

# BOARD OF ADJUSTMENT

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

## Zoning Board of Adjustment Minutes May 23, 2006

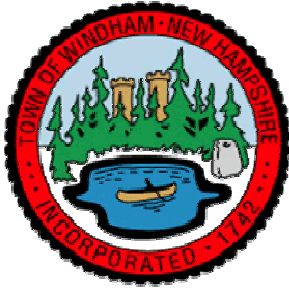
Rob Gustafson – Chairman  
Mark Samsel – Vice-Chairman  
Tony Pellegrini – Secretary (Excused)  
Dianna Fallon – Member  
Gail Webster – Member  
Jim Tierney – Alternate  
Al Souma – Alternate (Absent)  
Tom Murray – Alternate

### Lot # 11-A-165, Case # 24 -2006

Applicant – Benchmark Engineering  
Owner – James Freda  
Location – 4 Ledge Road  
Zone – Limited Industrial

A variance is requested from Section(s) 702 Appendix A of the Zoning Ordinance to permit a 32' X 40' addition to an existing building that sits 23.5-feet from the property line where 30-feet is required and to allow the existing building to remain 23.5-feet from the rear property line where 30-feet is required and to allow the existing storage container to remain 7-feet from the rear property line where 30-feet is required.

Mr. Murray read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing the applicant, presented the case. The existing building is a 48' X 58' refrigeration storage building and sits 23.5-feet off the rear property line. The applicant would like to add a 32' X 40' addition to the existing building and allow the rear setback of the addition to stay the same as the existing building. There is an existing storage container that has no building permit in the file. The storage container has been in that location for over 20 years and sits 7-feet off of the rear setback. Mr. Maynard read the supporting facts into the record. There will be a handicap ramp in the front of the addition. Mr. Gustafson asked why the applicant did not request an Equitable Waiver for the existing building. Mr. Maynard said that he will come back with an application for an Equitable Waiver for the existing building. Mr. Murray read into the record a letter of support from Gerard & Donna Bowes, of Windham Outdoor Material Sales and Ronald and Deborah St. Jean of 5 Ledge Road. The Chairman closed the public portion of this case. Mr. Samsel motioned and Mr. Murray seconded the motion to go into Deliberative Session. Passed unanimously 5-0.



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### **Deliberative Session, Case #24-2006**

Mr. Samsel motioned and Mr. Murray seconded the motion to grant Case #24-2006 permitting a 32' X 40' addition to an existing building as well as allowing an existing storage building to remain 7-feet from the rear property line. Passed unanimously 5-0.

### **Lot # 21-K-45, Case #25-2006**

Applicant – Edward N. Herbert Associates, Inc.

Owner – Alan & Michelle Leclair

Location – 34 Turtle Rock Road

Zone – Residential A

An Appeal of an Administrative Decision is requested from Section(s) 400, 401, 406.2 and 700 Appendix A-1 of the Zoning Ordinance. The applicant is appealing the Building Inspector's permit denial of April 14, 2006 to raze and reconstruct a dwelling.

Mr. Murray read into the record a letter from Mr. Peter Zohdi of Edward N. Herbert Associates, Inc. requesting that Case #25-2006 be withdrawn.

### **Lot # 3-B-600 & 601, Case #26-2006**

Applicant – Attorney Bronstein

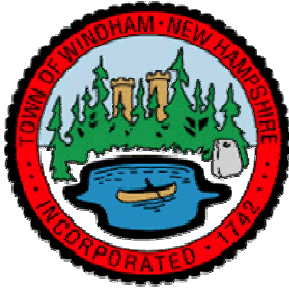
Owner – H&B Homes Corp.

Location – 179 Rockingham Road

Zone – Rural

A variance is requested from Section(s) 611.3 of the Zoning Ordinance to permit the use of land as part of the permanent open space (as defined by Section 611.6.7.1) with respect to a proposed open space residential development (as defined by Section 611.3). Spruce Pond Estates Phase 2, which is not contiguous to lots 3-B-600 or 3-B-601 and therefore said lots are not allowed to be utilized as open space for said subdivision.

Mr. Murray read the case into the record. Attorney Peter Bronstein, representing the applicant, presented the case. The applicant would like to use lots 600 and 601 as part of the open space for Spruce Pond Phase II. Lot #3-B-600 has 9.47 acres and Lot #3-B-601 has 14.22 acres. Although lots 600 and 601 are not adjacent to the open space for Phase II they are contiguous to the open space for Phase I. Phase I flows into the open space of Phase II. Spruce Pond I and II was submitted as one whole project. The phasing of the project caused the need for a variance. Attorney Bronstein read the supporting facts into the record. Mr. Joseph Maynard of Benchmark Engineering advised the board that there is enough density on Lots 600 and 601 for 7 house lots. Phase II requires 160 acres of open space to meet the requirement. Phase II as a stand alone project will have 65% open space. The town ordinance requires 30,000 square foot lots but the



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applicant wants to create 38,000 square foot lots. Phase II could work with 30,000 square foot lots to meet the 65% open space requirement. The wetlands on Lots 600 & 601 are of low to medium value but the area is a treatment area for the runoff from Route 28. The Chairman closed the public portion of this case. Mr. Samsel motioned and Mrs. Fallon seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session, Case #26-2006**

Mr. Murray motioned and Mr. Samsel seconded the motion to grant the variance requested from Section 611.3. Mr. Murray amended his motion and Mr. Samsel seconded the amended motion to grant the variance requested from Section 611.3 viewing Spruce Pond I and II as one contiguous subdivision.

