



COMMUNITY DEVELOPMENT

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Draft (2) Zoning Board of Adjustment Minutes September 24, 2013

Board Members:

Heath Partington Chairman – Present
Jim Tierney, Vice-Chairman – Excused
Mark Samsel, Secretary – Present
Jay Yennaco, Member – Present

Mike Scholz, Member – Present
Mike Mazalewski, Alternate – Present
Tony Pellegrini, Alternate - Present

Staff:

Nancy Prendergast, ZBA/Code Enforcement Administrator
Cathy Pinette, ZBA Minute Taker

Call to Order/Attendance

The Chair called the meeting to order at 7:30 pm, introduced the Board, and explained the meeting process.

The Chair appointed Mr. Mazalewski to sit for Mr. Tierney.

Public Hearings

Mr. Samsel read Case # 26-2013 into the record along with the abutter list.

Lot 18-L-303, Case # 26-2013

Applicant – Peter Mullett, Manager, Aragon Investments LLC

Owner – Aragon Investments LLC

Location – 57 Range Road

Zone – Professional Business and Technology District and Cobbett's Pond and Canobie Lake Watershed Protection Overlay District. Variances from the following sections of the Zoning Ordinance are requested to allow a free-standing sign to be located within the required setbacks: **Section 706.8:** to allow a free-standing sign to be located 3 feet from the side lot line where 50 feet is required, and 5 feet from the front lot line where 10 feet is required.

- Mr. Peter Mullett, Manager, Aragon Investments LLC addressed the Board. He showed the Board the property on the GIS System. He would like to add a free standing sign for the businesses located there. He stated the building is close to the front of the property and is approximately 20 feet on one side and 17 feet on the other to the lot line. There is very limited space to put a sign and this is the best location. He read the 5 criteria into the record. Mr. Mullett stated he had spoken to the owner of the Windham Tavern and he was good with the sign.

The Chair opened the hearing to the public at 7:37 pm, hearing no comments, the public portion was closed.

Mr. Samsel motioned to go into Deliberative Session, seconded by Mr. Yennaco, Motion passed 5 – 0.

- The Board had no issues with this application as it was a unique situation with the frontage, lot size and location of the building.
- Mr. Samsel stated the Conservation Commission's comment was that they had no comment on this application.

Mr. Scholz motioned in consideration of the 5 points to grant the variances for Case #26-2013, Lot 18-L-303, from the following Sections of the Town of Windham Zoning Ordinance to allow a free-standing sign to be located within the required setbacks: Section 706.8: to allow a free-standing sign to be located 3 feet from the side lot line where 50 feet is required, and 5 feet from the front lot line where 10 feet is required, seconded by Mr. Samsel. Motion passed 5 – 0.

The Chair advised all of the 30 day appeal period.

Mr. Samsel read Case # 28-2013 into the record along with the abutter list and stated he had a letter of authorization from J&A Barbagallo Nom. Trust to have Mr. Joe Maynard of Benchmark Engineering represent them.

Lot 17-I-111D, Case #28-2013

Applicant – Benchmark Engineering, Inc.

Owner – J&A Barbagallo Nom. Trust

Location – 21 Walkey Road

Zone – Residence A, WWPD, Cobbett's Pond and Canobie Lake Watershed Protection Overlay District

Variances from the following sections of the Zoning Ordinance are requested to raze an existing seasonal residence and construct a single family year-round home with farmers porch, deck and new septic: **Sections 401 & 406.2** - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming; **Section 702 and Appendix A-1** - to allow a front setback of 16 ft. where 50 ft. is required, to allow side setbacks of 6 ft and 10 ft where 30 ft is required, and to allow a rear setback of 27 ft where 30 ft is required; **Section 702 and Appendix A-1** – to allow a lot area of 7,369 sq ft entirely within the wetland and WWPD where 50,000 sq. ft minimal lot area with 30,000 sq ft of contiguous area outside of the wetland and WWPD is required, and to allow 69 ft of frontage where 175 ft is required. **Relief requested in the WWPD: Section 601.3** - to allow construction of a single family dwelling and septic within the WWPD where it is not a permitted use; **Section 601.4.6** – to allow the septic system within the WWPD and 55 ft from the edge of wetland where 100 ft is required; **Section 601.4.8:** to allow the requested development within the WWPD without a special permit from the Planning Board. **Relief requested in the Cobbett's Pond Overlay: Section 616.8** – to allow relief from the Buffer Requirements of the Cobbett's Pond Overlay Protection District; **Section 616.9.1** – to allow a septic system to be located 55 ft from the wetland where 75 ft is the required setback from a wetland with Hydric-A soils.

