



# BOARD OF ADJUSTMENT

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

## Zoning Board of Adjustment Minutes August 21, 2007

Mark Samsel – Chairman  
Jim Tierney – Vice-Chairman  
Dianna Fallon – Secretary  
Gail Webster – Member  
John Alosso – Member  
Tom Murray Alternate  
Bruce Flanders – Alternate (Absent)

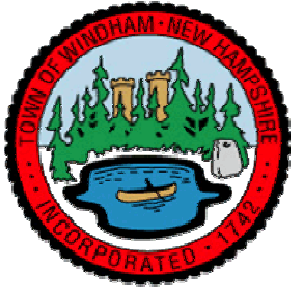
### Lot #16-Q-206, Case #47-2007

Applicant – Ruth A & Mark A. Kovacs  
Owner – Ruth A. & Mark A. Kovacs  
Location – 15 Viau Road  
Zone – Residential A

A variance is requested from Section(s) **702 Appendix A-1** of the Zoning Ordinance to permit the installation of a 10' X 14' storage shed with 0' from the front setback where 50' is required and 0' from the side setback where 30' is required.

Mrs. Fallon read the case into the record. Mr. Mark Kovacs presented his case. The proposed shed would be located on the southwest corner edge of the gravel driveway of the 50' X 100' lot and would be 86' from the water. The shed would permit storage of yard, garden and recreational equipment and would not detract from the neighbor's line-of-sight to Cobbett's Pond. Sheds are located on two abutting properties close to the property line. Mr. Kovacs read the supporting facts into the record. Two letters of support were submitted by Mr. Kovacs and marked as Exhibit A, Mille & Patrick Poore of 17 Viau Road and Exhibit B, May Ann and Joseph Joaquim of 13 Viau Road. The 14 page submittal of maps, photos, etc. was marked as Exhibit C. Mr. Tierney said that he would like to see water runoff from the shed maintained on the Kovacs' property.

Mrs. Fallon motioned and Mr. Tierney seconded the motion to go into Deliberative Session. Motion passed 5-0.



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### **Deliberative Session, Case #47-2007**

Mr. Tierney asked if the 20% lot coverage would be met. Mr. McGuire will look into the amount of lot coverage and if it is over 20% the applicant would have to come back to the Zoning Board. Mr. Kovacs said that lot coverage was not brought to his attention in the original denial. Mrs. Fallon motioned and Mr. Tierney seconded the motion to approve Case #47-2007 granting an area variance from Section 702 Appendix A-1 per the plan submitted with the addition of water containment on the lot line side for shed runoff. Motion passed 5-0. Mr. Alosso motioned and Mrs. Webster seconded the motion to waive the application fees if Mr. Kovacs has to return to the Zoning Board for a lot area variance. Motion passed 5-0.

### **Lot #20-E-252, Case #48-2007**

Applicant – Fournier Realty Trust/E. Haffner Fournier

Owner – Fournier Realty Trust

Location – 48 Lowell Road

Zone – Rural

A variance is requested from Section(s) **401, 602.1, & 609.4.2.4** of the Zoning Ordinance to permit the installation of two additional above ground 30,000 gallon propane storage tanks and designate a 25' X 50' area for the storage of empty cylinders.

Mrs. Fallon read the case into the record. Mr. E. Haffner Fournier submitted an updated plan, marked as Exhibit A, a letter from ETS Associates of Marlborough, NH regarding the water requirements for a Haffner's Fuel Storage Facility, marked as Exhibit B and presented his case. The updated plan shows a 30,000 gallon cistern and monitor requested by the Fire Department in conjunction with the State Fire Marshall. Mr. Fournier explained that they will not be encroaching on any lot lines. Mr. Samsel asked what prompted the need to request two more tanks. Mr. Fournier said because they cannot get prompt delivery themselves, therefore, the need for storage in order to service their customers. In answer to Mr. Samsel's question there would be three deliveries to fill one tank. There would only be one filling point because the tanks will be connected. The storage of empty cylinders would not be visible from the street. Mr. Fournier read the supporting facts into the record.

Mr. Todd Spencer of 50 Lowell Road submitted a letter marked as Exhibit C and spoke in favor of the request contingent upon Fournier Realty Trust purchasing 50 Lowell Road from the Spencer Family to be used as a buffer between his bulk facility and residential areas.

Mr. Robert Czekanski spoke in support and suggested a barrier fence.

Mr. Ronald Cyr owner of 47, 51, 53 and 59 Lowell Road spoke in opposition stating that he has had difficulty renting property since the installation of the propane tank.



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Mr. Alosso motioned and Mr. Tierney seconded the motion to go into Deliberative Session. Motion passed 5-0.

