

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes **January 10, 2006**

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

Lot #14-A-1100, Case #56-2005 (Continued from 12/13/05)

Applicant – Edward Herbert Assoc., Inc.
Owner – Waterhouse Realty Trust, Gary & Kevin Waterhouse, Trustees
Location – 18 Mammoth Road
Zone – Neighborhood Business

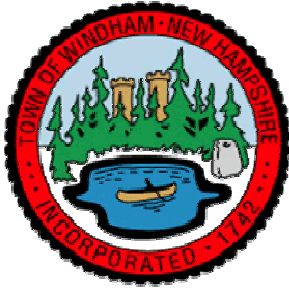
A variance is requested from Sections 609.4.2.4, 405.3, and 702.5 of the Zoning Ordinance to permit additional fuel tanks and pumps, new proposed garage and new proposed car wash to an existing site.

Mr. Pellegrini read the case into the record. Mr. Peter Zohdi of Herbert Associates presented the case for the applicant. Mr. Zohdi submitted existing building plans and explained that the garage would be relocated but the size of the garage will stay the same. The amount of pumps would be increased from three to four. The diesel pump would be relocated. Mr. Patrick Kusior of 1 Cobblestone Road spoke in favor of the request. Mr. Pellegrini read the supporting facts into the record. 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 #56-2005

Mr. Gustafson motioned and Mr. Roy seconded the motion to Grant Case #56-2005 per the plan submitted. Passed unanimously 5-0.

Mr. Doyle recused himself from Case #58-2005. Mr. Gustafson appointed Mr. Murray to replace Mr. Doyle.



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Lot #18-L-303, Case #58-2005 (Originally on 12/13/05 Agenda – Reposted)

Applicant – Peter Mullett Custom Homes

Owner – Aragon Investment LLC

Location – 57 Range Road

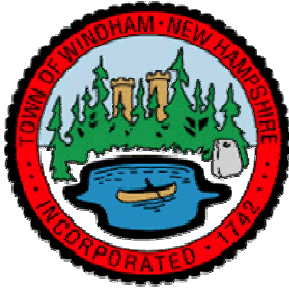
Zone – Business Commercial A

This is a modification to a previously approved variance. The previous approvals were for Sections 405.2, 405.3, 405.5, 702 Appendix A-1 and 705.1.4 of the Zoning Ordinance. In addition to the Sections listed the following Sections of the Zoning Ordinance also need relief 704.2.8, 704.2.11, 704.3.2, 705.1.3 & 706.6 to permit the razing of the existing structure to be replaced with a new structure to make more conforming to existing regulations.

Mr. Pellegrini read the case into the record. Mr. James Tierney, representing the applicant, presented the case. Mr. Tierney submitted two pages that were marked as Exhibit A. Mr. Tierney reminded the Board that in 1985 the Zoning Board approved a parking plan for this property. The proposed building will replace a structurally challenged building that is in need of repair. The proposed building will be the same size as the existing building, will be moved away from the street and will meet the height requirement. Parking would be in the front and the septic would be in the rear and the putting green would be relocated. The lot is 60-feet wide. Mr. Tierney showed the areas of curbing. Mr. Michael McGuire, Building Inspector, advised the Board that they should be aware of the following:

- The parking spaces are 13-feet where 18-feet is required.
- The relocation of the driveway entrance in relation to the abutting driveway and traffic light.
- If this plan is approved there would be no *wiggle* room for Planning input/corrections without the possibility of a new variance.
- How and where would deliveries come in?

Mr. Tierney explained that the use is not changing; only the footprint of the structure would be smaller. Mr. Tierney explained that he was told that he needs site plan approval by the Planning Board. Mr. Tierney said that he questioned those instructions because the use of the property is not changing. Mr. Tierney said that the Planning Board denied his request for a waiver from site plan approval. Drainage is the major concern of the Planning Board. Mr. Peter Mullett, owner, explained that the placement of the building is based solely on drainage. Mr. Tierney read the supporting facts into the record. Mr. Gustafson closed the public portion of this case. Mr. Pellegrini motioned and Mr. Samsel seconded the motion to go into Deliberative Session. Passed unanimously 5-0.



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Deliberative Session, Case #58-2005

Mr. Samsel motioned and Mr. Murray seconded the motion to grant Case #58-2005 with the stipulation of giving relief from Section 704.1.8 the calculations for the parking spaces be based on one (1) space for every 500 square feet of gross floor area. Motion passed 4-1. Mr. Roy voted to deny the motion.

Mr. Gustafson granted a five-minute recess.

The meeting was called back to order. Mr. Gustafson continued as Chairman for this meeting and Mr. Murray continued to sit in for Mr. Doyle.

