

## BOARD OF ADJUSTMENT

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

February 22, 2005

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

### **Lot #21-K-26, Case #6-2005**

Applicant – Shawn Quaglietta  
Owner – Shawn Quaglietta  
Location – 35 Turtle Rock Road  
Zone – Residential A

A variance is requested from Section 702 Appendix A-1 of the Zoning Ordinance to permit a shed to remain 10.5 feet from the side setback where 30-feet is required and 30-feet from the front setback where 50-feet is required.

Mr. Roy read the case into the record. Mr. Quaglietta presented his case. He explained that the shed was a wedding gift that was delivered to the site the day of his wedding. The shed has been in place since July 2004 and is used to store landscaping equipment. Mr. Gustafson asked why this request was not submitted as an Equitable Waiver. Mr. Tierney, Building Inspector, explained that there was no building permit issued. Mr. Quaglietta explained that the shed could not be relocated in the rear of the property because of the leach field and on one side of the property there is a pump chamber. Mr. Quaglietta read the supporting facts into the record. The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mr. Souma seconded the motion to go into Deliberative Session. Passed unanimously 4-0.

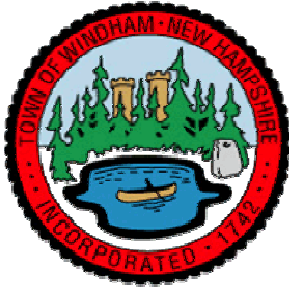
### **Deliberative Session, Case #6-2005**

Mr. Roy motioned and Mr. Souma seconded the motion to grant Case #6-2005. Passed unanimously 4-0.

### **Lot #14-A-850A, Case #7-2005**

Applicant – Lunan Realty Inc.  
Owner – Rocco DeCarolis Brothers, Inc.  
Location – 200 Route 111  
Zone – Rural

A variance is requested from Section 702 Appendix A-1, 601.4.1, 601.4.2 & 601.4.6 of the Zoning Ordinance to permit the construction of a single family home 35-feet from the

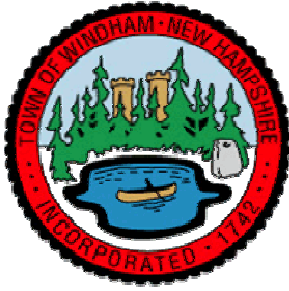


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front setback where 50-feet is required and 15-feet from the side setback where 30-feet is required.

Mr. Roy read the case into the record. Attorney John R. Michels, representing the Applicant, presented the case. Beaver Brook is on the backside of this 1.8-acre lot that is located on the north side of Route 111. Because of the lot's unique triangular shape the owner cannot build on high ground and comply with the setbacks. Because of the building setbacks and the WWPDP setbacks the entire parcel becomes unusable. Mr. Gustafson asked when this lot was subdivided and if this is a buildable lot of record. The Building Inspector said that he did not research this lot and therefore did not have that information. Jennifer McCourt of McCourt Engineering said that she believes that the leach field can be kept out of the WWPDP buffer. Attorney Michels read the supporting facts into the record. Mr. Roy read into the record minutes from the February 10, 2005 Conservation Commission meeting which state that Dr. Anderson motioned and Mr. Rouillard seconded the motion that Mrs. Linowes would represent the Conservation Commission at the February 22, 2005 Zoning Board meeting and will write a letter listing the three WWPDP variance requests that the Commission objects to and the steepness of the driveway, the intensive use of the property and that there are alternative uses for the property. The motion passed unanimously 5-0. Mrs. Linowes explained that she did not write the letter because she did not realize that the ZBA would be meeting on February 22, 2005, she thought the next meeting was March 22, 2005 but she was prepared to speak verbally. There appears to be a lot of pavement going in to this parcel that abuts conservation land and the Commission is concerned about runoff. The Commission felt that there are alternative uses for this property such as timbering. Mr. Gustafson asked when there is a buildable lot of record, say the subdivision predates the WWPDP, what relief can we give those applicants to allow them reasonable use as defined as other properties similarly zoned; are there ways that they can still abide by the spirit and intent of the WWPDP and gain that reasonable use. Mrs. Linowes said that would include lots in proximity to each other and there are no other lots in the area and that she was not sure that this was a buildable lot and she did not think the lot went thru the subdivision process. The land is very steep and it all leads down to Beaver Brook. Mr. Gustafson said that his concern is the lack of evidence and that he needs understanding of the history of the lot as to whether it was ever subdivided per subdivision regulations or whether it is a left over parcel from another lot. He is trying to understand the rights of this lot. Mr. Tierney said he would do the research on the lot. Mr. Roy motioned and Mr. Pellegrini seconded the motion to continue Case #7-2005 to the March 22, 2005 meeting. Passed unanimously 4-0.



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### **Lot #19-B-1100, Case #8-2005**

Applicant – Dan Zarnowiec

Owner – Dan Zarnowiec

Location – 22 Castle Hill Road

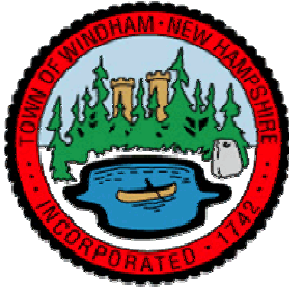
Zone – Rural

A variance is requested from Section 710 of the Zoning Ordinance to permit a fence to exceed the 3-foot height limit within 60-feet of the front lot line.