- Mr. Joe Maynard addressed the Board. He stated the property sits in a number of different zones including the Shoreline for Cobbett's Pond and there is a farmer's ditch coming down from Lakeview Farm which is WWPD. Under the Cobbett's Pond Ordinance this wetland has both

buffers. There is presently a house, a well, an existing septic system and a driveway. They would like to raze the house, reconfigure the house, put in a Clean Solutions septic system and reduce the impervious surface to 42%. They are moving the location of the septic. There is a view easement from across the street. The owners would like a one car garage. They are also proposing to add a porch. The new house will not have a basement. Mr. Maynard gave the board a picture of the wet area which the Chair accepted as Exhibit A.

Questions/Comments from the Board.

- The Chair stated Ms. Predergast's memo stated her opinion was that the applicant did not need a variance for Section 702 and Appendix A-1, Mr. Maynard stated there is no additional land to be purchased and he would like it to be on record with the Town. The Chair stated there was a question of the square footage of the lot according to the Assessors Office. Mr. Maynard stated that Lakeview Farms does have the boundary numbers and they are correct. The Chair asked Mr. Maynard the approximate square footage increase, size and volume of the old house and new. Mr. Maynard stated the existing building coverage was 1,054 and the new building coverage will be 1,473.
- Mr. Mazalewski asked if this was a Town approved Road. Mr. Maynard stated it is owned by Lakeview Farms and is private and maintained by the Association. Mr. Mazalewski asked what the material was for the driveway. Mr. Maynard stated paved asphalt.
- Mr. Maynard read the 5 criteria into the record. He stated he had letters of support from some Walkey Rd residents he would like to give to the Chair.

The Chair opened the hearing to the public at 7:57 pm.

- Mr. Wil Wilgren, 32 Harvest Rd, representing the Lakeview Farm Association addressed the Board. He stated there is conservation land all around Walkey Rd. After the Association reviewed the project they believe this is a great improvement. He just asked that the applicant respect the condo association land and properties during construction.
- Mr. Edwin Walkey, 22 Walkey Rd stated this was a fantastic improvement to the neighborhood.
- Mr. Joe Leavis, 30 Walkey Rd. stated he has known the applicant for years and they have pride in their property. This is a positive improvement for the neighbors and the Town.
- Mr. Samsel stated he had 5 letters in support of the project from Marianne & Joe Lewis, Brandon & Cheryl Tsetsilas, Vince & Linda Bonanno, Adam & Elizabeth Clough and Joe Lewis, Jr. The Chair admitted these letters as Exhibits. Mr. Samsel stated he had a letter from the Conservation Commission stating they were opposed to any relief from the WWPD and opposed to an increase in the impervious surface (Section 601.4.8). Mr. Maynard stated he did not attend the CC meeting but he is making the property better and this will be a modest home. Mr. Samsel asked Mr. Maynard if all the comments given this evening were in support of all of the requested variances. Mr. Maynard stated yes. He also stated the Planning Board would have to review the application for the Cobbett's Pond Watershed Ordinance.

Mr. Yennaco motioned to go into Deliberative Session, seconded by Mr. Scholz. Motion passed 5 – 0.