Lot #17-L-62, Case #1-2006

Applicant – Joseph Faro

Owner – Joseph Faro

Location – 10 Farmer Road

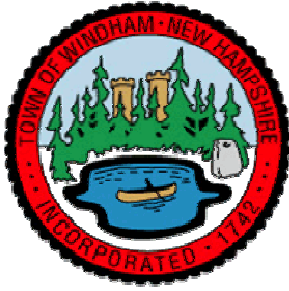
Zone – Residential A

A variance is requested from Section 702 Appendix A-1 of the Zoning Ordinance to permit portions of fencing, playground, deck and pool within the 30-foot side and rear setbacks. The proposed 10-foot high fence would be 12-feet from the setback where 30-feet is required. The proposed outdoor play equipment would be 18-feet from the side setback where 30-feet is required. The proposed pool would be 15-feet from the side setback where 30-feet is required.

Mr. Pellegrini read the case into the record. Attorney Michael Rosen of Devine, Millimet & Branch representing the applicant presented the case. The shape, slope and configuration of the lot dictate the layout of the proposed landscaping plan. The lot is surrounded by undeveloped land and the proposed improvements can be designed to maximize the aesthetic impact to the property without detriment to the surrounding properties. Architect, Jason Berube, explained the landscape design. Mr. Joseph Faro, owner, explained the layout of the lot. Attorney Rosen read the supporting facts into the record. Attorney Rosen read into the record a letter of support from Mr. William DeLuca of 164 Range Road. The letter was marked as Exhibit A. Mr. John Charette of 12 Farmer Road voiced his concerns about subsurface water. Mr. Faro addressed Mr. Charette's water concerns. Mr. Gustafson closed the public portion of this case. Mr. Roy motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, #1-2006

Mr. Roy motioned and Mr. Pellegrini seconded the motion to grant Case #1-2006. Passed unanimously 5-0.



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Lot #14-A-925 & 930, Case #2-2006

Applicant – Kenneth Bergeron

Owner – Kenneth Bergeron

Location – 28 & 34 Mammoth Road

Zone – Neighborhood Business

A variance is requested from Section 906 of the Zoning Ordinance to permit the extension of an existing variance (#1-2005) for one year to complete site plan approval.

Mr. Pellegrini read the case into the record. Mr. James Tierney, representing the applicant, presented the case. Mr. Tierney explained that the variance that was granted for this property last year (Case #1-2005) would expire at midnight on January 11, 2006. The case is ready for site plan submittal to the Planning Board. Except for the decrease in the number of units from 22 to 21, the request is the same as presented last year. The request for the extension is to complete the submittal process. Mr. Pellegrini motioned and Mr. Roy seconded the motion to waive the reading of the supporting facts. Passed unanimously 5-0. Mr. Alan Doak of 8 Cobblestone Road spoke in favor of the request. Mr. Patrick Kusior of 1 Cobblestone spoke in favor but was concerned about the amount of traffic entering and exiting. Mr. Gustafson closed the public portion of this case. Mr. Samsel motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

Deliberative Session, Case #2-2006

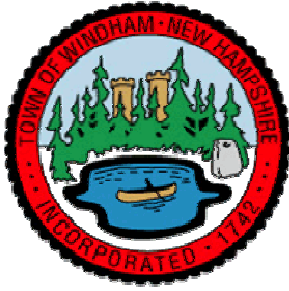
Mr. Samsel motioned and Mr. Pellegrini seconded the motion to grant case #2-2006 as requested. Passed unanimously 5-0.

Approval of December 13, 2005

Mr. Samsel motioned and Mr. Roy seconded the motion to approve the December 13, 2005 minutes as written. Motion passed 4-0-1. Mr. Pellegrini abstained because he did not attend the December 13, 2005 meeting.

Other Business

Mr. Gustafson advised the Board of his discussion with Rex Norman, Town Assessor, regarding vested rights and abatements. Mr. Gustafson suggested the Board have a meeting with Attorney Campbell to discuss vested rights and abatements. Mr. Roy motioned and Mr. Samsel seconded the motion to send a letter, with a copy to Rex Norman, to Mr. McGuire, Building Inspector, requesting a meeting with Attorney Campbell. Passed unanimously 5-0.



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Mail

- Copy of letter dated 12/20/05 to Edward Mucci from Al Turner regarding Lot 14-A-850 Change of use and site plan approval.
- NH Office of energy & Planning, 13th Annual Spring Planning & Zoning Conference scheduled for April 1, 2006 at the Center of NH, Radisson Hotel, Manchester.
- Copy of letter dated 1/4/06 to Tom Murray from Al Turner regarding the septic system and use of the second floor of the garage at 27 West Shore Road.

At 10:00 pm Mr. Roy motioned and Mr. Samsel seconded the motion to adjourn. Passed unanimously 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for January 24, 2006 at 7:30 pm in the Planning & Development Office.

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