



## BOARD OF ADJUSTMENT

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

January 13, 2004

Bruce Breton – Chairman  
Chris Doyle – Vice-Chairman  
Rob Gustafson – Secretary  
Al Souma – Member  
Georges Roy – Member  
Tony Pellegrini –Alternate  
Kara Di Fruscia – Alternate

### **Lot #16-R-183B, Case #55-2003**

Martin F. Delaney, Jr.  
27 First Street

A variance is requested from Section 702 of the Zoning Ordinance to permit the building of a ground level deck encroaching into side setbacks.

Mr. Gustafson read the case into the record. The Board advised the Applicant that one of the Members (Miss DiFruscia) that heard the case at the December 9, 2003 meeting was at another meeting. The Board asked if the Applicant wanted to continue this case to the next scheduled meeting? The Applicant requested a continuance. Mr. Doyle motioned to continue Case #55-2003 to the January 27, 2003 meeting. Mr. Roy seconded the motion. Mr. Doyle will not be able to attend the January 27, 2003 meeting. Mr. Doyle retracted his motion. The Chairman offered to interrupt the meeting that Miss DiFruscia was attending and ask her if she would be able to attend the ZBA meeting in order to have the same Members on the Board that heard the case on December 9, 2003. The Chairman was excused from the December 9, 2003 meeting. Mr. Gustafson motioned to move Case #55-2003 to the end of the agenda. Mr. Doyle seconded the motion. Passed unanimously.

### **Alternate Appointment**

Mr. Pellegrini was appointed to replace the Chairman.

### **Lot #20-E-134, Case #1-2004**

Kerry Hennessey  
36 Bear Hill Road

A variance is requested from Section 702-A-1 of the Zoning Ordinance to permit the placement of a shed within 10-feet of the northern boundary where 30-feet is required.

Mr. Gustafson read the case into the record. Mr. Hennessey presented his case. The shed would be completely hidden by trees if placed in the area selected. There are lot limitations, land “falls off” on three sides and there is a WWPD in the back. Mr. Hennessey provided four photographs that were marked as Exhibit A. Mr. Hennessey read the five supporting facts into the record. Mr. Stephen Augusta of 34 Bear Hill Road

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spoke in support of this request. Mr. Augusta said that the trees that will hide the shed are evergreens, therefore, the shed will be hidden year round. Mr. Doyle closed the public portion of this case. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #1-2004**

Mr. Gustafson motioned to grant Case #1-2004 to permit the placement of a shed no closer than 10-feet to the northerly boundary where 30-feet is required. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Roy, Mr. Pellegrini, Mr. Souma and Mr. Doyle voted to grant this variance. Request granted 5-0.

### **Lot #22-R-310, Case #2-2004**

Thomas Brand

11 Settlers Ridge Road

A variance is requested from Section 702-A-1 of the Zoning Ordinance to permit the building of a garage 22-feet from the lot line where 30-feet is required.

Mr. Gustafson read the case into the record. Mr. Brand presented his case and provided two photos. Mr. Brand explained that he has a two-car garage under his house. The proposal is for an additional stall and a half "L" shaped 24' X 22' garage. Mr. Brand read the five supporting facts into the record. Mr. Doyle closed the public portion of this case. Mr. Pellegrini motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #2-2004**

Mr. Gustafson motioned to grant Case #2-2004 to permit the building of a garage no closer than 22-feet from the lot line where 30-feet is required. Mr. Pellegrini seconded the motion. Mr. Roy, Mr. Souma, Mr. Pellegrini, Mr. Gustafson and Mr. Doyle voted to grant this variance. Request granted 5-0.

### **Lot #21-V-250, Case #3-2004**

Scott Roy

18 Fish Road

A variance is requested to permit the replacement of two-single family homes, one of which was destroyed by fire. The house on the shoreline requires a variance from Sections 401 & 702 Appendix A-1 to allow a 1-foot side setback where 30-feet is required and a 16-foot front setback where 50-feet is required and must have state approval from the Shoreland Protection Act. To replace the house that was destroyed by fire requires a variance from Sections 405.2 & 702 Appendix A-1 to allow a 10-foot side where 30-feet is required.

Mr. Gustafson read the case into the record. Mr. Roy presented his case. The house closest to the pond is 38' X 33' and the proposed house would be 36' X 36'. The existing house is 1-foot from the side lot line. The house that was destroyed by fire is 23' X 47'



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and the replacement would be 26' X 40' and will be 15-feet further from the shoreline. Both are year round homes. Mr. Roy's property has 62.5-feet of shoreline. There are two existing septic tanks one for each house. The house that was destroyed by fire was a three-bedroom home the replacement would be a two-bedroom home. Mr. Roy submitted photos of neighboring properties that have more than one building on a lot. Mr. Roy read the five supporting facts into the record. Susan Freshman of 16 Fish Road spoke in support of this request but has some concern regarding height of the proposed buildings. Mr. David Shidman associated with 12 Fish Road spoke against this request. Mr. Shidman is concerned about the height of the house on the shoreline. Mr. Darren Sykes of 22 Fish Road said that he has two buildings on his lot and some of his neighbors have three buildings on one lot but he is concerned about the septic system and the height of the proposed buildings. Mr. Gustafson read into the record a letter from Barbara Ribock Katz, one of the owners of 12 Fish Road. Mrs. Katz is concerned about fire safety and the view from the porch. Mr. Roy said that new houses being built are similar to the plans he submitted. Mr. Doyle closed the public portion of this case. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

### Deliberative Session, Case #3-2004

Mr. Gustafson motioned to grant a variance to allow the construction of two new structures on this property and the removal of two storage sheds. One structure is to replace a previously burned down structure per the plan and should be no closer to the side lot line than the previous structure and the other structure is also per the plan and should be no closer to the pond than the previous structure. Mr. Souma seconded the motion. Mr. Roy, Mr. Souma, Mr. Pellegrini, Mr. Gustafson and Mr. Doyle voted to deny this variance. Request denied 0-5. Applicant did not satisfy the hardship requirement on the building closest to the pond.

