by Mr. Davidovich were marked as Exhibit C and the list of questions submitted by Mr. Bergstresser was marked as Exhibit D.

Mr. Gustafson asked Mr. Bauchman how the use came about; was there a variance? Mr. Bauchman explained that before purchasing the property he inquired about the town's view on constructing a garage on the property for overnight storage of his tow trucks. After reviewing the site plans with Mr. Bauchman, Mr. Frank Keefe, Code Enforcement Officer at that time, indicated that the construction of a garage would not be a problem with respect to the existing zoning. The foundation sat for a year and a half during a court case that was found in Mr. Bauchman's favor. Mr. Bauchman also stated that the elevation of the proposed building will be 27-feet. Mr. Gustafson asked if this were not commercial would any variance be required for the proposed structure. Mr. McGuire answered that a variance would not be needed if this was not commercial. Mr. Gustafson said that he was trying to determine the scale of the allowed commercial activity. After reviewing the file, Mr. McGuire suggested that this case be continued because of the amount of paperwork to be reviewed. Mr. Samsel motioned and Mr. Murray seconded the motion to continue Case #15-2006 to the April 11, 2006 meeting. Mrs. Fallon asked if the reason for the continuance should be stated in the motion. Mr. Samsel amended his motion. Mr. Samsel motioned and Mr. Murray seconded the motion to continue Case #15-2006 to the April 11, 2006 meeting in order to have time to evaluate additional information brought forward during the meeting. Passed unanimously 5-0.

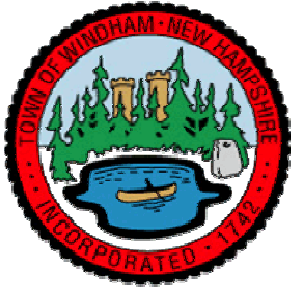
Lot #6-A-4, Case #16-2006

Applicant - Herbert Associates

Owner - Philip & Christine Novick

Location - 6 Londonderry Road

Zone - Residential B



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A variance is requested from Sections 700 & 702 Appendix A-1 of the Zoning Ordinance to permit the subdivision of a lot with less than 175-feet of frontage.

Mr. Murray read the case into the record. Mr. Peter Zohdi of Herbert Associates, representing the applicant, presented the case. The owner wishes to split his existing 4-acre lot into two lots and build a new single-family house. One lot would have 179.18-feet of frontage on Londonderry Road and the second lot would have 91.73-feet of frontage. Mr. Murray read the supporting facts into the record. Mr. Zohdi submitted a plan showing that the original lot was one acre and there was a lot merger in 1978 forming the current 4-acre lot. Mr. Gustafson marked the plan as Exhibit A. Mr. Murray read into the record two letters of support; one from Richard Dolan of 10 Londonderry Road and one from Mr. & Mrs. Galvin of 4 Londonderry Road. Mr. Gustafson closed the public portion of this case. Mr. Murray motioned and Mr. Samsel seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, Case #16-2006

Mr. Samsel motioned and Mrs. Fallon seconded the motion to grant Case #16-2006. Motion passed 4-1. Mr. Murray, Miss Webster, Mr. Samsel and Mrs. Fallon voted for the motion. Mr. Gustafson voted against the motion.

Lot #11-C-1100, Case #17-2006

Applicant - NH Signs

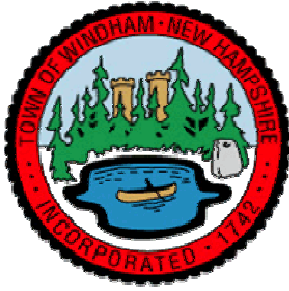
Owner - Ron Tringale

Location - 25 Indian Rock Road

Zone - Business Commercial A

A variance is requested from Sections 706.4.5 & 706.6 of the Zoning Ordinance to permit a secondary freestanding identification sign and a directional sign.

Mr. Murray read the case into the record. Attorney John Cronin, representing the owner, presented the case along with Mr. Dan Hutchins of NH Signs. This sign variance is necessary because of the unique location of the facility. The building is not facing the main road; it is tucked in a rear corner. The main sign would essentially be a directional sign. Would like to replace the existing directional sign with a new sign having 10 square feet of lettering area; the overall size of the sign would be 15 square feet. Mr. Murray read into the record a letter submitted by Attorney Cronin from Mr. Rick Hatton, Associate Broker at Masiello Group, explaining the difficulty he has had to find tenants that will lease this space because the suites are located behind the Linda Roberts Realty building and the signage is only visible from Route 111 at a distant angle. Attorney Cronin read the supporting facts into the record. The four pages of photos that were submitted were marked as Exhibit A. The sign will be internally illuminated with the exception that the background is opaque so that at night the only thing that lights are the



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letters. Mr. Gustafson closed the public portion of this case. Mr. Samsel motioned and Miss Webster seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, Case #17-2006

Mr. Murray motioned and Miss Webster seconded the motion to grant Case #17-2006. Mr. Murray withdrew his motion and made a new motion also seconded by Miss Webster to grant Case #17-2006 per the plan submitted. Passed unanimously 5-0.

Approval of March 14, 2006 Minutes

Mr. Samsel motioned and Mr. Murray seconded the motion to approve the March 14, 2006 minutes as written. Motion passed 3-0-2. Mrs. Fallon and Miss Webster abstained because they were not yet members of the Zoning Board.

Other Business

The members discussed amending the By-laws. Mr. Gustafson asked that *Review of By-laws and Election of Officers* be added to the April 11, 2006 agenda. Mr. Samsel motioned and Mrs. Fallon seconded the motion to postpone the election of officers to the next meeting when the full board will be present. Passed unanimously 5-0.

Mr. Gustafson will write a letter to Mr. Al Turner, Director of Planning & Development, requesting copies of the 2006 NH Planning & Land Use Regulation books, street maps and updated zoning maps. Mrs. Kovolyan will follow up on obtaining copies of the Board of Adjustment Handbook.

Mrs. Fallon will be attending the OEP Conference and asked about the payment procedure.

Mail

- Schedule of 2006 Local Officials Workshops.
- Rockingham Planning Commission Spring 2006 Newsletter.

At 10:37 PM Mr. Samsel motioned and Mrs. Fallon seconded the motion to adjourn. Passed unanimously 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for April 11, 2006 at 7:30 PM in the Planning & Development Office.

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