

## BOARD OF ADJUSTMENT

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

January 25, 2005

Rob Gustafson – Chairman  
Chris Doyle – Vice-Chairman  
Georges Roy – Secretary  
Al Souma - Member  
Tony Pellegrini – Member

### **Lot #22-L-47, Case #3-2005 (Continued from January 11, 2005)**

Applicant – Barbara Devine

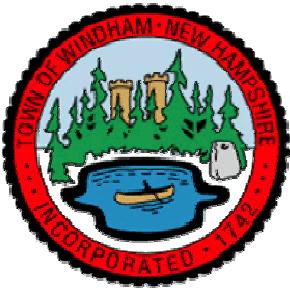
Owner – Barbara Devine

Location – 59 West Shore Road

Zone – Residential A

An Area Variance is requested from Sections 702, 401, 403 & 1200.1.3 of the Zoning Ordinance to permit the construction of a single-family home encroaching on setbacks and increase in volume and area on a non-conforming lot and to convert to year-round use.

Mr. Roy read the case into the record. Mr. Chester Jarosky presented the case for the Applicant and explained that this request was approved by the Zoning Board but the Zoning Board's decision was challenged and the case went to court. The court also approved the request but there was a misunderstanding and the Applicant thought because of the court's decision they had an infinite amount of time to apply for a building permit but when the Applicant went to apply for the building permit Mr. Turner said the town law was still in effect and the Applicant must reapply for a variance after one year. Mr. Jarosky read the five supporting facts into the record. The state has approved the septic design. No changes have been made, this is the same variance request that was submitted previously and approved. Mr. Case questioned the timeline and the approval by the court. The Chairman explained that this case was remanded back to the Zoning Board of Adjustment. The Zoning Board heard the case again and approved it therefore the variance expired after one year. Attorney Prolman representing Virginia Campiolla and Nedema Gemmell said that Mr. Tierney told him that this case was being heard again and the prior variance would not come into play. Attorney Prolman submitted an outline, exhibits and photos. The Chairman marked the clipped pages as Exhibit A and the photos as Exhibit B. Attorney Prolman read into the record a portion of a letter from Celeste Corey of Carlson GMAC Real Estate. In Ms. Corey's letter she states, "the quality of a view is one of the most important factors to assess when it comes to resale value". Attorney Prolman also read into the record a portion of a letter from Peter R. Reilly, NH Certified General Appraiser. In Mr. Reilly's letter he states "water views do indeed contribute value to a property in varying degrees, depending on the quality of the view



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and the distance from the water". Attorney Prolman showed photo #2 (a house from down the road that was superimposed onto the lot) stating that the photo shows what the view would be for the Gemmell's if the proposed house was built. Attorney Prolman stated reasons why the application is incomplete:

- Lot Frontage 175' required, 56' provided
- Lot size 50,000 square feet required (depending on soil type), 6,000 square feet provided
- Minimum floor area not met
- Windham Building Code Standards not met regarding house distance from leach field.
- No site assessment study

Attorney Prolman went on with his presentation regarding violations to the zoning ordinances that would occur if the request were granted. Nedema Gemmell of 32 West Shore Road explained some of the submitted photos as they relate to her view. Mrs. Gemmell also explained that the land has been taxed by the town for many years at a value of \$29,000.00 as an unbuildable lot which is the same way Mrs. Gemmell's strip of land is taxed. Mr. Jarosky said that the septic system meets the setback requirements. Mr. Roy motioned and Mr. Pellegrini seconded the motion to continue Case #3-2005 to the February 8, 2005 meeting. Passed unanimously 5-0.

Mr. Pellegrini motioned and Mr. Souma seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session Lot #11-C-2553, Case #58-2004 (Request for Re-Hearing)**

Applicant – Paul Mansback

Owner – Kim & Christopher Thompson

Location – 10 Sheffield Street

Zone – Residential A

A Re-Hearing is requested regarding the December 14, 2004 Zoning Board decision to deny the request for a use variance from Section 601.3 of the Zoning Ordinance to permit the construction of a garage in the WWPD.

The Chairman read into the record a letter from Paul Mansback to the Zoning Board of Adjustment dated January 11, 2005 regarding Case #58-2004. Mr. Pellegrini motioned and Mr. Roy seconded the motion to deny the request for a re-hearing due to the lack of new evidence or any technical error. Passed unanimously 5-0.

### **Minutes**

The Chairman had changes to the January 11, 2005 minutes. Mr. Tierney said that he would have Mrs. Gray review the tape and make the changes. Mr. Doyle motioned to table the minutes. Mr. Roy seconded the motion. Passed unanimously 5-0.



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### **Other Business**

The Chairman read a response he wrote to David Sullivan's memo regarding alternate appointments to see if the Members wanted any changes to be made before he submits the memo to be put on letterhead and sent to David Sullivan.

Mr. Doyle motioned and Mr. Pellegrini seconded the motion to adjourn. Passed unanimously 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for February 8, 2005 at 7:30 PM in the Planning & Development Office.

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