

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes February 26, 2008

Mark Samsel – Chairman
Jim Tierney – Vice-Chairman
Dianna Fallon – Secretary (Excused)
John Alosso – Member
Tom Murray – Member
Bruce Richardson – Alternate

Lot #8-A-27, Case #13-2008

Applicant – Leo & Theresa Breault
Owner – Leo & Theresa Breault
Location – 18 Hunt Road
Zone – Rural

A variance is requested from Section(s) 401, 702 Appendix A-1 & 1200.1.3 of the Zoning Ordinance to permit the conversion of a seasonal dwelling.

Mr. Tierney read the case into the record. Mr. Vernon Dingman presented the case for the owner. The original dwelling was built in 1961 and is on a small pond. A state approved septic system has been installed. Mr. Dingman read the supporting facts into the record.

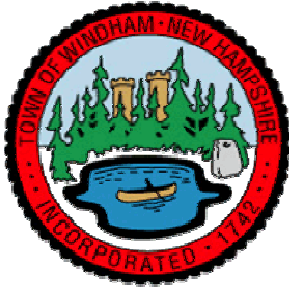
Mr. Alphonse Morin of 20 Hunt Road spoke in favor of this request. Mr. Tierney read into the record a letter of support from Ms. Lynn Harris of 16 Hunt Road.

A letter of opposition from the Conservation Commission was read into the record by Mr. Tierney.

Mr. Murray motioned and Mr. Richardson seconded the motion to go into Deliberative Session. Motion passed unanimously.

Deliberative Session, Case #13-2008

Mr. Alosso motioned and Mr. Murray seconded the motion to approve a variance for Case #13-2008 as written and have Code Enforcement look at the property to see if it is up to code with porches, decks, etc. Motion passed 3-2. Mr. Richardson voted against the motion because of the addition of the stipulation. Mr. Tierney voted against the motion because of expanded use and proximity to the water and there was no hardship.



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Lot #16-E-28, Case #14-2008

Applicant – SFC Engineering

Owner – Nancy Davis & John Botiglieri

Location – 50 Gaumont Road

Zone – Residential A

A variance is requested from Section(s) 405.2 & 702 Appendix A-1, of the Zoning Ordinance to permit the replacement of a pre-existing, non-conforming structure with a new structure that will have an increase in the area and volume on a lot consisting of 10,890 square feet where 50,000 square feet is required and to allow side setbacks of 10.5' and 8.8' where 30' is required and a 30' front setback where 50' is required.

Mr. Tierney read the case into the record. Mr. George Fredette presented the case for the owner. The proposed building setbacks are an improvement over the setbacks of the existing structure. A variance will allow the removal of an existing two-bedroom single family home to be replaced with a new two-bedroom home. A new septic system will be installed on this .25 acre lot. The lot coverage is under 20%. Mr. Fredette read the supporting facts into the record.

Mr. Richard Drummond, Jr. of Salem, New Hampshire read into the record a letter of opposition from his parents, Richard and Nancy Drummond of 48 Gaumont Road.

Using the displayed plan, Mr. Fredette addressed a question regarding the reconstruction of the access road.

Mr. Alosso motioned and Mr. Murray seconded the motion to go into Deliberative Session. Motion passed unanimously.

Deliberative Session, Case #14-2008

Mr. Tierney motioned and Mr. Murray seconded the motion to grant an area variance for Case #14-2008 per the plan submitted with the stipulation that gutters be added to the principal structure for mitigation, so that water will be directed to the rear of the property and taken to some kind of dry well. Motion passed 5-0.

Lot #3-B-601, Case #15-2008

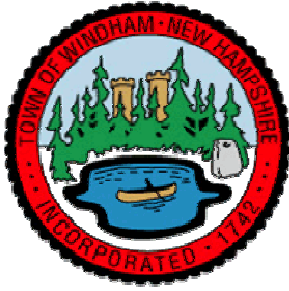
Applicant – Benchmark Engineering

Owner – H&B Homes Corp.

Location – 179 Rockingham Road

Zone – Rural

A variance is requested from Section(s) 611.6.7.2, of the Zoning Ordinance to permit the use of the open space land from the Spruce Pond Estates Phase II Subdivision for active recreational use (i.e. ball fields).



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Mr. Tierney read Case 15-2008 and Case 16-2008 into the record. Mr. Joseph Maynard, representing the owner, presented Cases #15-2008 & 16-2008. This land is open space for Spruce Pond II Subdivision. The ordinance allows for passive recreation but the request is for active recreation. The Recreation Committee approached H&B Homes regarding the use of this parcel for ball fields. The 22.86 acres will be deeded to the Recreation Committee. A portion of a ball field will be constructed within the WWPD and two other fields will be completely within the WWPD. The closest residential property is approximately 400' away from the closest ball field. This is regraded land that caused wetlands. Mr. Maynard read the supporting facts into the record.

