

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes July 8, 2008

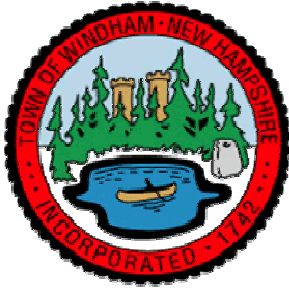
Mark Samsel – Chairman
Jim Tierney – Vice-Chairman
Dianna Fallon – Secretary
John Alosso – Member
Tom Murray – Member (Excused)
Bruce Richardson – Alternate (Absent)

Lot #25-E-400, Case #40-2008

Applicant – Rock Pond Improvement Association
Owner – Randy & Deborah Casey
Location – 25 Abbott Road
Zone – Residential A

An appeal of an administrative decision is requested from Section(s) 1200 & 100 of the Zoning Ordinance to overturn the decision made by the Building Inspector on May 7, 2008 to allow the conversion of 25 Abbott Road from seasonal to year round.

Mrs. Fallon read the case into the record. Mr. Wayne Morris, Vice-President of the Rock Pond Improvement Association, presented the case. Mrs. Fallon read into the record the June 17, 2008 letter written by Mr. Michael McGuire, Building Inspector, to the Rock Pond Improvement Association to answer their request of how the decision was made to issue a Certificate of Occupancy for year round use of 25 Abbott Road. Mr. Morris stated that in Mr. McGuire's June 17, 2008 letter Mr. McGuire states that he reviewed the file and consulted with Mr. Turner. The time line was started on April 22, 2008 Mr. Morris said the timeline should begin October 9, 2007 when the ZBA denied the variance to prevent the conversion from seasonal to year round use. The decision was made after hearing expert testimony from Fire Chief McPherson & Police Chief Lewis. It was stated in the minutes that Chief McPherson had concerns regarding Abbott Road, i.e. road width, steep grade onto Abbot from Woodbury, no turn around, delayed response, etc. Chief Lewis echoed the Fire Chief's concerns. Mr. Morris also read into the record statements made by Jack McCartney, Road Agent and Bruce Moeckel former Fire Chief. Mr. Morris went onto say that in the minutes Mr. Al Turner states *literally you take your life into your hands coming down Abbott Road*. The issuance of a certificate of occupancy should not have been considered in a vacuum. The CEA did not take into consideration testimony he heard at two different hearings. Mr. Morris asked why the Zoning Board of Adjustment would have denied this variance twice if they did not wrestle with the case. Mr. Morris read into the record a



BOARD OF ADJUSTMENT

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

portion of Section 100 of the Zoning Regulations *The purposes of this Zoning Ordinance are to ...secure safety from fires, panic and other dangers; to promote health and general welfare...* Given the fact that Mr. McGuire consulted with Mr. Turner whose testimony was given earlier should have sent alarms off that granting the c/o would not meet the purposes stated in Section 100. There are concerns regarding the environmental effect of salting and sanding Abbott Road. Mr. Morris submitted copies of three permits that were issued to residences on Abbott Road back in 1989 and 1990. Two electrical and one plumbing.

Mr. David Eder Mulhane of Smith Road and Mr. Alan Decker of 35 Abbott Road spoke in favor of the request.

Mr. Tom Case of 70 Mountain Village Road said every testimony that was given had nothing to do with whatever error Mr. McGuire may have made in issuing the certificate of occupancy; the testimony has had to do with safety, road issues etc.

Mr. Michael McGuire, Building Inspector, said that the applicant has met all the requirements for a year round house. The Fire Department approved the certificate of occupancy. The use is allowed because the Zoning Board granted an area variance. Mr. McGuire said that he does not have any control over the roadway just the property and driveway.

Mr. Alosso motioned and Mrs. Fallon seconded the motion to go into Deliberative Session. Motion passed 4-0.

