

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes April 22, 2008

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

Mr. Tierney motioned and Mr. Alosso seconded the motion to move Case #25-2008 to the top of the agenda. Motion passed 5-0.

Lot #20-E-252, Case #25-2008 (Continued from 4/8/08)

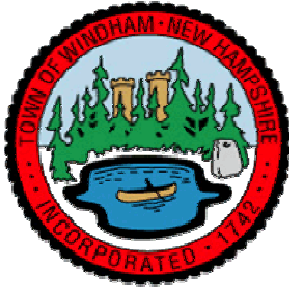
Applicant – Fournier Realty Trust
Owner – Fournier Realty Trust
Location – 48 Lowell Road
Zone – Rural

A variance is requested from Section(s) 401, 602.1 & 609.4.2.4 of the Zoning Ordinance to permit the installation of an additional 30,000 gallon above-ground propane tank.

Mrs. Fallon read the case into the record. Attorney William Mason, representing the owner, presented the case. The proposed tank will be the same size and elevation as the existing tank and will be located on site and placed to the inside of the existing tank. There will be screening from abutting properties. The purpose of the additional tank is to help ensure adequate inventory and price stability of the product. The site has historically been dedicated to the storage of home heating fuels. The non-conforming status and the historical use of the property predate zoning. The proposed request is a logical extension of the facilities on a site dedicated to the storage and distribution of energy products. Attorney Mason read the supporting facts into the record.

The following residents spoke in opposition to the request.

- Mr. Todd Spencer of 50 Lowell Road regarding the lack of screening.
- Mr. Robert Czekanski of 52 Lowell Road regarding the lack of screening.



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Mrs. Fallon read into the record the following letters of opposition.

- Ronald Cyr of 59 Lowell Road regarding 48 Lowell Road.
- Amy & Todd Spencer of 50 Lowell Road.
- Ronald Cyr regarding 47 Lowell Road.
- Alfred LaRoche of 51 Lowell Road.

The following submissions were marked as exhibits.

- Property card marked as Exhibit A.
- Card with seven photos (lack of screening) marked as Exhibit B.
- Card with nine photos (lack of screening) marked as Exhibit C.

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

Deliberative Session, Case #25-2008

Mr. Alosso motioned and Mr. Tierney seconded the motion to deny the request for a variance for Case #25-2008 from Sections 401, 602.1 & 609.4.2.4 of the Zoning Ordinance to permit the installation of an additional 30,000 gallon above ground propane tank. Motion passed 5-0; request denied. The Board denied this request because there was no hardship, it is an extreme expansion and it did not meet the spirit and intent of the ordinance.

Lot #22-L-39, Case #24-2008 (Continued from 4/8/08)

Applicant – Edward N. Herbert Associates, Inc.

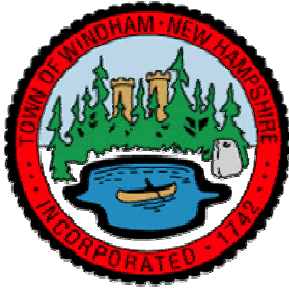
Owner – Dennis & Catherine Butterfield

Location – 65 West Shore 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 an existing dwelling to be razed and replaced with a new dwelling on a pre-existing, non-conforming lot. The proposed two-bedroom dwelling will be 3' from the northerly lot line where 30' is required, 15' from the sideline of West Shore Road where 50' is required, 25' to the shore of Canobie Lake where 50' is required. The existing lot has 85.08' of frontage on West Shore Road where 175' is required and contains 10,246 square feet where 50,000 square feet is required.

Mrs. Fallon read the case into the record. Mr. Peter Zohdi of Herbert Associates, representing the owners, presented the case. The owners would like to replace the existing house with a new house and would like to increase the size. Because of the size and configuration of the lot, it is not possible to meet the current zoning setbacks. The existing foundation will be expanded. Lot coverage will be under 20%. The applicant agreed to remove the existing shed.



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Mrs. Fallon read into the record a letter from the Conservation Commission requesting that the proposed house be sized appropriate for the lot and the expansion continues to be within the Shoreland Protection area.

Mr. Shane Gendron read the supporting facts into the record.

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

Deliberative Session, Case #24-2008

Mr. Murray motioned and Mr. Alosso seconded the motion to grant an area variance for Case #24-2008 from Sections 401, 405.2, 405.5 & 702 Appendix A-1 of the Zoning Ordinance per the plan submitted with the condition that the shed closest to the lake be removed. Motion passed 3-2. Mrs. Fallon and Mr. Tierney voted against the motion because they felt that the benefit sought by the applicant could be achieved by some other reasonably feasible method.

Lot #17-C-105C, Case #29-2008

Applicant – Attorney Peter H. Bronstein

Owner – Lynne M. Scace

Location – 11 Spring Street

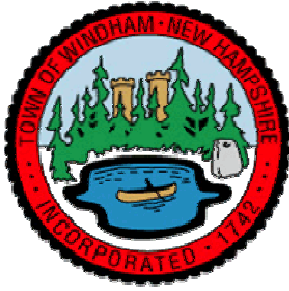
Zone – Residential A

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 a one-story, two-bedroom seasonal dwelling and the reconstruction of a two-story, two-bedroom year-round dwelling on the same footprint, on a lot of 9,100 square foot, more or less, where 50,000 square feet is required, street frontage of 57 feet where 175 feet is required and side setbacks of 4 feet and 9 feet where 30 feet is required.

Mrs. Fallon read the case into the record. Attorney Peter Bronstein, representing the owner, presented the case. Attorney Bronstein submitted a plan that the Chairman marked as Exhibit A, and explained that there is a change to the plan originally submitted. The original plan shows the well on the pond side of the lot and the new plan shows the well on the street side. There will be 11-1/2 % lot coverage. The new well casing has been installed and there is a new approved septic system. The supporting facts were read into the record.