- Mr. Yennaco stated this was a tight spot, he doesn't have any issues with the application, it will be a betterment, he likes the reduced impervious near the pond, there will be a new septic system and it is a positive change. Mr. Samsel agreed. Mr. Scholz agreed with Mr. Yennaco and stated there is support from the neighbors.
- The Chair stated he agrees with the CC comments on Section 601.4.8 but concurs with the Board on the other items.
- The Board discussed the hardship criteria.

Mr. Scholz motioned in consideration of the 5 points to grant Sections 401 & 406.2 - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming; Section 702 and Appendix A-1 - to allow a front setback of 16 ft. where 50 ft. is required, to allow side setbacks of 6 ft and 10 ft where 30 ft is required, and to allow a rear setback of 27 ft where 30 ft is required; Section 702 and Appendix A-1 – to allow a lot area of 7,369 sq ft entirely within the wetland and WWPD where 50,000 sq. ft minimal lot area with 30,000 sq ft of contiguous area outside of the wetland and WWPD is required, and to allow 69 ft of frontage where 175 ft is required, Section 601.3 - to allow construction of a single family dwelling and septic within the WWPD where it is not a permitted use; Section 601.4.6 – to allow the septic system within the WWPD and 55 ft from the edge of wetland where 100 ft is required; Section 616.8.1 – to allow relief from the 100 foot buffer zone, Section 616.8.2 – to allow relief from submittal of a hydrologic study for documentation and justification of the reduction to the buffer zone, Section 616.8.3 – to allow relief from the requirement that all development be located outside of the buffer zone, Section 616.8.4.1 – to permit a septic system and drainage fields within the buffer zone. Section 616.9.1 – to allow a septic system to be located 55 ft from the wetland where 75 ft is the required setback from a wetland with Hydric-A soils, seconded by Mr. Mazalewski. Motion to Deny passed 5 – 0.

Mr. Scholz motioned in consideration of the 5 points to deny relief from the variances for Case #28-2013, Lot 17-I-111D, from the following Sections of the Town of Windham Zoning Ordinance: Section 601.4.8 - to allow the requested development within the WWPD without a special permit from the Planning Board, seconded by Mr. Mazalewski. Motion denied 3 – 2. Mr. Samsel & Mr. Yennaco were opposed

The Chair advised all of the 30 day appeal period.

The Chair appointed Mr. Pellegrini to sit for Mr. Tierney.

Mr. Samsel read Case # 29-2013 into the record along with the abutter list and stated he had a letter of authorization from Paul & Cynthia Finn to have Mr. Joe Maynard of Benchmark Engineering represent them.

Lot 17-J-116, Case #29-2013

Applicant – Benchmark Engineering, Inc.

Owner – Paul & Cynthia Finn

Location – 18 Bell Road

Zone – Residence A, WWPD, Cobbett’s Pond and Canobie Lake Watershed Protection Overlay District

Variations from the following sections of the Zoning Ordinance are requested to raze an existing year-round residence and construct a new single family home with deck, new septic and well:

Section 401 & 406.2 - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming;

Section 702 and Appendix A-1 - to allow a front setback of 20 ft for the home where 50 ft is required, to allow side setbacks of 16 ft and 10 ft where 30 ft is required, to allow a lake setback of 28 ft for the house and 20 ft for the deck where 50 ft is required. **Section 702 and Appendix A-1** – to allow a lot area of 8,700 sq. ft. located almost entirely within the wetland and WWPD where 50,000 sq. ft minimal lot area with 30,000 sq. ft. of contiguous area outside of the wetland and WWPD is required, and to allow 80 ft of frontage where 175 ft is required. Relief requested in the WWPD: **Section 601.3** - to allow construction of a single family dwelling, well and septic within the WWPD where it is not a permitted use; **Section 601.4.6** – to allow the septic system within the WWPD and 30 ft from the edge of wetland where 100 ft is required; **Section 601.4.8**: to allow the requested development within the WWPD without a special permit from the Planning Board. Relief requested in the Cobbett’s Pond Overlay: **Section 616.8** – to allow relief from the Buffer Requirements of the Cobbett’s Pond Overlay Protection District; **Section 616.9.1** – to allow a septic system to be located 30 ft from the wetland where 75 ft is the required setback from a wetland with Hydric-A soils.