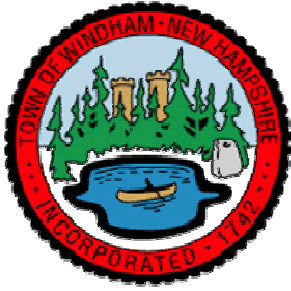
Deliberative Session, Case #40-2008

Mr. Alosso motioned and Mr. Tierney seconded the motion that on case 40-2008 to uphold the administrative decision on 25 Abbott Road from seasonal to year round. Vote was 2-2 and the decision of the Building Inspector was upheld.

Mr. Samsel and Mrs. Fallon voted against the motion. Mr. Samsel said that a mistake was made in the original decision to split; there was no appeal of that, so therefore, that use decision stood. Mrs. Fallon agreed with Mr. Samsel's reason to deny the motion.

The Chairman granted a five-minute recess.

The Chairman called the meeting back to order.



BOARD OF ADJUSTMENT

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

Lot #16-F-5 & 6, Case #43-2008

Applicant – John Spatharos Trustee, Spatharos Family Trust

Owner – John Spatharos Trustee, Spatharos Family Trust

Location – 28 Ash Street

Zone – Residential A

A variance is requested from Section(s) 401, 402, 405.2, 405.5 & 702 Appendix A-1 of the Zoning Ordinance to permit the amendment of the conditions of a variance granted to a prior owner in April of 1980 to rescind the requirement that lots 16-F-5 & 16-F-6 be merged and to allow a lot line adjustment between lots 16-F-5 and 16-F-6 subject to Planning Board approval.

The applicant requested Case #43-2008 be continued to the next meeting. Mr. Alosso motioned and Mr. Tierney seconded the motion to continue Case #43-2008 to the July 22, 2008 meeting. Motion passed 4-0.

Lot #21-K-46, Case #41-2008

Applicant – Edward N. Herbert Associates, Inc.

Owner – John & Carol Madden

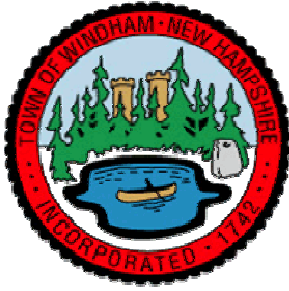
Location – 32 Turtle Rock Road

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 seasonal dwelling to be razed and replaced with a new year round dwelling on a pre-existing, non-conforming lot. The proposed three-bedroom dwelling will be 9-feet from the west lot line where 30' is required, 7-feet from the east property line where 30-feet is required. The existing lot has 56.9-feet of frontage on Turtle Rock Road, a private road, where 175-feet is required and contains 13,167.8 square feet where 50,000 square feet is required.

Mrs. Fallon read the case into the record. Mr. Shane Gendron of Herbert Associates presented the case. Mr. Gendron reviewed with the Board the documents he submitted, application, maps etc. The applicant was granted a variance on March 25, 2008 for 7.5' setback from the west lot line and 7.5' from the east lot line. The applicant is now requesting a setback of 9' from the west lot line and 7' from the east lot line. Mr. Gendron read the supporting facts into the record. Mrs. Fallon read into the record a letter from Kenneth & Cynthia Greenwood of 30 Turtle Rock Road dated July 8, 2008 stating that they give their permission to move the structure over one foot to the right or left of the original foundation. The Greenwood's also requested that proper drainage and run-off be taken into consideration so that they do not end up with water in their cellar.

Mr. Alosso motioned and Mr. Tierney seconded the motion to go into Deliberative Session. Motion passed 4-0.



BOARD OF ADJUSTMENT

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

Deliberative Session, Case #41-2008

Mr. Alosso motioned and Mrs. Fallon seconded the motion to approve an area variance for Case #41-2008 from Sections 401, 405.2, 405.5, & 702 Appendix A-1 of the Zoning Ordinance to permit an existing seasonal dwelling to be razed and replaced with a new year round dwelling on a pre-existing, non-conforming lot. The proposed three-bedroom dwelling will be 9' from the west lot line and 7' from the east property line. The existing lot has 56.9' of frontage on Turtle Rock Road. The motion passed 4-0.