### **Deliberative Session, Case #48-2007**

Mr. Alosso motioned and Mr. Tierney seconded the motion for lot #20-E-252, Case #48-2007 seeking a variance from Sections 401, 602.1 and 609.4.2.4 to deny the variance to permit the installation of two additional above ground 30,000 gallon propane storage tanks and designated a 25' X 50' area for the storage of empty cylinders. Motion passed 5-0. Request denied. Reasons for denial were no hardship and extreme expansion of use.

### **Lot #13-J-11, Case #49-2007**

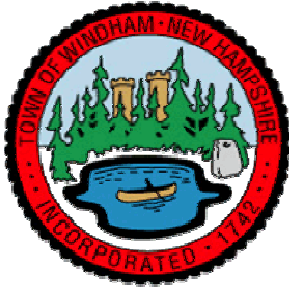
Applicant – Patrick Bower  
Owner – Frederick Baldassarri  
Location – 4 Allen Road  
Zone – Rural

A variance is requested from Section(s) **401, 405.2 & 702 Appendix A-1**, of the Zoning Ordinance to permit the demolition of the existing seasonal dwelling and the construction of a single family dwelling on a 9,234.72 square foot lot where 50,000 square feet is required with 55.62 feet of street frontage where 175 feet is required with a 1-foot front setback for the garage where 50-feet is required and a 46-foot setback from the lake for the proposed dwelling where 50-feet is required and a 1-foot side setback for the garage where 30-feet is required and a 4.7 foot side setback for the dwelling where 30-feet is required.

Mrs. Fallon read the case into the record. Mr. Patrick Bower presented the case. The existing house is a seasonal, 984 square foot (24 'X 41'), two bedroom, single-story dwelling on pillars with a shed-like garage with a dirt floor. The proposed house would be a four season, 2304 square foot, three bedroom, two-story dwelling with a proper garage to store vehicles. The longest dimension on the existing dwelling is 41-feet and the proposed dwelling would be 48-feet. Mr. Bower proposes to use a high efficiency leaching field which allows less distance to the ground water. Mr. Bower read the supporting facts into the record. The closest point of the proposed dwelling to the brook would be 18-feet. Mr. Tierney said that the plan shows an existing brook and asked if there is any WWPD associated with this request. Mr. McGuire explained that there will be several issues and the applicant would have to submit an application to DES. There would be 32-feet from the proposed septic to the brook at the closest point.

Trudy Yukl of 5 Allen road submitted photos that were marked as Exhibits A thru G and spoke in opposition to the request. Ms. Yukl stated her environmental concerns.

Mr. Peter Butler owner of 3 Allen Road voiced his concerns regarding the septic system.



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Mr. William Butler (son of Peter Butler) renter of 3 Allen Road stated his concerns regarding the placement of construction vehicles.

Mr. Michael Lambert of 2 Allen Road stated his environmental concerns.

Mr. Bower advised the Board that his septic system design had not been approved.

Mrs. Fallon read into the record the following memo from the Conservation Commission. *After reviewing the subject case at their August 9, 2007 meeting the Conservation Commission unanimously passed the following motion:*

*To urge the Zoning Board of Adjustment not to grant variances for Case #49-2007 because the applicant does not prove hardship. There is an increase in the footprint of the structures on the lot and they are requesting year round use. These factors are detrimental to the ecosystem of Shadow Lake. Another concern is that the proposed leach field is less than 75-feet from the brook flowing into Shadow Lake.*

Mr. Tierney motioned and Mrs. Fallon seconded the motion to go into Deliberative Session. Motion passed 5-0.

### **Deliberative Session, Case #49-2007**

Mr. Tierney motioned and Mr. Alosso seconded the motion to deny Case #49-2007 from Sections 401, 405.2 & 702 Appendix A-1 per the plan submitted. Motion passed 5-0. Request denied. Reasons for denial were no hardship and wetland delineation.

### **Lot #17-M-11, Case #50-2007**

Applicant – Andrew C. Marion

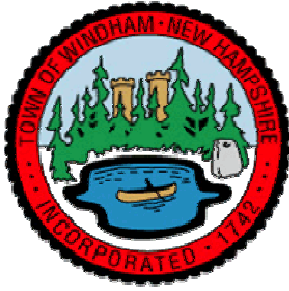
Owner – Andrew & Donna Marion

Location – 23 Armstrong Road

Zone – Residential A

A variance is requested from Section(s) **401 & 702 Appendix A-1** of the Zoning Ordinance to permit the construction of a 12' X 26.5' deck and stairway 5-feet +/- from the front setback where 50-feet is required.

Mrs. Fallon read the case into the record. Mr. Andrew Marion explained that the proposed addition would allow egress from the upper level from the home. This lot has frontage on both Armstrong Road and Oak Street. Mr. Marion submitted five pages of nine photos that were marked as Exhibits A thru E. There would not be any obstruction to abutters' views and the



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traffic view would not be impaired by this addition. Mr. Marion read the supporting facts into the record.

Mr. Alosso motioned and Mr. Tierney seconded the motion to go into Deliberative Session. Motion passed 5-0.

