



BOARD OF ADJUSTMENT

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

November 18, 2003

Bruce Breton – Chairman
Chris Doyle – Vice-Chairman (Late)
Rob Gustafson – Secretary
Al Souma – Member
Georges Roy – Member
Tony Pellegrini – Alternate
Kara DiFruscia – Alternate (Excused)

Alternate Appointment

The Chairman appointed Mr. Pellegrini to replace Mr. Doyle for this meeting.

Lot #6-C-1000, Case #49-2003

Vincent & Irene Kerton
94 North Lowell Road

A variance is requested from Section 702 of the Zoning Ordinance to permit the construction of a garage that is 25-feet from the lot line where 30-feet is required.

Mr. Gustafson read the case into the record. Irene Kerton presented her case. The proposed garage would be 25-feet from the lot line. The existing driveway will be used. All other homes in the neighborhood have garages. Mrs. Kerton read the five supporting facts into the record. Mr. Gustafson read into the record a letter of support from Mr. Russell Whitney of 96 North Lowell Road. Mr. Gustafson motioned and Mr. Souma seconded the motion to go into Deliberative Session. Passed unanimously.

Deliberative Session, Case #49-2003

Mr. Roy motioned to grant Case #49-2003. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Pellegrini, Mr. Souma, Mr. Roy and Mr. Breton voted to grant this variance. Request granted 5-0.

Lot #21-K-33, Case #50-2003

Brad & Marianne Bemister
58 Turtle Rock Road

A variance is requested from Section 702 of the Zoning Ordinance to permit the construction of a 755 square foot two stall garage 9-feet and 20-feet from the side lot line where 30-feet is required.

Mr. Gustafson read the case into the record. Mr. Ken Walsh presented the case for Brad & Marianne Bemister. Mr. Walsh explained that there is no front setback requirement on Turtle Rock Road. Turtle Rock Road travels across residents' properties. Mr. Walsh read the five supporting facts into the record. Mr. Roy motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously.



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Deliberative Session, Case #50-2003

Mr. Gustafson motioned to grant Case #50-2003 per plan submitted showing a 20-foot side setback and no closer than 9-feet to the jog in the lot. Mr. Pellegrini seconded the motion. Mr. Roy, Mr. Souma, Mr. Pellegrini, Mr. Gustafson and Mr. Breton voted to grant this variance. Request granted 5-0.

Lot #5-A-501, Case #51-2003

Frank & Janice Hennessy
27 Nashua Road

A variance is requested from Section 702 of the Zoning Ordinance to permit the construction of a 24-foot X 24-foot garage that is 20-feet from the side lot line where 30-feet is required.

Mr. Gustafson read the case into the record. Mr. Hennessy presented his case and submitted information that was marked Exhibit A. The proposed garage cannot be placed in another part of the lot because of a swimming pool in the back of the house and the septic system on one side. There will be no living area above the proposed two-car garage. The existing driveway will not be as wide as it currently is. By adding a garage the noise level will decrease. The footprint of the proposed garage is smaller than where the driveway already exists. Mr. Hennessy read the five supporting facts into the record. Mr. Lane Bickford of 25 Nashua Road spoke in favor of this request. Mr. Gustafson read into the record a letter of support from Mr. Clark of 26 Nashua Road. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

Deliberative Session, Case #51-2003

Mr. Roy motioned to grant Case #51-2003 per the submitted drawing. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Pellegrini, Mr. Souma, Mr. Roy and Mr. Breton voted to grant this variance. Request granted 5-0.

Lot #17-C-95, 96, 96A, Case #52-2003

Neverest Management Co., LLC
33A & B Sawtelle Road

A variance is requested from Sections 702.4 and 401 of the Zoning Ordinance to permit the replacement of failed pier foundations under existing building footprints with concrete foundations. Requesting building be elevated an additional 6-inches to the 1-1/2 feet granted on October 28, 2003.

Mr. Gustafson read the case into the record. Mr. Smith, part owner and manager of Neverest Management, presented the case. Neverest was granted a variance (Case #48-2003) at the October 28, 2003 Zoning Board meeting to permit the buildings to be raised 1-1/2 feet to ensure clearance from grade and access to utilities to replace failed pier foundations with concrete foundations. At that meeting Mr. Smith discovered that he would need another 6-inches. Mr. Gustafson motioned and Mr. Souma seconded the



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motion to waive the reading of the five supporting facts. Passed unanimously. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

Deliberative Session, Case #52-2003

Mr. Gustafson motioned to grant Case #52-2003 per plan submitted. Mr. Souma seconded the motion. Mr. Souma, Mr. Roy, Mr. Gustafson, Mr. Pellegrini and Mr. Breton voted to grant this variance. Request granted 5-0.