Mr. Roy read the case into the record. Mr. Zarnowiec presented his case. The top board of the fence will be 48” high and the posts will be 54” high. There are two other properties on Castle Hill Road that have fences that are over the 3-foot height limit. Mr. Zarnowiec submitted four photos on two pages that the Chairman marked as Exhibit A. Mr. Zarnowiec explained his safety and liability concerns. No views would be obstructed by the fence. The pond location has invited children to wade, ice skate, snowmobile, and bicycle on the ice. *No Trespassing* signs have been posted but they have been torn down or burned. Because the pond could be considered an attractive nuisance to children Mr. Zarnowiec has liability exposure and feels that a 3-foot fence is not sufficient. Mr. Roy read into the record two letters of opposition, one from Judy Ouellette of 21 Castle Hill Road and one from John Foster of 35 Castle Hill Road. The minutes from the February 10, 2005 Conservation meeting were read into the record. Mr. Rouillard motioned and Mr. Senibaldi seconded the motion that the Commission had no comments for Case #8-2005. The following abutters spoke in opposition to the request:

- Tracy Brown of 1 Gillis Road
- Cynthia Brown of 1 Gillis Road
- Kim Ferris of 19 Castle Hill Road
- Judy Ouellette of 21 Castle Hill Road
- Susan Blankenship of 2 Gillis Road
- Tim Berger of 42 Castle Hill Road
- Lisa Linowes of 20 Bramley Hill Road

Mr. Tierney, Building Inspector, said that the Road Agent had no problem with the fence request. The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mr. Roy seconded the motion to go into Deliberative Session. Passed unanimously 4-0.



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### **Deliberative Session, Case #8-2005**

Mr. Pellegrini motioned and Mr. Roy seconded the motion to grant or deny Case #8-2005. Mr. Roy, Mr. Souma, Mr. Pellegrini and Mr. Gustafson voted to deny the request. The Board denied the request because the Applicant did not meet the hardship requirement.

Mr. Doyle joined the meeting.

The Chairman granted a five-minute recess.

The Chairman called the meeting back to order.

### **Deliberative Session, Case #2-2005 (Request for Re-Hearing)**

Applicant – William E. Schroeder

Owner – Andrew Lane

Location – 2 Woodvue Road

Zone – Residential A

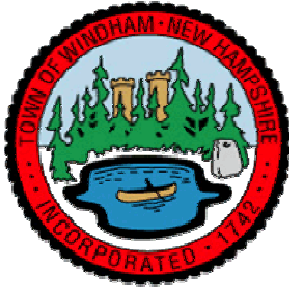
A re-hearing is requested on the decision made by the Zoning Board of Adjustment on January 11, 2005.

The Chairman read into the record the following letters:

- Letter from Attorney Campbell to Rob Gustafson dated February 20, 2005
- Letter from Attorney Donovan to Attorney Campbell dated February 18, 2005.
- Letter from Attorney Campbell to Rob Gustafson dated February 22, 2005.
- Letter from Attorney Campbell to Attorney Donovan dated February 14, 2005

Mr. Doyle motioned and Mr. Pellegrini seconded the motion to proceed with the request for rehearing. Passed unanimously 5-0. Mr. Doyle motioned and Mr. Pellegrini seconded the motion to grant a rehearing for Case #2-2005. Mr. Pellegrini, Mr. Roy and Mr. Souma voted to deny the request. Mr. Doyle and Mr. Gustafson voted to grant the rehearing. Motion denied 2-3. The request was denied because there was no new evidence and no technical error.

Mr. Doyle asked what are we going to do about this (pointing to a letter signed by Andrew Lane). The Chairman said that he was going to address the letter during the *Mail* portion of the meeting. Mr. Doyle asked if anyone in addition to himself read the letter. Mr. Pellegrini said he read the letter. Mrs. Dunn asked the Chairman what is the letter that is being discussed. Mr. Doyle responded saying that it is a letter from Andrew and Christine Lane dated February 22, 2004. The Chairman said that by way of history he was given an envelope and was told that it was from the Lane's. The letter was not



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entered into this request because it is not correct procedure to put the letter into a request for rehearing and that he would open the letter during *Mail* since it was addressed to the Zoning Board of Adjustment. Mrs. Dunn asked if some of the Members read the letter. Mr. Doyle answered yes some of the Members read the letter.

### Approval of Minutes

The Chairman asked Mr. Case about the videotape for the January 25, 2005 meeting. Mr. Case said that he would check with Mr. Daddona and get the tape to Mrs. Kovolyan.

Mr. Doyle motioned and Mr. Pellegrini seconded the motion to table the January 25, 2005 minutes until the March 22, 2005 meeting. Passed unanimously 5-0.

Mr. Doyle motioned and Mr. Pellegrini seconded the motion to approve the February 8, 2005 minutes as written. Passed unanimously 5-0.

### Mail

Mr. Doyle read into the record the February 22, 2005 letter from Mr. Lane. Mr. Roy said that even if the letter was read it would have had no impact on his decision because in the letter Mr. Lane states he would present information tonight but that could not be done anyway. Mrs. Dunn asked if she could have it made a matter of record who saw the letter before the vote. Mr. Doyle and Mr. Pellegrini said that they saw the letter before the vote. Mrs. Dunn went on to say that it would never be known how much that letter affected a Members decision on the rehearing. Mr. Doyle said there is a chance that this letter tainted his decision. The Chairman said that the letter does not address timeliness. Mr. Roy said that if you used the information in the letter you have an issue. The Chairman asked both Mr. Pellegrini and Mr. Doyle if the letter affected their decision. Mr. Pellegrini replied that the letter did not affect his decision. Mr. Souma asked Mr. Doyle if the letter affected Mr. Doyle's decision. Mr. Doyle said he could not say if the letter affected his decision.

Mr. Doyle motioned and Mr. Pellegrini seconded the motion to adjourn at 11:00 PM. Passed unanimously 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for March 22, 2005 at 7:30 PM in the Planning & Development Office.

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