Mr. Robert Lynch of 13 Spring Street spoke in opposition to this request because of drainage concerns. Mr. Lynch submitted three photos that were marked as Exhibits A, B & C.

Mrs. Fallon read into the record a letter of opposition from Mr. & Mrs. Gerald LaRochelle (no address listed).



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Attorney Bronstein advised the Board that the owners are willing to do whatever is suggested by the Building Department regarding drainage.

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

Deliberative Session, Case #29-2008

Mr. Tierney motioned and Mr. Alosso seconded the motion to grant an area variance for Case #29-2008 from Sections 401, 405.2, 405.5 & 702 Appendix A-1 of the Zoning Ordinance per the plan submitted with the stipulation that some roof drains be added to the structure. Motion passed 5-0.

Lot #21-D-107, Case #30-2008

Applicant – Hammar & Sons Inc.

Owner – Beverly Glynn

Location – 4 Cobbetts Pond Road

Zone – Business Commercial A

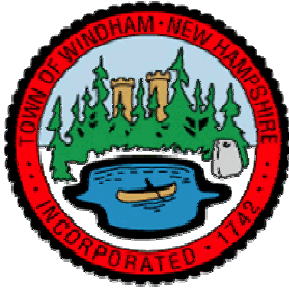
A variance is requested from Section(s) 706.6 of the Zoning Ordinance to permit the replacement of an existing freestanding sign having a 5' setback with a freestanding sign having a 10' setback, 14.5' in height where 12' is required and 92 square feet in area where 60 square feet is required (20 square feet of changeable copy).

Mrs. Fallon read the request into the record. Ms. Rosemarie Hartnett, representing the owner, presented the case. The existing sign will be replaced with a freestanding, high quality sign using the colors of green and gold with white lettering and interior lighting. The existing sign has a 5-foot setback; the proposed sign will be setback 10-feet from the front property line. The proposed sign will be the same height as the existing sign. There will be a 9" X 46" space for each tenant on the proposed sign. The supporting facts were read into the record.

Mrs. Fallon read into the record the names on six letters of support that were submitted by Ms. Hartnett:

- Anne Filler, DMD of 31 Lowell Road.
- Kevin & Lisa Nault of 37 Lowell Road.
- Dr. Edward Yourtee, etc. (other names listed are not legible) of 31 Lowell Road.
- Lowellbrook Development LLC of 47 Lowell Road.
- Stephen Negus of 39 Lowell Road.
- Kathryn Reddig of 1 Westchester Road.

Mrs. Fallon read into the record a letter of opposition from Carol Pynn of 19 Cobbetts Pond Road.



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Mr. Rick Hammar explained that the proposed sign will be internally illuminated but only the letters will light up.

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

Deliberative Session, Case #30-2008

Mr. Tierney motioned and Mr. Alosso seconded the motion to grant a variance from Section 706.6 of the Zoning Ordinance per the drawing submitted. Motion passed 5-0.

The Chairman granted a five-minute recess.

The Chairman called the meeting back to order.

Lot #25-E-400, Case #9-2008 Request for Rehearing (Originally heard on 2/12/08 and Continued from March 25, 2008)

Applicant – Peter H. Bronstein, Esquire

Owner – Randy & Deborah Casey

Location – 25 Abbott Road

Zone – Residential A

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on February 12, 2008.

After reviewing the submitted information the Board found that they made an error. Mr. Tierney motioned and Mr. Murray seconded the motion to grant the Request for a Rehearing of Case #9-2008 because an error was made in applying the use standard to the application. Motion passed 5-0.

Lot 9-A-400, Case #20-2008 Request for Rehearing (Originally heard on 3/11/08)

Applicant – Attorney Steven Clark

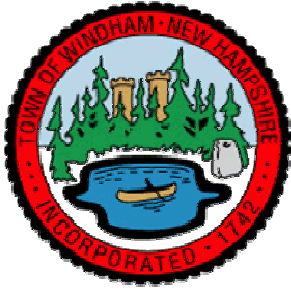
Owner – Brian Bauchman

Location – 120 Haverhill Road

Zone – Rural

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on March 11, 2008.

After reviewing the submitted information the Board found that there was no error and no new information. Mr. Murray motioned and Mr. Alosso seconded the motion to deny the Request for a Rehearing of Case #202-008 because there was no new information and no technical error. Motion passed 5-0; request denied.



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Approval of April 8, 2008 Minutes

Mr. Alosso motioned and Mr. Murray seconded the motion to approve the April 8, 2008 minutes as written. Motion passed 5-0.

Other Business

Mr. Alosso motioned and Mr. Tierney seconded the motion to pay \$50.00 to the NH Office of Energy & Planning for Mr. Murray to attend the Spring Planning Conference. Motion passed unanimously 5-0.

Mail

- Copy of April 7, 2008 letter from Thomas Burack, Commissioner, NH DES regarding File #2008-00391, Lot 17-J-143, 23 Gardner Road advising Mr. & Mrs. Pallaria that their application was denied.
- April 8, 2008 letter from Attorney Campbell to Mark Samsel regarding 25 Abbott Road.
- April 10, 2008 letter from Attorney Daniel Muller of Cronin & Bisson requesting copies of video tapes and written minutes for the 3/11/08 & 4/8/08 ZBA meetings.
- Notice from RPC regarding a workshop scheduled for 5/5/08 regarding the New NH Comprehensive Shoreland Protection Act.
- Notice of the RPC annual meeting scheduled for June 12, 2008 at the Atkinson Country Club.

At 10:15 PM Mr. Tierney motioned and Mr. Murray seconded the motion to adjourn. Motion passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for May 13, 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.