Lot #24-C-53, Case #42-2008

Applicant – Roger Toupin
Owner – Roger Toupin
Location – 1 Sharon Road
Zone – Residential A

A variance is requested from Section(s) 401 & 702 Appendix A-1 of the Zoning Ordinance to permit a 16' X 40' extension to an existing garage with a side setback of 14' where 30' is required.

Mrs. Fallon read the case into the record. Mr. Roger Toupin presented his case. He explained that the septic system is located to the right side of the existing garage so he cannot relocate the proposed extension. Mr. Toupin read the supporting facts into the record.

Mr. Tierney motioned and Mr. Alosso seconded the motion to go into Deliberative Session. Motion passed 4-0.

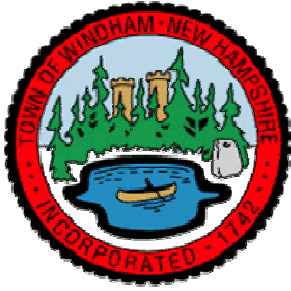
Deliberative Session, Case #42-2008

Mr. Tierney motioned and Mr. Alosso seconded the motion to grant a variance for Case #42-2008 from Sections 401 & 702 Appendix A-1 to permit a 16' X 40' extension to an existing garage with a side setback of 14' where 30' is required. Motion passed 4-0.

Lot #18-L-382, Case #44-2008

Applicant – William Mouyos & Kerry Zaimes
Owner – William Mouyos & Kerry Zaimes
Location – 4 Lakewood Road
Zone – Residential A

A variance is requested from Section(s) 401 & 702 Appendix A-1 of the Zoning Ordinance to permit a 4' X 11' portico with floor above and a 6' X 16' porch on front of dwelling on a lot with 37,502 square feet where 50,000 square feet is required, street frontage of 173 feet where 175 feet is required and with a front setback of 47 feet where 50 feet is required.



BOARD OF ADJUSTMENT

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

Mrs. Fallon read the case into the record. Mr. William Mouyos presented his case and reviewed with the Board each page of the packet of information he submitted. Mr. Mouyos read the supporting facts into the record.

Mr. Tierney motioned and Mr. Alosso seconded the motion to go into Deliberative Session. Motion passed 4-0.

Deliberative Session, Case #44-2008

Mr. Alosso motioned and Mrs. Fallon seconded the motion to approve an area variance from Sections 401 & 702 Appendix A-1 to permit a 4' X 11' portico with floor above and a 6' X 16' porch on front of dwelling on a lot with 37,502 square feet where 50,000 square feet is required, street frontage of 173 feet where 175 feet is required and with a front setback of 47 feet where 50 feet is required. Motion passed 4-0.

Approval of June 24, 2008 Minutes

Mrs. Fallon motioned and Mr. Alosso seconded the motion to approve the June 24, 2008 minutes as written. Motion passed 4-0.

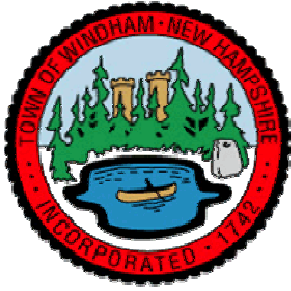
Other Business

The Board had a brief discussion on the by-laws regarding an alternate not participating in the Deliberative Session.

There was a discussion regarding the 2-2 vote for Case #40-2008. The Members decided to get an opinion from Attorney Campbell.

Mail

- Copy of June 24, 2008 Letter from Attorney Campbell to Michael McGuire regarding 27 First Street (Delaney).
- Copy of June 25, 2008 Letter from Peter Zohdi to Dr. Finn regarding 2 Wilson Road.
- Copy of June 26, 2008 Letter from Attorney Campbell to David Sullivan regarding 2 Woodvue Road.
- Copy of June 30, 2008 Letter from Attorney Campbell to Michael McGuire regarding Chicklis ZBA appeal.
- Copy of July 2, 2008 Letter from Attorney Campbell to Al Turner regarding ZBA Notice Issue.



BOARD OF ADJUSTMENT

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

Mr. Alosso motioned and Mr. Tierney seconded the motion to adjourn. Motion passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for July 22, 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.