- Mr. Maynard stated this land falls into both the Cobbett’s Pond and Canobie Lake Watershed. It also has WWPD protection from all the new development from Route 93. He asked the Chair to admit as Exhibits 3 pictures of the property. There is an existing house, a carport and driveway. They would like to raze the house and construct a new home. This home was converted from seasonal to year round many years ago. There is a 12% building coverage now and it will be 20% with the proposed project. There will be a new septic system, deck and well. There is 19% impervious now and it will be 30% when complete. He will put in new drainage with the project. He spoke about the current setbacks and what they were asking for. There will be major improvements with the new septic system and the drainage ditch. He tried to maintain the best setbacks he could.

Questions/Comments from the Board.

- Mr. Mazalewski asked if this was a paved driveway, Mr. Maynard stated yes. Mr. Mazalewski asked if the setbacks where to the foundation or the roof. Mr. Maynard stated the roof and also said there is a jog in an overhang which does comply with the Windham Regulations.
- The Chair stated that there is a structure behind the proposed structure and it looks like the proposed structure is higher. Mr. Maynard stated the Finn’s own the property behind the proposed project and there are also a lot of pine trees so there is currently no view. The Chair asked how many trees will be removed with the proposed project. Mr. Maynard stated there are a few pines that will need to be taken out but they have more than enough trees.

- Mr. Yennaco asked if they had plans to gutter the new house to mitigate runoff as they are increasing the impervious surface to 30%. Mr. Maynard stated they will have a dry well with two chambers with frame and grate to send water to a gentle sloped area.
- Mr. Maynard read the 5 criteria into the record.

The Chair opened the hearing to the public at 8:37 pm.

- Mr. Samsel read a letter from the Conservation Commission which stated they are opposed to any relief from Section 601.4.8 and are opposed to any increase in impervious surface on an undersized lot. Mr. Maynard stated the Cobbett's Pond Ordinance is exempt for this lot and he is making many improvements with the new septic and drainage.

The public portion was closed.

Mr. Samsel motioned to go into Deliberative Session, seconded by Mr. Scholz. Motion passed 5 – 0.

- Mr. Pellegrini stated he had no issues and it was an improvement over what is currently there. Mr. Yennaco agreed. Mr. Scholz stated he had some concerns but they were addressed very well by Mr. Maynard's improvements. The Chair stated it was too much house for the lot, his concerns were there was an increase in the impervious, the height of the building blocking the back neighbors views, it is not a reasonable request, and is too close to the abutters lot.

Mr. Scholz motioned in consideration of the 5 points to grant the variances for Case #29-2013, Lot 17-J-116, from the following Sections of the Town of Windham Zoning Ordinance to raze an existing year-round residence and construct a new single family home with deck, new septic and well: Section 401 & 406.2 - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming; Section 702 and Appendix A-1 - to allow a front setback of 20 ft for the home where 50 ft is required, to allow side setbacks of 16 ft and 10 ft where 30 ft is required, to allow a lake setback of 28 ft for the house and 20 ft for the deck where 50 ft is required. Section 702 and Appendix A-1 – to allow a lot area of 8,700 sq. ft. located almost entirely within the wetland and WWPD where 50,000 sq. ft minimal lot area with 30,000 sq. ft. of contiguous area outside of the wetland and WWPD is required, and to allow 80 ft of frontage where 175 ft is required. Section 601.3 - to allow construction of a single family dwelling, well and septic within the WWPD where it is not a permitted use; Section 601.4.6 – to allow the septic system within the WWPD and 30 ft from the edge of wetland where 100 ft is required; Section 616.8.1 – to allow relief from the 100 foot buffer zone. Section 616.8.2 – to allow relief from submittal of a hydrologic study for documentation and justification of the reduction to the buffer zone. Section 616.8.3 – to allow relief from the requirement that all development be located outside of the buffer zone. Section 616.8.4.1 – to permit a septic system and drainage fields within the buffer zone. Section 616.9.1 – to allow a septic system to be located 30 ft from the wetland where 75 ft is the required setback from a wetland with Hydric-A soils, seconded by Mr. Samsel. Motion passed 4 – 1 with Chair Partington opposed as it does not meet the spirit and intent and it is contrary to public interest.