### **Deliberative Session, Case #50-2007**

Mrs. Fallon motioned and Mr. Tierney seconded the motion to approve Case #50-2007 to allow an area variance for Case #50-2007 from Sections 401 & 702 Appendix A-1 per the plan submitted. Motion passed 5-0.

### **Lot #21-C-150, Case #51-2007**

Applicant – Paul & Carolyn Therrien

Owner – Paul & Carolyn Therrien

Location – 46 Cobbetts Pond Road

Zone – Residential A

A variance is requested from Section(s) **401 & 702 Appendix A-1**, of the Zoning Ordinance to permit the addition of a 14' X 24' garage bay to the existing 20' X 24' shed garage 20-feet +/- from the rear setback where 30-feet is required.

Mrs. Fallon read the case into the record. Mr. Paul Therrien explained that the proposed addition would be used to store lawn and snow equipment. The abutter's view of the building is restricted by natural vegetation and a stone wall. Mr. Therrien read the supporting facts into the record.

Mr. Alosso motioned and Mr. Tierney seconded the motion to go into Deliberative Session. Motion passed 5-0.

### **Deliberative Session, Case #51-2007**

Mr. Alosso motioned and Mr. Tierney seconded the motion to grant an area variance from Sections 401 & 702 Appendix A-1 to allow the addition to the shed to be 20-feet from the rear setback where 30-feet is required. Motion passed 5-0.

### **Lot #21-K-48A, Case #53-2007**

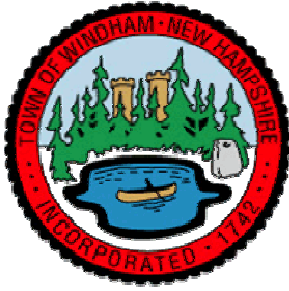
Applicant – Thomas Leclair

Owner – Thomas Leclair

Location – 22 Turtle Rock Road

Zone – Residential A

A variance is requested from Section(s) **401, 406.2 & 702 Appendix A-1**, of the Zoning Ordinance to permit the creation of more living space within the existing footprint except for the addition of a porch/ramp system and a cantilevered dormer on the second floor with a 5' side setback where 30' is required and a 38' shoreline setback where 50' is required.



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Mrs. Fallon read the case into the record. Mr. Michael Greene, representing the owner, presented the case. The plan is to raise the house and add frame walls between the existing foundation and the first floor to create living space on the ground floor where there is now a crawl space. There would be a stairway from the deck and the dormers would be added to the second floor to increase the height of the living space. Mr. Thomas Leclair read the supporting facts into the record.

Mrs. Webster motioned and Mrs. Fallon seconded the motion to go into Deliberative Session. Motion passed 5-0.

### **Deliberative Session, Case #53-2007**

Mr. Tierney motioned and Mr. Alosso seconded the motion to grant an area variance for Case #53-2007 from Sections 401, 406.2 & 702 Appendix A-1 per the plan submitted. Motion passed 5-0.

### **Approval of July 24, 2007 Minutes**

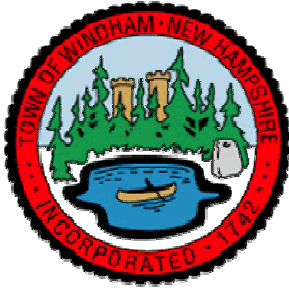
Mrs. Fallon motioned and Mr. Alosso seconded the motion to approve the July 24, 2007 minutes as written. Motion passed 5-0.

### **Other Business**

The Board briefly discussed the August 9, 2007 letter from Mr. Jeff Gray regarding 9 Princeton Street. Mrs. Kovolyan advised the Board that a letter from the Conservation Commission had been sent to Mr. Gray on August 21, 2007.

### **Mail**

- Copy of July 23, 2007 letter from Peter Zohdi to Al Turner regarding 120 Haverhill Road, Lot 9-A-400.
- Copy of July 27, 2007 letter from Attorney Campbell to Al Turner regarding Lane/Schroeder.
- Copy of July 26, 2007 letter from Bruce Richardson to Al Turner regarding 105 Rockingham Road.
- Copy of August 9, 2007 letter from Jeff Gray to Dr. Jim Finn regarding 9 Princeton Street, ZBA Case #21-2007.
- August 8, 2007 memo from Amy Ignatius of NH OEP regarding Fall Planning & Zoning Conference scheduled for October 13, 2007.
- Local Government Center announcement regarding the 32<sup>nd</sup> Annual Municipal Law Lecture Series.



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- Announcements to Gail Webster, Mark Samsel, Dianna Fallon, John Alosso and Jim Tierney from NH DOT regarding CTAP Training Conference register by September 10, 2007.

At 11:00 PM Mr. Alosso motioned and Mrs. Fallon seconded the motion to adjourn. Motion passed 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for August 28, 2007 at 7:30 PM in the Planning & Development office.

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