

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes November 8, 2005

Chris Doyle – Chairman
Rob Gustafson – Vice-Chairman
Tony Pellegrini – Secretary
George Roy – Member
Mark Samsel – Member
Al Souma – Alternate
Tom Murray – Alternate (Excused)

Lot #16-Q-206A, Case #45-2005

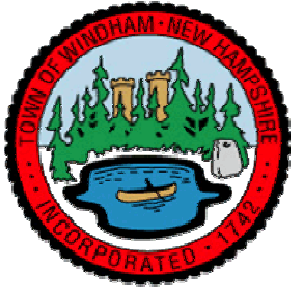
Applicant – Kingwood Builders LLC
Owner – Joseph Joaquim
Location – 13 Viau Road
Zone – Residential A

A variance is requested from Sections 401 & 702 of the Zoning Ordinance to permit the second floor expansion of an existing structure and additions to be 2.5 feet from the east side setback where 30-feet is required and 32-feet where 50-feet is required and 45-feet from the front setback where 50-feet is required.

Mr. Pellegrini read the case into the record. Mr. Bill Johnson of Kingwood Builders presented the plan for Mr. Joaquim. Mr. Johnson read the supporting facts into the record. The house will be brought up to date with a new septic system and other improvements to fit in with the other homes in the neighborhood. The property will remain seasonal. The sunroom on the first floor will make a small change in the footprint. Mr. Mark Kovacs of 15 Viau Road spoke in support of this request. Mr. Pellegrini read into the record a letter from Brad & Kristie Dinsmore. Mr. Johnson advised the Board that he spoke with Mrs. Dinsmore and answered her questions regarding parking. The Chairman closed the public portion of this case. Mr. Gustafson motioned and Mr. Samsel seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, Case #45-2005

Mr. Gustafson motioned and Mr. Samsel seconded the motion to grant Case #45-2005 per the plan submitted. Passed unanimously 5-0.



BOARD OF ADJUSTMENT

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

Lot #21-D-107, Case #50-2005

Applicant – Edward N. Herbert Associates, Inc.

Owner – Windham Plaza Trust

Location – 4 Cobbetts Pond Road

Zone – Business Commercial A

A variance is requested from Section 702.5 of the Zoning Ordinance to permit a driveway and parking within 50-feet of the Residential A Zone.

Mr. Pellegrini read the case into the record. Mr. Peter Zohdi of Herbert Associates presented the plan for the Windham Plaza Trust. A portion of the Applicant's property is zoned residential and a portion is zoned commercial. The lot already has businesses and on-site parking; the owner is looking to expand. The zone separation line falls within the property boundary, therefore no neighboring lots will be infringed upon by the proposed use. The boundary of the property extends more than 50-feet beyond the zone separation line. There will be plenty of area to create a buffer from abutting lots. Robert Peterson and Jennifer Peterson of 33 Lowell Road spoke against this request. Mr. Vance Poteat of the Windham Bible Chapel questioned the parking and Mr. Zohdi explained that the parking is to comply with the town requirement. Mr. Zohdi explained that there will be 140-feet of fence installed and evergreens planted to separate the residential from the commercial. The Chairman closed the public portion of this case. Mr. Roy motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, Case #50-2005

Mr. Samsel motioned and Mr. Gustafson seconded the motion to grant Case #50-2005 as requested by the Applicant. Passed unanimously 5-0.

Lot #21-V-230C, Case #51-2005

Applicant – Joseph C. Clermont

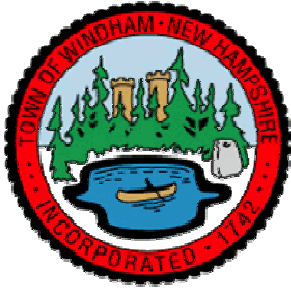
Owner – Joseph C. Clermont

Location – 38 Fish Road

Zone – Residential A

An Appeal of an Administrative Decision is requested concerning Mr. Turner's letter dated August 31, 2005 to permit a building structurally damaged by a fallen tree to be rebuilt as a seasonal residence not as a storage building with a small bathroom. This property is located in the Residential A Zone.

Mr. Pellegrini read the case into the record. Mr. Turner, Director of Planning & Development, explained that he was called to the site because