Mr. Scholz motioned in consideration of the 5 criteria to deny the variances for Case #29-2013, Lot 17-J-116, from the following Sections of the Town of Windham Zoning Ordinance: Section

601.4.8, seconded by Mr. Samsel. Motion failed 2-3. Mr. Yennaco, Mr. Samsel and Mr. Pellegrini were opposed.

Mr. Samsel motioned in consideration of the 5 criteria to grant the variances for Case #29-2013, Lot 17-J-116, from the following Sections of the Town of Windham Zoning Ordinance: Section 601.4.8 - to allow the requested development within the WWPDP without a special permit from the Planning Board, seconded by Mr. Yennaco. Motion passed 3 – 2. Mr. Scholz & Mr. Partington were opposed. Mr. Scholz said the spirit and intent of the ordinance and the public interest criteria was not met. Mr. Partington said the spirit and intent of the ordinance, the public interest and the hardship criteria were not met.

The Board took a recess at 8:45 pm and was back in session at 8:52 pm.

Mr. Samsel read Case # 30-2013 into the record along with the abutter list and stated he had a letter of authorization from Patrick & Sandra Corbin to have Mr. Joe Maynard of Benchmark Engineering represent them.

Lot 17-L-74, Case #30-2013

Applicant – Benchmark Engineering, Inc.

Owner – Patrick & Sandra Corbin

Location – 40 Horseshoe Road

Zone – Residence A, Cobbett’s Pond and Canobie Lake Watershed Protection Overlay District

Variances from the following sections of the Zoning Ordinance are requested to construct a 24’ X 24’ garage addition attached to an existing single family home: **Section 401 & 406.2** - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming; **Section 702 and Appendix A-1** - to allow side setbacks of 5 ft and 11 ft where 30 ft is required; **Section 702 and Appendix A-1** – to allow a lot area of 14,907 sq. ft. where 50,000 sq. ft is required, to allow 56 ft of frontage where 175 ft is required, and to allow a lake setback of 42 ft for the existing house where 50 ft is required.

- Mr. Maynard stated the lot is uniquely shaped and is only 40 feet wide. The setbacks are already close and the applicant would like to put in a small garage. They will be taking some of the existing pavement from the driveway out. Building coverage is now 8.8% and will be 13% with the garage addition. Impervious surface is currently 40% and will be 39.4%. The setbacks will be the same as the house that is currently there. Mr. Maynard read the 5 criteria into the record.

Questions/Comments from the Board

- The Chair asked what the distance between the new garage and the abutter’s house would be. Mr. Maynard stated approximately 25 feet.
- Mr. Mazalewski asked Mr. Maynard to explain if the garage was being added to the porch. Mr. Maynard stated the porch will be covered and made into an entryway. Mr. Mazalewski asked if the new walkway to the new doorway would be impervious. Mr. Maynard stated they are taking out other pavement and the whole project will be done under Regulations. Mr. Maynard stated he had 3 letters in support from abutters.

The Chair opened the hearing to the public at 9:00 pm.

- Mr. Samsel stated he had a letter from the Conservation Commission stating they had no comment. Mr. Samsel stated there were three letters in support from neighbors: Anthony & Kathleen DiFruscia, Henry & Carmen Basil and Rob Erler. The Chair admitted these letters as Exhibits. Mr. Maynard stated the applicant had gone to all the abutters and all were in favor.

Mr. Samsel motioned to go into Deliberative Session, seconded by Mr. Scholz. Motion passed 5 – 0.