### Alternate Appointment

Miss DiFruscia replaced Mr. Pellegrini for Case #55-2003.

### Case #55-2003 Continued

The Board asked that comments be limited to new information since this is a continuance from December 9, 2003. Mr. Gustafson provided photos that he took during the site visit. Attorney Andrew Myers submitted copies of tax cards of properties in the area that have porches and decks showing that such exterior uses have been allowed. Tricia Hayes representing Douglas Marshall, Charles McCarthy representing Mrs. Donovan, Karen Graham and Sandy Rollston spoke in opposition to this request. Mrs. Rollston advised the Board that she filed a complaint with the NH Department of Environmental Services and they will be investigating all three of Mr. Delaney's properties. Mr. Jim Tierney, Building Inspector, advised the Board that he visited the site and the deck measures 22' X 27'. Mr. Doyle closed the public portion of this case. Mr. Gustafson motioned and Miss DiFruscia seconded the motion to go into Deliberative Session. Passed unanimously.



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### Deliberative Session, Case #55-2003

Mr. Gustafson motioned to grant a variance to allow the construction of a 540 square foot deck per the plan submitted. Mr. Roy seconded the motion. Mr. Gustafson, Mr. Roy, Mr. Souma and Mr. Doyle voted to deny this variance. Miss DiFruscia voted to grant this variance. Request denied 1-4. The Applicant did not satisfy the hardship requirement. The request was deemed unreasonable, not in character with the surrounding properties.

### Alternate Appointment

Mr. Pellegrini replaced Miss DiFruscia for the balance of this meeting.

### Lot #19-B-708, Case #4-2004

Mary Ham  
15 Glance Road

A variance is requested from Section 702-A-1 of the Zoning Ordinance to permit the placement of a small shed 10-feet from the lot line where 30-feet is required.

Mr. Gustafson read the case into the record. Mrs. Ham presented her case. The shed is needed for storage and will be placed in the rear of the property and will not be visible. Mrs. Ham read the five supporting facts into the record. Mr. Doyle closed the public portion of this case. Mr. Pellegrini motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously.

### Deliberative Session, Case #4-2004

Mr. Gustafson motioned to grant a variance for Case #4-2004 to place a 10' X 16' shed no closer than 10-feet to the side lot line as shown on the plan. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Souma, Mr. Roy, Mr. Pellegrini and Mr. Doyle voted to grant this variance. Requested granted 5-0.

### Lot #18-L-379, Case #5-2004

Roger Fix  
42 Woodvue Road

A variance is requested from Section 702-A-1 of the Zoning Ordinance to permit the construction of an 8'X10' storage shed 15-feet from the eastern lot line where 30-feet is required.

Mr. Gustafson read the case into the record. Mr. Fix presented his case. The proposed shed will be located 15-feet from the eastern property line and 110-feet back from the high water mark of Canobie Lake. The shed will be used to store yard maintenance equipment. The shed will be hidden from sight from both Canobie Lake and the adjoining property to the east. Mr. Fix read the five supporting facts into the record. Mr. Doyle closed the public portion of this case. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.



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### Deliberative Session, Case #5-2004

Mr. Gustafson motioned to grant Case #5-2004 to permit construction of an 8' X 10' storage shed 15-feet from the eastern lot line as shown on the plan. Mr. Pellegrini seconded the motion. Mr. Souma, Mr. Roy, Mr. Gustafson, Mr. Pellegrini and Mr. Doyle voted to grant this variance. Request granted 5-0.

### Minutes

Mr. Roy motioned and Mr. Gustafson seconded the motion to approve the December 9, 2004 minutes as written. Passed unanimously.

### Other Business

Mr. Gustafson motioned and Mr. Roy seconded the motion to amend the By-laws to make the application fee \$60.00 + \$5.00 per abutter. Passed unanimously.

Mr. Breton advised the Members that he thought that the statistical portion of the End of Year Report should show if a variance was granted for a shed and also show the Section number of the Zoning Ordinance. Mr. Gustafson said that it would be interesting to see how many were dimensional waivers and how many were use waivers.

### Mail

- Confidential letter dated Dec. 12, 2003 from Attorney Campbell regarding Harris Road.
- Letter dated Jan. 7, 2004 from Paul D. Keller to Robert Gustafson, response to Mr. Gustafson's letter of Dec. 19, 2003.

Mr. Gustafson motioned and Mr. Souma seconded the motion to adjourn at 10:45 PM. Passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for February 10, 2004 at 7:30 PM in the Planning & Development Office.

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