

# BOARD OF ADJUSTMENT

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

## **Zoning Board of Adjustment Minutes** **August 22, 2006**

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

### **Seat Alternates**

The Chairman appointed Mr. Murray to replace Mrs. Webster.

### **Lot # 17-L-86, Case #38-2006 (Continued from August 8, 2006)**

Applicant – Edward N. Herbert Associates Inc.

Owner – Barbara & Alan Adamson

Location – 20 Grove Street

Zone – Residential A

A variance is requested from Section(s) 401, 406.2, 702, & 1200.1.3 of the Zoning Ordinance to permit the expansion of a pre-existing non-conforming structure and expansion from seasonal to year-round use on a lot that is undersized by current requirements with less than 30-foot side setbacks (11.5 feet and 18.3 feet side setbacks) and frontage on a private road.

Mr. Pellegrini read the case into the record. Mr. Wes Aspinwall of Herbert Associates, representing the owner, submitted photos that were marked as Exhibits A-1 thru A-4 and presented the case. The appearance and condition of the building will be upgraded. The lot is only 50-feet wide. The building will be razed and placed on a new foundation and moved approximately 10-feet closer to the street. A second floor will be added but will remain a three-bedroom dwelling. The easterly side setback will remain the same. The westerly side setback will be 11.7-feet. Conversion from seasonal to year round was requested. Mr. Aspinwall said that the submitted plot plan shows exact placement of the dwelling. Mr. Aspinwall read the supporting facts into the record. 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 #38-2006**

Mr. Murray motioned and Mr. Samsel seconded the motion to grant Case #39-2006 as requested per the submitted plot plan. Motion passed unanimously 5-0.

### **Lot # 19-A-400, Case #40-2006**

Applicant – Frederick C. Ford Trustee

Owner – Ford Family Trust

Location – 70 Mammoth Road

Zone – Rural

A special exception is requested from Section(s) 602.1.6 of the Zoning Ordinance to permit a horse care and riding instruction business in a 30' X 36' barn with one part-time employee.

Mr. Pellegrini read the case into the record. Mr. Fred Ford submitted 15 pages that were marked as Exhibit A and presented his case. The property is located one mile south of the Waterhouse Store. There are two structures on the 10-acre parcel; the house and a four-stall horse barn with a hay & grain area and a tack room/office area. The barn was professionally built in 2005 under a permit issued by the Town of Windham. Mr. Ford explained that they would like to establish a business to give horse care and riding lessons and have one employee (their daughter).

Historically the 10-acre parcel has been agricultural land and is mainly large open pastures bordered by some heavily forested areas and abutted by other forested areas much of which is under development for condominiums and various other dwellings. Currently there are four horses stables in the barn with a potential capacity of no more than five animals leaving an area equal to two additional stalls for use as a tack room, tools, hay, grain etc. The paddock is approximately 50' X 35'. There are plans to fence in approximately one and one half additional acres of the two northerly open pastures for free-range grazing and equestrian field event work and schooling. A circular silt barrier was built within the forested area behind the barn to hold the horse manure that would be accumulating. The barrier consists of 70 bails of stacked hay, two bales thick, which allows water to filter through while leaving all solids well stabilized and virtually odor free. A sanitary toilet facility for the exclusive use of equestrian students and their families will be maintained in the form of a porta-potty. The porta-potty will be located adjacent to the horse barn and will be pumped and sanitized weekly as it was during the construction phase of the house. Mr. Dennis Root of 15 Third Street spoke in favor of this request. Attorney William Mason, representing 80 Mammoth Road LLC, spoke in opposition to this request. Attorney Mason said that this does not fall into the home occupation category. Issues facing this request are site, smell, insects, runoff regarding rain infiltration into the manure and the use of a porta-potty. This is a request for commercial use in an area of residential condominiums and single family homes. Mr. Ray Fennelly, President of Windham Meadows Condominium Association, spoke against this request. Mr. Ford said that his daughter is giving lessons now but



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not being paid and she would like to charge for the services. The only insects indigenous to horses are flies and a product is being used that will eat the eggs of the flies. No more than one or two mounted riders will be instructed at the same time. There would be no change in activity, no change in manure, no change in land use. 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.

### **Deliberative Session, Case #40-2006**

Mr. Samsel motioned and Mr. Pellegrini seconded the motion to deny Case 40-2006 for the Special Exception to permit a Horse Care and Riding Instruction Business at 70 Mammoth Road because the specific use needed to grant the exception is not stated in Section 602.1.6. Request denied; motion passed 5-0.