### **Lot # 21-Z-10A, Case #27-2006**

Applicant – Donna Charbonneau Trustee of the Donna Charbonneau Revocable Trust

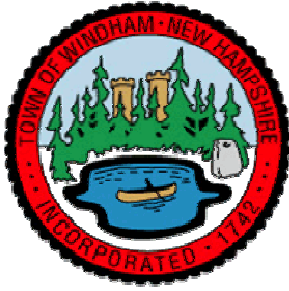
Owner – Donna Charbonneau Trustee of the Donna Charbonneau Revocable Trust

Location – 14 Horne Road

Zone – Residential A

A variance is requested from Section(s) 700 Appendix A-1 of the Zoning Ordinance to permit the construction of a 30' X 32' detached garage 10-feet from the front setback where 50-feet is required and 15-feet from the side setback where 30-feet is required.

Mr. Murray read the case into the record. Attorney Morgan Hollis, representing the applicant, submitted a letter from Re/Max Action Realty in Pelham, NH regarding the value of surrounding properties, a certified foundation plan and photos. The property is adjacent to Cobbetts Pond. Attorney Hollis read the Re/Max letter into the record and the Chairman marked the letter as Exhibit A. The existing garage will be converted to a family room. The property is bisected by Horne Road and is approximately .63 acres. The location of the proposed structure is approximately the same as the existing parking area for the property and the same location as the detached garage next door. The proposed structure will have no living area. The area is already impervious so there will not be a change in the drainage runoff. Attorney Hollis read the supporting facts into the record. Mr. Mark Charbonneau of 14 Horne Road, explained that there is a 15-foot right-of-way and the proposed garage would be in line with his neighbor's garage. Jennifer Colvin of 7 Horne Road spoke in opposition to this request. Mrs. Colvin submitted 11 pages that include a copy of the Re/Max letter, copies of Zoning Board meeting minutes, copies of photos, copy of the Shoreland Protection Act and her notes. The Chairman marked the 11 pages at Exhibit B and the 5 photos as Exhibit C-1 thru C-5. An aerial photo of the property was marked as Exhibit D and the 13 photos submitted by Attorney Hollis were marked as Exhibit E-1 thru E-13. Mrs. Fallon motioned and Mrs. Webster seconded the motion to continue Case #27-2006 to the June 13, 2006 meeting to provide view time for the Board. Passed unanimously 5-0.



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### **Lot # 14-B-4404, Case #28-2006**

Applicant – Jeff & Maureen Turner  
Owner – Jeff & Maureen Turner  
Location – 7 Gillis Road  
Zone – Rural

A variance is requested from Section(s) 710 of the Zoning Ordinance to permit a 54” fence where 36” is allowed within 60-feet from the front lot line.

Mr. Murray read the case into the record. Jeff & Maureen Turner presented their case and explained that they would like to construct a 54” post fence with 3 lines of 1-1/2” white electric tape on their front lot line to protect their horse and utilize pasture area. Mrs. Turner read the supporting facts into the record. The Chairman closed the public portion of this case. Mr. Samsel motioned and Mrs. Webster seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session, Case #28-2006**

Mr. Samsel motioned and Mr. Murray seconded the motion to grant Case #28-2006 with the stipulation that if the easement becomes a road the variance becomes null and void. Passed unanimously 5-0.

### **Deliberative Session**

### **Lot #11-C-1100, Case #17-2006 Request for Rehearing**

Applicant – Windham Board of Selectmen  
Owner – Ron Tringale  
Location – 25 Indian Rock Road  
Zone – Business Commercial A

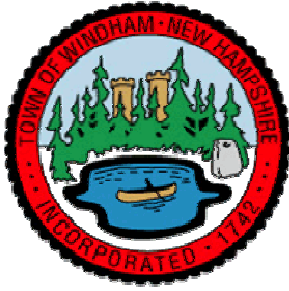
A rehearing is requested on the decision made by the Zoning Board on March 28, 2006.

Mr. Murray read the case into the record. The Board reviewed the petition and evidence. Mrs. Webster motioned and Mr. Murray seconded the motion to deny the request for a rehearing because after reviewing all the submitted points in question there was no new evidence. Motion passed 5-0.

### **Lot #18-L-35, Case #18-2006 Request for Rehearing**

Applicant – Andrew Lane  
Owner – Patricia E. Letizio Family Trust  
Location – 5 Woodvue Road  
Zone – Residential A

A rehearing is requested on the decision made by the Zoning Board on April 11, 2006.



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Mr. Murray read the case into the record. Mr. Murray did not sit in on this case because he was not part of the original board to hear this case. Mr. Samsel motioned and Mrs. Webster seconded the motion to continue this request for a rehearing to the June 13, 2006 in order to have the fifth member in attendance that heard the original case. Passed unanimously 4-0.

### **Approval of April 25, 2006 Minutes**

Mrs. Fallon motioned and Mr. Samsel seconded the motion to accept the April 25, 2006 minutes as written. Passed unanimously 5-0.

### **Other Business**

Mrs. Webster motioned and Mrs. Fallon seconded the motion to accept Form 006 as amended. Passed unanimously 5-0.

Mr. Gustafson signed the revised By-Laws.

Mrs. Fallon requested a discussion with the Town Attorney regarding deliberating each point of the variance requirements. Mr. Gustafson suggested gathering items for a workshop with Attorney Campbell.

### **Mail**

- May 17, 2006 Memo from Dr. Finn, Chairman Conservation Commission regarding 20 & 22 Flat Rock Road. House location shown on the plan is appropriate.
- May 2006 Issue of *Town & City*.

At 11:00 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 June 13, 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.