The Chair stated there was no detriment and this was a good proposal.

Mr. Scholz motion in consideration of the 5 points to grant the variances for Case #30-2013, Lot 17-L-74, from the following Sections of the Town of Windham Zoning Ordinance to construct a 24' X 24' garage addition attached to an existing single family home: Section 401 & 406.2 - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming; Section 702 and Appendix A-1 - to allow side setbacks of 5 ft and 11 ft where 30 ft is required, seconded by Mr. Yennaco. Motion passed 5 – 0.

Mr. Scholz motion in consideration of the 5 points to approve a motion that relief is not necessary for Case #30-2013, Lot 17-L-74, from the following Sections of the Town of Windham Zoning Ordinance: Section 702 and Appendix A-1 – to allow a lot area of 14,907 sq. ft. where 50,000 sq. ft is required, to allow 56 ft of frontage where 175 ft is required, and to allow a lake setback of 42 ft for the existing house where 50 ft is required, seconded by Mr. Yennaco. Motion passed 5 – 0.

The Chair advised all of the 30 day appeal period.

Mr. Samsel read Case # 31-2013 into the record along with the abutter list and stated he had a letter of authorization from Bryan & Lynn Bartsch to have Mr. Joe Maynard of Benchmark Engineering represent them.

Lot 16-R-177C, Case #31-2013

Applicant – Benchmark Engineering, Inc.

Owner – Bryan & Lynn Bartsch

Location – 18 Second Street

Zone – Residence A, Cobbett's Pond and Canobie Lake Watershed Protection Overlay District

Variances from the following sections of the Zoning Ordinance are requested to raze the wooden portion of an existing seasonal home and retain the existing fieldstone foundation, squaring off the footprint and building a new year-round structure with addition, garage, deck and new septic system: **Section 401 & 406.2** - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming; **Section 702 and Appendix A-1** - to allow a front setback of 36 ft for the house and 45 ft for the garage/addition where 50 ft. is required, to allow side setbacks of 8 ft and 25 ft where 30 ft is required, to allow a rear setback of 20 ft for the house and 10 ft for the deck where 30 ft is required; **Section 702**

and Appendix A-1 – to allow a lot area of 10,000 sq. ft. where 50,000 sq. ft is required, and to allow 100 ft of frontage where 175 ft is required.

- Mr. Maynard stated this house has been in the family since it was built. It has a unique fieldstone foundation. They would like to retire there and also keep the current foundation. They would like to add a small bump out in a V shape to the front of the proposed house. They would like to add a dining room which would be 12 feet wide and a new deck. Mr. Maynard spoke about the other houses in the neighborhood and stated this proposed house would be in line with them in regards to the same closeness to the lot line. A small portion of the site will require a Shoreline permit. Currently there is a paved driveway which will be loomed and seeded and a new smaller driveway will be put in. A Clean Solutions septic system will be installed. Mr. Maynard submitted pictures of the property which the Chair admitted as exhibits. Mr. Maynard stated the applicant also wanted a deck and the area in which the deck would go has grade changes and is covered with boulders and rocks but has a view of the lake. They have a well which is shared with an abutter. The building coverage now is 10% and will be 20% when completed. There is a paved driveway with water flowing down through to the grassy area.

Questions/Comments from the Board.

- Mr. Mazalewski asked how the project affects the shoreline. Mr. Maynard stated there is a small area that he will have to work with DES and he will be putting in drip line trenching. He is within local requirements. Mr. Mazalewski asked Mr. Maynard about retaining the existing foundation. Mr. Maynard stated the walls are 2 feet thick fieldstone. They will reframe the house. There will be some frost walls added. They will need to excavate some ledge. They will be maintaining the grade. Mr. Maynard read the 5 criteria into the record.

The Chair opened the hearing to the public at 9:25 pm.