BOARD OF ADJUSTMENT

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

of a fallen tree. Mr. Turner provided Zoning Board minutes from 1987 in which the Applicant requests to connect two existing dwellings. In the 1987 minutes the Applicant refers to the building that was damaged by the tree as a wash area and a storage area. When asked about living area in the building the Applicant replied that there is none except for the wash area. When asked if the storage area would stay the same the Applicant replied that it would. Mr. Turner also provided information showing that the damaged building (aka bunkhouse) was listed as a garage on the tax card. Mr. Turner explained that work had been done to the bunkhouse in the past without the proper permits. Mr. Joseph Clermont submitted a plan from 1955 that show two buildings. Both buildings are seasonal residences. Mr. Clermont also submitted a warranty deed, book #2526 and page #0264 and a residential appraisal report, file #95-499, from Westcott Appraisal Service. Mr. Clermont explained that he is looking to rebuild what was there before the tree damaged the building. Mr. Clermont said that the bunkhouse was never a garage; never had garage doors on it and vehicles were never parked in it. His family has used the buildings since 1955 except from 1987 through about 1990. Kathy Rondeau of 17 Fish Road said that in 52 years there has never been a car in the building; it has always been used as a bunkhouse. Mr. Clermont submitted 8 photos that the Chairman marked as Exhibit A. The Chairman closed the public portion of this case. Mr. Samsel motioned and Mr. Roy seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

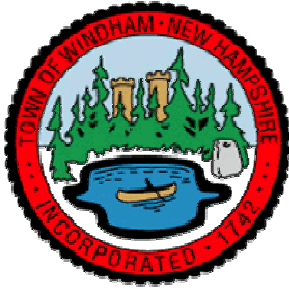
Deliberative Session, Case #51-2005

Mr. Samsel motioned to reverse the Administrative Decision dated August 31, 2005 from Mr. Turner which would allow the rebuilding of the dwelling located at 38 Fish Road. Mr. Samsel restated his motion. Mr. Samsel motioned to reverse the Administrative Decision dated August 31, 2005 point #1 that the building has to be returned to the use as a storage building with a small bathroom. Mr. Pellegrini seconded the motion. Passed 4-1. Mr. Roy voted against the motion.

Lot #17-L-78, Case #52-2005

Applicant – Alexandra Tokanel
Owner – Alexandra Tokanel
Location – 30 Horseshoe Road
Zone – Residential A

A variance is requested from Sections 401 and 702 of the Zoning Ordinance to permit reconstruction of an existing home and garage which collapsed during the construction process of implementing a variance granted for proposed addition and deck which will increase the extent of the existing structure which is non-conforming. The addition and deck will have the following setbacks 24-feet from the south side where 50-feet is required, 26-feet where 30-feet is required. The reconstructed



BOARD OF ADJUSTMENT

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

garage will have setbacks from the south side lot line of 15-feet and 16-feet where 30-feet is required and the reconstructed house will be 19-feet from the north side where 30-feet is required.

Mr. Pellegrini read the case into the record. Attorney Peter Bronstein representing Alexandra Tokanel presented the case. A variance was granted for this property on April 12, 2005. This is the same plan except for some wording. In April the Applicant's request was for the existing dwelling; now it is for the old foundation and existing garage is now existing slab. In the construction process the Contractor was less than careful and when the roof was being taken off the walls were not braced and they came down. The footprint expansion is 480 square feet. Mr. Pellegrini asked if the state requires the 50-foot setback requirement. Mr. Turner replied that they would ask the Shoreland Protection Bureau to sign off on the request before issuing the building permit. Mr. Gustafson asked why a new variance is required. Mr. Turner said in this case all the evidence presented to the Zoning Board was that they were just popping the roof. They can no longer meet that condition; now they are building a new structure. Attorney Bronstein read the supporting facts into the record. The Chairman closed the public portion of this case. Mr. Samsel motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, 52-2005

Mr. Gustafson motioned and Mr. Pellegrini motioned to grant Case #52-2005 per plan submitted. Passed unanimously 5-0.

Approval of Minutes

Mr. Samsel motioned and Mr. Gustafson seconded the motion to accept the October 25, 2005 minutes as written. Motion passed 4-0-1. Mr. Roy abstained because he did not attend the October 25, 2005 meeting.

Other Business

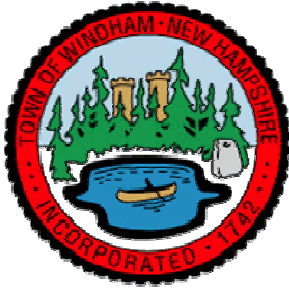
The Members discussed plans for their Christmas Party.

Mr. Samsel reported on the NH Planning & Zoning Conference that both he and Mr. Murray attended.

Mr. Gustafson motioned and Mr. Roy seconded the motion to reimburse Mr. Samsel \$25.00 for attending the Fall Conference. Passed unanimously 5-0.

Mail

- October 18, 2005 Memo from David Sullivan, Town Administrator, regarding the 2005 Annual Town Report.



BOARD OF ADJUSTMENT

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

Narratives due before December 23, 2005; Statistical due before January 26, 2006.

- Deadlines for official ballot town meeting.
- October 31, 2005 letter from Attorney Campbell regarding Schroeder vs. Town of Windham.
- November 4, 2005 letter from Attorney Campbell regarding Messina.

Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to adjourn at 9:57 PM.

The next meeting of the Zoning Board of Adjustment is scheduled for December 13, 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.