### **Lot # 16-P-192A & 900, Case #41-2006**

Applicant – Robert & Joyce Nelson

Owner – Robert & Joyce Nelson

Location – 16 Third Street

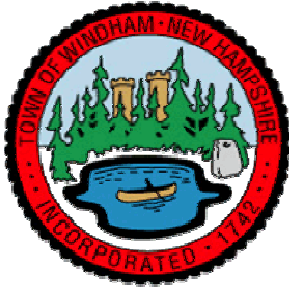
Zone – Residential A

A variance is requested from Section(s) 401, 406.2 & 702 Appendix A-1 of the Zoning Ordinance to permit the remodeling of a structure on a Class VI road. The existing structure does not meet the 50-foot front setback, the 30-foot side setback, the 175-feet of frontage or the required lot area. The setback for the addition will be approximately 20-feet in the front where 50-feet is required and the side setbacks will be 17-feet on the left side and 23.5-feet on the right side where 30-feet is required.

Mr. Pellegrini read the case into the record. Mr. Nelson submitted photos and presented his case and explained that he wanted to add a second story, an enclosed deck and a stairway. Lot coverage would be 10%. The left side setback will be 17-feet and the right side setback will be 23.5 feet. Mr. Nelson advised the board that an incorrect Section # (701) was listed on the permit denial sent to him by the Planning Department. Mr. Nelson made the correction to Section #702. Dennis Root of 15 Third Street spoke in favor of this request. 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.

### **Deliberative Session, Case #41-2006**

Mr. Samsel motion and Mr. Pellegrini seconded the motion to grant Case #41-2006 for a variance requested from Sections 401, 406.2 & 702 Appendix A-1. Motion passed unanimously 5-0.



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### **Lot # 17-L-75A, Case #42-2006**

Applicant – Edward N. Herbert Associates Inc.

Owner – Koch Family Realty Trust

Location – 36 Horseshoe Road

Zone – Residential A

A variance is requested from Section(s) of the Zoning Ordinance to permit the expansion of a non-conforming house and a detached garage 15-feet from the side lot line where 30-feet is required and 27-feet to Horseshoe Road where 50-feet is required.

Mr. Pellegrini read into the record a letter from Wesley Aspinwall, dated August 22, 2006 requesting Case #42-2006 be withdrawn. A new application will be submitted with an updated plan. Mr. Samsel motioned and Mrs. Fallon seconded the motion to accept the withdrawal. Motion passed unanimously 5-0.

The Chairman appointed Mrs. Webster to sit on this case and to replace Mr. Murray.

### **Lot #17-L-60, Case #33-2006-Request for Rehearing, (Originally heard on 6/27/06)**

Applicant – Herbert Associates

Owner – William & Kathleen Deluca

Location – 19 Farmer Road

Zone – Residential A

A variance is requested from Sections of the Zoning Ordinance to permit the construction of a duplex to replace an old existing house on a non-town approved road 10.81–feet from the left rear setback and 11.97–feet from the right rear setback where 30-feet is required.

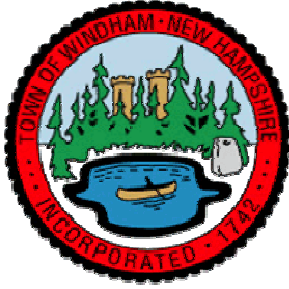
Mr. Pellegrini read into the record the seven page request for a rehearing. Mr. Samsel motioned and Mrs. Webster seconded the motion to continue the request for a rehearing to the September 12, 2006 meeting. Motion passed unanimously 5-0.

### **Approval of August 8, 2006 Minutes**

Mrs. Webster motioned and Mr. Pellegrini seconded the motion to hold approval of the August 8, 2006 minutes to the September 12, 2006 meeting. Passed unanimously 5-0.

### **Other Business**

The members asked if there was any correspondence from Attorney Campbell regarding the request for a workshop.



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### Mail

- Summer 2006 Issue of RPC News
- August 14, 2006 letter from Susan Maguire of Rock Pond Improvement Association regarding members only speaking in matters pertaining to Rock Pond.
- August 3, 2006 letter from Attorney Campbell regarding Messina vs. Town of Windham

At 10:30 PM Mr. Pellegrini motioned and Mr. Samsel seconded the motion to adjourn. Passed unanimously 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for September 12, 2006 at 7:30 PM in Planning & Development Office.

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