A letter of opposition from the Conservation Commission was read into the record.

Mr. Alosso motioned and Mr. Murray seconded the motion to go into Deliberative Session. Motion passed unanimously.

Deliberative Session, Case #15-2008

Mr. Alosso motioned and Mr. Richardson seconded the motion to grant a use variance allowing the open space land from Spruce Pond Estates Phase II to be used for recreational use. Motion passed 5-0.

Lot #3-B-601, Case #16-2008

Applicant – Benchmark Engineering
Owner – H&B Homes Corp.
Location – 179 Rockingham Road
Zone – Rural

A variance is requested from Section(s) 601.3.7, of the Zoning Ordinance to permit the construction of recreational fields and a gravel parking area within the WWPD.

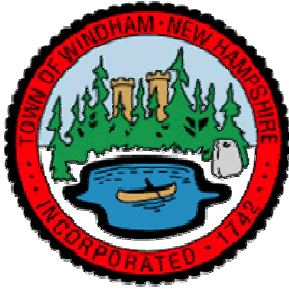
Deliberative Session, Case #16-2008

Mr. Tierney motioned and Mr. Alosso seconded the motion to grant a variance for Case #16-2008 to permit the construction of recreational fields and a gravel parking area within the WWPD with the stipulation that the old concrete pad be removed and replaced as part of the gravel parking area. Motion passed 5-0.

Lot #17-J-143, Case #17-2008

Applicant – Benchmark Engineering
Owner – John & Michelle Pallaria
Location – 23 Gardner Road
Zone – Residential A

A variance is requested from Section(s) 401, 405.2 & 702 Appendix A-1, of the Zoning Ordinance to permit the razing of the existing dwelling & garage and the reconstruction in a



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different footprint on a non-conforming 6000 square foot lot where 50,000 square feet is required with 30' +/- of street frontage where 175' is required and a front setback of 2' where 50' is required, a rear setback of 22' where 50' (Cobbetts Pond) is required and side setbacks of 1' (bulkhead) and 2' (garage) where 30' is required

Mr. Tierney read the case into the record. Mr. Joseph Maynard, representing the owner, presented the case. There are two buildings on the 6000 square foot parcel. The existing dwelling is 1100 square feet with an 800 square foot detached garage with a total of 1900 square feet and 29% lot coverage. The total square footage of the proposed dwelling and garage will be 1770. There will be a 1200 square foot decrease in impervious surface. This is a year round property with a septic system that was installed two years ago and a shared well.

Mr. Kenneth Martineau spoke in support of this request.

Mr. Tierney read into the record a letter of opposition from the Conservation Commission.

The Members discussed removing the garage or reducing the size of the proposed dwelling by 450 square feet.

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

Deliberative Session, Case #17-2008

Mr. Alosso motioned and Mr. Richardson seconded the motion to grant an area variance as requested per the plan submitted with the stipulation to remove the bulk head entrance on the garage. Motion passed 4-1. Mr. Tierney voted against the motion because he felt there was more reasonable placement.

Lot #16-Q-212, Case #18-2008

Applicant – Benchmark Engineering

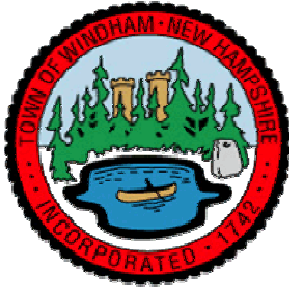
Owner – John Boss

Location – 10 Viau Road

Zone – Residential A

A variance is requested from Section(s) 401, 405.2, 405.5 & 702 Appendix A-1, of the Zoning Ordinance to permit the razing of the existing house and garage and reconstruct a new year-round dwelling on a non-conforming 12,200 +/- square foot lot where 50,000 square feet is required with 105' of street frontage where 175' is required, a front setback of 25' where 50' is required, a side setback of 10' where 30' is required and a rear setback of 23' where 50' is required.

Mr. Tierney read the case into the record. Mr. Joseph Maynard, representing the owner, presented the case. The existing seasonal dwelling is 1260 square feet with a 460 square foot



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garage and 22 square foot shed. The septic system was installed in 1998 or 1999. The proposed dwelling would be moved back 1' from the shoreline. 2440 square feet would equal 20% lot coverage; the total for the proposed dwelling is 2420, meeting the 20% requirement. Reducing the size of the garage by 12' was discussed along with losing the enclosed porch and keeping the deck because of the closeness of the side setbacks. Mr. John Boss, owner of the property, explained that the placement of the dwelling was set up for passive solar heating.

