

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes October 28, 2008

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

Lot #8-A-52 & 56, Case #58-2008

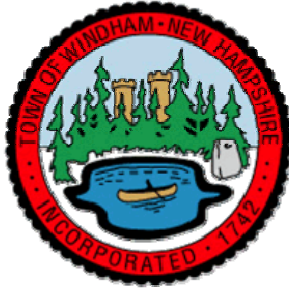
Applicant – Benchmark Engineering
Owner – Anitra Brodeur
Location – 23 Seavey Road
Zone – Rural

A variance is requested from Section(s) 401, 405.5 & 702 Appendix A-1 of the Zoning Ordinance to permit the razing of two dwelling and the construction of a new dwelling on a 10,170 square foot lot where 50,000 square feet is required with 151' of frontage where 175' is required with a front setback of 9' where 50' is required, and a rear (shoreline) setback of 31' (house) and 20' (deck) where 50' is required and to allow the construction of a shed with a side setback of 5' where 30' is required and a 5' setback from a private road.

Mrs. Fallon read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing the owner, submitted a letter of authorization, two letters of support from abutters and four photos on one sheet (Exhibit A) and presented the case. Lot 8-A-52 was purchased earlier this year with the condition that the existing structure would be razed. Lots 8-A-52 and 8-A-56 will be merged after the razing. The proposed two bedroom dwelling will be centered on the parcel and the proposed shed will be 5' from the right-of-way. Lot coverage will be 11%, including the shed. A new state approved septic system will be installed. Mr. Maynard read the supporting facts into the record.

Mrs. Fallon read into the record two letters of support one from Mr. & Mrs. Richard Adams of 25 Seavey Road and one from Mr. & Mrs. Steve Murphy of 27 Seavey Road.

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



BOARD OF ADJUSTMENT

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

Deliberative Session, Case #58-2008

Mr. Alosso motioned and Mr. Murray seconded the motion to grant an area variance for Case #58-2008 regarding Sections 401, 405.5 and 702 Appendix A-1 to allow the razing of two dwellings and the construction of a new dwelling on a 10,170 square foot lot where 50,000 square feet is required with 151' of frontage where 175' is required with a front setback of 9' where 50' is required, and a rear (shoreline) setback of 31' (house) and 20' (deck) where 50' is required and to allow the construction of a shed with a side setback of 5' where 30' is required and a 5' setback from a private road with the merger taking place after the razing and prior to the certificate of occupancy. Motion passed 5-0.

Lot #11-C-100, Case #59-2008

Applicant – Benchmark Engineering

Owner – NHDOT

Location – 87 Indian Rock Road

Zone – Professional Business & Technology

A variance is requested from Section(s) 601.1, 601.3 & 601.4.8 of the Zoning Ordinance to permit the construction of a septic system within the WWPD to service the existing office building.

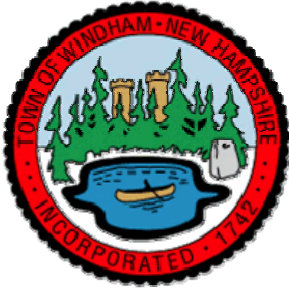
Mrs. Fallon read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing NH Department of Transportation, submitted a letter of authorization and presented the case. There is an existing office building on the property that was permitted in the 1980's. NHDOT is relocating Route 111 and a portion of the lot will be taken for the relocation of the road. The lot will be reduced from 14 acres to 2 acres. The proposed septic system will be located under the existing parking lot and will not change the existing site characteristics. Once the road is relocated the WWPD will change. Other locations on the site are not suitable for a septic system.

Marilyn Bailey of 3 Heron Cove voiced her concerns.

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

Deliberative Session, Case #59-2008

Mr. Tierney motioned and Mr. Murray seconded the motion to grant a variance for Case 59-2008 from Sections 601, 601.3 & 601.4.8 of the Zoning Ordinance per the plan submitted. Motion passed 5-0.



BOARD OF ADJUSTMENT

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

Lot #12-A-532, Case #60-2008

Applicant – MacThompson Realty

Owner – MacThompson Realty

Location – 125 Indian Rock Road

Zone – Gateway Commercial District

An area variance is requested from Section(s) 704.2.7 of the Zoning Ordinance to permit zero setback to Route 111 Right of Way for parking where 20' is required.

Lot #12-A-532, Case #61-2008

Applicant – MacThompson Realty

Owner – MacThompson Realty

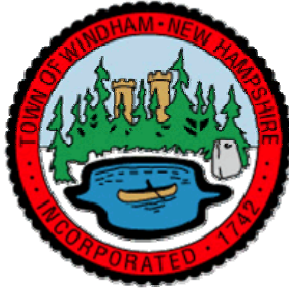
Location – 125 Indian Rock Road

Zone – Gateway Commercial District

A use variance is requested from Section(s) 601.3 & 605.3.2.2 of the Zoning Ordinance to permit structures within the WWPDP (signs, retaining wall) and an eating and drinking establishment to include intended consumption off the premises.

