

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes March 10, 2009

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

Lot #16-D-6, Case #10-2009

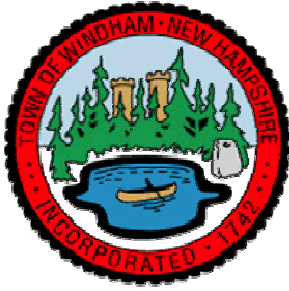
Applicant – Marion Winmill Revocable Trust
Owner – Marion Winmill Revocable Trust
Location – 14 North Shore Road
Zone – Residential A

A variance is requested from Section(s) 702 Appendix A-1 of the Zoning Ordinance to permit the razing and reconstruction of a new dwelling on a lot which will have an 11 foot front setback where 50 feet is required and a 28 foot shoreline setback where 50 feet is required on a lot having 175 feet of frontage on North Shore Road which is not a town accepted road.

Mrs. Fallon read the case into the record. Attorney William Mason, representing the owner, submitted the following exhibits:

- Letter of support from Victoria & David Mason of 16 North Shore Road marked as Exhibit A.
- Letter of support from Paul & Judith Strathie of Ocala, Florida marked as Exhibit B.
- Letter of support from William Haswell of 27 North Shore Road marked as Exhibit C
- State Approval for Septic System marked as Exhibit D
- Shoreland Impact Permit #2008-00706 marked as Exhibit E

Attorney Mason displayed a plan and showed the location of the existing dwelling and garage on the 1.81 acre parcel on North Shore Road, a private road. The project has received Shoreland approval from NH Department of Environmental Services. The existing leach field and septic system will be abandoned. A new septic system will be located at the rear of the property. The slight relocation of North Shore Road will take place on the Winmill property alone. There is an easement allowing people to travel over the Winmill property. There will be a grade of 4.4% for the first 100 feet, an 8% grade for the next 75 feet and for the remaining 117 feet a will have a grade of 7.25%. Mr. Tierney asked if the impervious surface of 13.3% being reduced to 12.9% was in the 50 foot setback area. Attorney Mason replied yes, it is in the 50 foot setback area. The supporting facts were read into the record.



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Mr. Leo Manseau of Develco of Stratham explained how residents will be able to get to their properties during construction of the roadway.

Mr. Robert O'Loughlin of 17 North Shore Road submitted a summary that was marked as Exhibit F and spoke in opposition to this request.

- A 20 foot piece of property was deeded for road and lake access for more than 100 years and has been used as such for 45 years or more. The residents have Easement by Proscription. This eliminates that easement.
- The road design makes access difficult and thus decreases value.
- Flashing lights from vehicles will diminish the value of the O'Loughlin property.
- Total road design is contrary to ordinances.
- The Winmills have 1.7 acres of land and there is approximately an acre of relatively flat land above the slope available for building.
- Eight homes built beyond this property all corrected the road and added to home values.
- The Winmills have 104.56 feet of lakefront property on which they are attempting to build an 80 foot house in the middle of the road by positioning the house on the lot.

Mr. O'Loughlin also submitted 10 photographs that were marked as Exhibit G.

Sue Messina of 25 North Shore Road asked if all residents of North Shore Road should be notified. The Chairman advised that only direct abutters are notified.

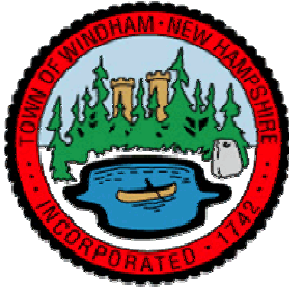
Mrs. Fallon read into the record a letter of support from Bud Sweetser of 29 North Shore Road and the three letters of support submitted by Attorney Mason

Attorney Mason explained that the proposed plans were drawn up in conjunction with working with Shoreland Protection. The State has approved the septic plans for the proposed 2700 square foot home. For years the Winmills have allowed residents to use their boat ramp.

Mr. Winmill gave a history of the easement and explained that through Attorney Bronstein's office and one and a half years of research the lot line was determined.

Attorney Mason submitted a copy of a deed that was marked as Exhibit H.

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



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Deliberative Session, Case #10-2009

As a point of information Mr. Manseau, Contractor for this project, showed a road plan and profile and stated that the existing drawings approved by the DES show drainage. The state required drainage and a culvert on the up hill side of the road that drains into a vegetated area that will filter the water before it enters the pond. The road plan and profile displayed by Mr. Manseau was submitted and marked as Exhibit I by the Chairman.

Mr. Alosso motioned and Mr. Tierney seconded the motion to grant a variance for Case #10-2009 from Section 702 Appendix A-1 of the Zoning Ordinance to permit the razing and reconstruction of a new dwelling on a lot which will have an 11 foot front setback where 50 feet is required and a 28 foot shoreline setback where 50 feet is required on a lot having 175 feet of frontage on North Shore Road which is not a town accepted road. Motion passed 5-0.

The Chairman granted a five minute recess.

The Chairman called the meeting back to order.

Lot #22-L-20 & 22, Case #4-2009

Applicant – Linda & Michael Balles

Owner – Richard Hannon

Location – 52 & 54 West Shore Road

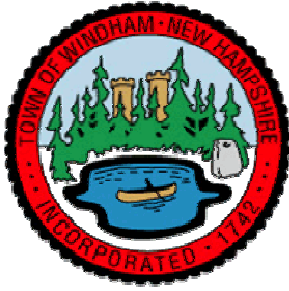
Zone – Residential A

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on January 27, 2009.

After reviewing the submitted information Mr. Tierney motioned and Mr. Murray seconded the motion to grant a rehearing of Case #4-2009. Motion passed 5-0.

Approval of February 24, 2009 Minutes

Mr. Alosso motioned and Mrs. Fallon seconded the motion to accept the February 4, 2009 minutes as amended. Motion passed 5-0.



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Other Business

None

Mail

- Copy of February 24, 2009 Letter from Attorney Campbell to Michael McGuire regarding Heinzl vs. Town of Windham.
- Copy of February 26, 2009 Letter from Attorney Campbell to Michael McGuire regarding Heinzl vs. Town of Windham.

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

The next meeting of the Zoning Board of Adjustment is scheduled for March 24, 2009 at 7:30 PM in the Planning & Development Office.

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