Mr. Tierney read into the record a letter of opposition from the Conservation Commission.

Mr. Murray motioned and Mr. Tierney seconded the motion to go into Deliberative Session. Motion passed unanimously.

Deliberative Session, Case #18-2008

Mr. Richardson motioned and Mr. Alosso seconded the motion to grant a variance for Case #18-2008 as requested. Motion denied 5-0. The Board denied the request because there was no hardship, it did not meet the spirit and intent of the ordinance and the benefit sought could be achieved by some other method.

Lot #17-M-22A & 23, Case #19-2008

Applicant – Benchmark Engineering

Owner – Aquavest Realty Trust, Linda Kelleher, Trustee

Location – 17 Oak Street

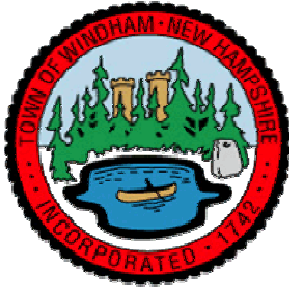
Zone – Residential A

A variance is requested from Sections 401, 405.2, 405.3, 405.5 & 702 Appendix A-1 of the Zoning Ordinance to permit the razing of the existing house, garage and shed and the construction of a new year-round dwelling on a non-conforming 9600 +/- square foot lot where 50,000 square feet is required, with 78' of frontage where 175' is required and with a front setback of 20' where 50' is required, a side setback of 6.5' where 30' is required and a rear setback of 21' (Cobbetts Pond) where 50' is required.

Mr. Tierney read the case into the record. Mr. Joseph Maynard, representing the owner, presented the case. This parcel was two lots of record; one lot is a boat ramp and there is a dwelling, garage and shed on the other lot. The concrete patios, house, garage and shed will be removed. The existing dwelling is 1000 square feet, garage is 420 square feet, the shed is 300 square feet and the concrete patio is 1400 square feet. The proposed dwelling would be 2038 square feet which would equal just under 21% lot coverage.

Mr. Richard Shubert of 15 Oak Street asked to see the plans.

Mr. Tierney read into the record a letter of opposition from the Conservation Commission.



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Mr. Alosso motioned and Mr. Richardson seconded the motion to go into Deliberative Session. Motion passed unanimously.

Deliberative Session, Case #19-2008

Mr. Murray motioned and Mr. Richardson seconded the motion to grant a variance as requested with the stipulation that the applicant meet the 20% lot coverage. Motion passed 5-0.

Lot #25-F-102, Case #81-2007 (Originally heard on 12/11/07 & Continued from 2/12/08)

Applicant – Wayne Morris – Rock Pond Improvement Association

Owner – Michael Kennedy

Location – 29 Abbott Road

Zone – Residential A

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on December 11, 2007.

Mr. Alosso motioned and Mr. Richardson seconded the motion that due to close proximity to the site in question and being members of the Rock Pond Improvement Association the Board will recognize standing. Motion Passed 5-0.

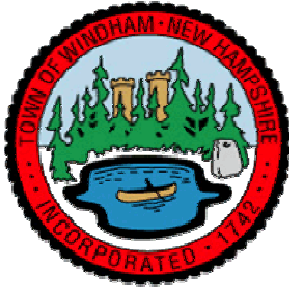
After reviewing the submitted information the Board found that there was no error in posting and no error regarding the safety issue. Mr. Richardson motioned and Mr. Alosso seconded the motion to deny the request for rehearing because there was no error on either point and no new evidence. Motion passed 5-0; request denied.

Approval of February 12, 2008 Minutes

Mr. Murray motioned and Mr. Alosso seconded the motion to continue the minutes to the March 11, 2008 meeting.

Mail

- Copy of February 19, 2008 letter to Alan Carpenter from Al Turner regarding 2 Woodvue Road.
- Letter of introduction from Neil J. DeLuca of eCopy to Mark Samsel.
- Copy of February 21, 2008 letter from Attorney Campbell to Al Turner regarding Bauchman Variance Application.
- February 21, 2008 Memo from Any Ignatius, Director of NH OEP regarding the 15th Annual Spring Planning & Zoning Conference.
- February 2008 Issue of *New Hampshire Town & City*.



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At 12:02 AM, February 27, 2008 Mr. Murray motioned and Mr. Tierney seconded the motion to adjourn. Motion passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for March 11, 2008 at 7:30 PM in the Planning & Development Office.

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