Mrs. Fallon read both Case #60-2008 and Case #61-2008 into the record. Mr. Karl Dubay of MHF Engineering, representing the owners, presented the case. The proposed 6000 square foot building will include a bank with a drive thru a café with a drive thru and retail space. This project is supported by the Windham Conservation Commission by a letter dated June 19, 2008. A variance is needed for a parking setback along the portion of Route 111 which is being widened. None of the drainage from the parking areas will be directed to any of the adjacent properties. Surrounding properties include existing commercial retail uses, including fast food, outdoor retail sales, restaurant, gas station, real estate office and other commercial uses. The parking setback relief requested is located on the opposite side of the easterly property line, away from the zoning district boundary and away from the Rural Zone and up close to Route 111. If the extensive right-of-way takings were not induced, the required variance would not be needed. A hardship has been placed upon the owner involuntarily by the public right-of-way takings which limit the ability to place reasonable parking along the front curved portion of the parcel without the requested relief. The proposed design does provide a lawn area between the parking and the new Route 111 pavement that will range from approximately 17' to 40' in width. There will be 32 parking spaces. The engineering review was done by Keach Nordstrom.

The retaining wall will vary in height from 2' to 6' all the way to 11'. The wall will allow for the installation of additional landscape plantings for buffering and the signage will allow for greater separation and landscaping/fencing to the abutting buildings. The wall will support site grading which will accommodate full stormwater treatment and flow forward to Route 111, which is away from the WWPDP buffer and away from the abutters. The signs help reduce impervious areas on the site by making the layout and operations more efficient thus reducing pavement and protecting the public interest. The proposed sign will be 12' high and 60 square



BOARD OF ADJUSTMENT

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

feet in area at the entrance. The wall and sign items allow the proper grading, drainage treatment and efficient safe operations of the site.

Mr. Dubay addressed questions from Mary Weaver of 123 Indian Rock Road.

Although drive-thrus are not specifically prohibited in the Gateway Commercial District off site consumption of food and drink is. This project is being subjected to a zoning exclusion which other properties within the zone are not required to abide by, due to the proposed methodology of allowing the consumption of food via drive up window. Mr. Dubay read the supporting facts for both cases into the record.

Deliberative Session, Case #60-2008

Mr. Alosso motioned and Mr. Murray seconded the motion to grant an area variance to permit zero setback to Route 111 right-of-way for parking where 20 feet is required. Motion passed 5-0.

Deliberative Session, Case #61-2008

Mr. Alosso motioned and Mr. Tierney seconded the motion to grant a use variance from Section(s) 601.3 & 605.3.2.2 of the Zoning Ordinance to permit structures within the WWPD (signs, retaining wall) and an eating and drinking establishment to include intended consumption off the premises.

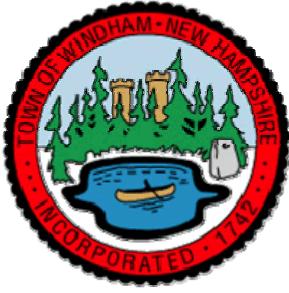
Mr. Alosso amended his motion and Mr. Tierney seconded the amended motion to grant a use variance from Section(s) 601.3 & 605.3.2.2 of the Zoning Ordinance to permit structures within the WWPD and an eating and drinking establishment to include intended consumption off the premises. Motion passed 4-1. Mrs. Fallon voted against the motion because it is contrary to the spirit and intent of the ordinance.

Approval of October 14, 2008 Minutes

Mr. Samsel requested additional information be included in the October 14, 2008 minutes for Case #56-2008.

Mail

- October 15, 2008 letter from Attorney Campbell regarding 2 Woodvue Road.
- Shoreland Waiver #2008-01191 granted for 23 Garner Road Lot 17-J-143.
- October 16, 2008 letter from Attorney Campbell regarding Bauchman.
- Shoreland Waiver #2008-00478 granted for 10 Viau Road, Lot 16-Q-212.
- Copies of the 33rd Annual Municipal Law Lecture Series available for \$10.00 for LGC Members or \$12.00 for Non-members.
- Mountain Club Conference Agenda.
- October 21, 2008 letter from Attorney Campbell regarding 2 Woodvue Road.



BOARD OF ADJUSTMENT

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

- October 2008 Issue of *NH Town and City*.

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 November 25, 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.