Lot #17-J-70, Case #53-2003

DVMD Holdings Inc.
90 Indian Rock Road

A variance is requested from Section 601 of the Zoning Ordinance to permit the removal of an existing office building and septic system within the WWPD and allow the construction of a new residential building with minor grading in the general location of the existing building.

Mr. Gustafson read the case into the record. Attorney Andrew Prolman presented the case. The proposed building will have less of an impact in the WWPD than the existing building. The septic system will be removed from the WWPD. Mr. Joseph Maynard of Benchmark Engineering explained the discrepancy pointed out by Mr. Gustafson between the plan exhibited on the bulletin board by Attorney Prolman and the plan submitted with the application. When Mr. Maynard submitted the zoning board application units were drawn on the plan as such. After the application was submitted Mr. DeVries advised Mr. Maynard that the view of one house is actually in line with where the existing house was so Mr. Maynard rotated it. Mr. Maynard said that the plan on the bulletin board is what he is seeking. The Chairman marked the plan that was displayed on the bulletin board as Exhibit A. Attorney Prolman read the five supporting facts into the record. Mr. Pellegrini motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously.

Deliberative Session, Case #53-2003

Mr. Gustafson motioned to grant Case #53-2003 to allow an encroachment into the 200-foot WWPD setback as described on Exhibit A and the requested removal of the existing office building and septic system. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Pellegrini, Mr. Souma, Mr. Roy and Mr. Breton voted to grant this variance. Request granted 5-0.

Lot #14-A-451, Case #54-2003

Galen & Linda Stearns
8 Bridle Bridge Road

A variance is requested from Section 702-A-1 of the Zoning Ordinance to permit the placement of a shed 4-feet from the side lot line where 30-feet is required.



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Mr. Gustafson read the case into the record. Mr. Stearns presented his case and submitted photos that were marked as Exhibit A. This request is for a 10' X 14' shed with a 2' bump out on the side to store wood. Mr. Stearns read the five supporting facts into the record. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

Deliberative Session, Case #54-2003

Mr. Roy motioned to grant Case #54-2003 per the plan submitted. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Pellegrini, Mr. Roy, Mr. Souma and Mr. Breton voted to grant this variance. Request granted 5-0.

Minutes

Mr. Gustafson motioned to accept the October 28, 2003 minutes as written. Mr. Souma seconded the motion. Passed unanimously.

Other Business

The Members discussed the planning of a holiday get-together.

It was announced that on November 17, 2003 the Selectmen held a public hearing for the purpose of amending the Zoning Board fees. The current fee for an application is \$35.00. The Selectmen voted to raise the fee to \$60.00. Mr. Breton said that he would have a package put together for the Members regarding the fee change. The fee change will come into effect after the Zoning Board has amended their by-laws.

Mr. Gustafson read into the record a letter from Paul Keller, Windham resident, regarding Mr. Keller's review of 20 months of Zoning Board cases. Mr. Keller advised the Board that he had visited the towns of Londonderry and Hollis (he was a 20 year resident of Hollis) to review their zoning board cases. Mr. Keller said that Londonderry has three times the denial rate and Hollis has one and one half times the denial rate of Windham. The Members explained to Mr. Keller that unlike Londonderry and Hollis Windham has many lakes. Londonderry has a large commercial base. Mr. Keller also advised the Board that both Londonderry and Hollis voiced concerns about the Zoning Board becoming an elected board. What effect will an elected board have on the voting record? Mr. Gustafson said that he contacted the Office of State Planning and was advised that there are 234 towns and cities in the state of New Hampshire and only 21 have elected Zoning Boards. The Office of State Planning said that an elected board is a problem because the Zoning Board of Adjustment is accountable to the ordinance not to the citizens.

Mail

Letter from Attorney Campbell regarding Gemmell vs. Town of Windham and Devine vs. Town of Windham. The appeals were resolved in favor of the Town of Windham.

Mr. Gustafson motioned and Mr. Roy seconded the motion to adjourn at 9:43 PM. Passed unanimously.



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The next meeting of the Zoning Board of Adjustment is scheduled for December 9, 2003 at 7:30 PM in the Planning & Development office.

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