- Mr. Maynard stated he had 3 letters of support from abutters: Phyllis Churchill, Janet Connors & Stephen and Janice DeSimone. The Chair entered them as exhibits.
- Ms. Gladys McCoy, an abutter, stated she lives in front of the proposed project. She stated the Board should be aware that there is a lot of runoff and she is concerned. She is not against the project as a whole but does not want the large deck approved as it would be very close to her home and invade her privacy. She suggests taking part of the deck off and making it smaller. Mr. Maynard stated drainage will be mitigated and he can install gutters but will be putting in a French drain. He will be sending water to a paved swale location. He stated the deck is about 15 feet higher than the grade of Ms. McCoy's land and the applicants request was to have a deck. Ms. McCoy suggested Mr. Maynard go back to the applicant and see if they can change the deck. She stated it does not meet the setbacks.

Mr. Scholz motioned to go into Deliberative Session, seconded by Mr. Yennaco. Motion passed 5 – 0.

- Mr. Mazalewski stated the deck is too close to the lot line and invasive to the neighbors.

- Mr. Yennaco is concerned with the drainage, he stated the impervious area is almost double, there will be benefits to the loaming and seeding of the gravel area but he sees an encroachment with the deck. He also stated putting a deck on a property in the lake area is tricky and a hardship.
- Mr. Scholz stated they are putting in a new septic, there are grading improvements but something could be done with the deck and the proximity to the neighbor.
- Mr. Samsel stated he agrees with the Board in regards to the deck and stated if the deck was squared out and straight where the V section is proposed it wouldn't be so invasive.
- The Board discussed the deck and bump out and possible solutions to the size. Ms. Prendergast stated the deck is 20 feet to the point.

Mr. Scholz motioned in consideration of the 5 points to grant the variances for Case #31-2013, Lot 16-R-177C, from the following Sections of the Town of Windham Zoning Ordinance to raze the wooden portion of an existing seasonal home and retain the existing fieldstone foundation, squaring off the footprint and building a new year-round structure with addition, garage, deck and new septic system: Section 401 & 406.2 - to allow an increase in the volume and footprint of the existing non-conforming structure within the required setbacks thereby rendering the structure more non-conforming; Section 702 and Appendix A-1 - to allow a front setback of 36 ft for the house and 45 ft for the garage/addition where 50 ft. is required, to allow side setbacks of 8 ft and 25 ft where 30 ft is required, to allow a rear setback of 20 ft for the house where 30 ft is required, per plan submitted seconded by Mazalewski. Motioned passed 5 -0

Mr. Scholz motioned in consideration of the 5 points to approve a motion that relief is not required for Case #31-2013, Lot 16-R-177C, from the following Sections of the Town of Windham Zoning Ordinance because the lot is a pre-existing nonconforming lot of record: Section 702 and Appendix A-1 – to allow a lot area of 10,000 sq. ft. where 50,000 sq. ft is required, and to allow 100 ft of frontage where 175 ft is required, seconded by Mr. Yennaco. Motion passed 5 – 0.

The Board discussed limiting the size of the deck.

Mr. Samsel motioned to grant the variances for Case #31-2013, Lot 16-R-177C, from the following Sections of the Town of Windham Zoning Ordinance: Section 702 and Appendix A-1 - to allow a rear setback of 10 ft for the deck where 30 ft is required with the condition that the deck is not to exceed a width of 28 feet in alignment with the side of the house closest to Lot 16-R-177B per plan submitted, seconded by Mr. Scholz. Motion passed 4 - 1 with Mr. Mazalewski opposed as there is no hardship.

Review and Approval of Draft Meeting Minutes

9/10/2013

- Mr. Samsel motioned to approve the draft minutes of September 10, 2013 as amended, seconded by Mr. Mazalewski. Motion passed 4 – 0 – 1 with Mr. Scholz abstaining

Adjournment

Mr. Scholz motioned to adjourn, seconded by Mr. Samsel. Motion passed 5 – 0.

Meeting adjourned at 10:00 pm.

These minutes are in draft form and respectfully submitted for approval by Cathy Pinette, ZBA Minute Taker.

DRAFT