



# BOARD OF ADJUSTMENT

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

## **Zoning Board of Adjustment Minutes** **June 27, 2006**

Robert Gustafson – Chairman  
Mark Samsel – Vice-Chairman  
Tony Pellegrini – Secretary  
Dianna Fallon – Member  
Gail Webster – Member  
Jim Tierney – Alternate (Absent)  
Tom Murray – Alternate  
Al Souma – Alternate

### **Lot # 21-G-16, Case #30-2006**

Applicant – Robert M. Brunelle  
Owner – Robert M. Brunelle  
Location – 185 Range Road  
Zone – Residential A

A variance is requested from Section(s) 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a farmers porch 42-feet from the front setback where 50-feet is required.

Mr. Pellegrini read the case into the record. Mr. Robert Brunelle presented his case. The proposed 6-foot wide porch would be 42-feet from the front setback as is the existing garage. Mr. Brunelle read the supporting facts into the record. Mr. William Day of 3 Lake Shore Road spoke in favor of this request. The Chairman 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.

### **Deliberative Session, Case #30-2006**

Mr. Samsel motioned and Mr. Pellegrini seconded the motion to grant Case #30-2006 as stated. Motion passed unanimously 5-0.

### **Lot #16-P-1010A, Case #31-2006**

Applicant – Paul & Stella Tokanel  
Owner – Paul & Stella Tokanel  
Location – 14 Fourth Street  
Zone – Residential A

A variance is requested from Section(s) 401, 406 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a single family dwelling on a Class VI road with a front yard



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setback of 27-feet where 50-feet is required and a side yard setback of 11-feet where 30-feet is required and a rear setback of 25-feet where 30-feet is required.

Mr. Pellegrini read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing the owner, presented the case. Mr. Maynard explained that Mr. & Mrs. Tokanel would like to build a 24' X 34' two bedroom 1-1/2 story dwelling. The septic system will be owned by Mr. & Mrs. Tokanel but they would share a well. Mr. Maynard read the supporting facts into the record. Mr. Maynard advised the Board that Mr. Tokanel is working with the abutter in the rear of his property to resolve the abutter's drainage issues. Mr. Gustafson stated that he does not like to see Section 406 in the posting as opposed to 406.2. Mr. McGuire said there has been some confusion regarding Section 406 and the Building Department is waiting for an opinion from the Town Attorney. Mr. Gustafson said that certainly the Zoning Board does not want to provide relief from Section 406.1 (Septic System), 406.3 (Building Code) and 406.4 (lot area coverage). Mr. McGuire said you can take Section 406 out of this request and leave in Section 401. Mr. Gustafson asked Mr. McGuire if he was saying that the ZBA does not need to grant relief from Section 406 at all. Mr. McGuire agreed. Mr. Gustafson said that if the applicant found it necessary he should ask for relief from Section 406.2. Mr. Joseph Murphy, representing his mother, Ethel Murphy, spoke in favor of this request. The Chairman 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 #31-2006**

Mrs. Fallon motioned and Mr. Pellegrini seconded the motion to grant Case #31-2006 with relief from Zoning Code Sections 401, 406.2 and 702 Appendix A-1 and setbacks as stated. Motion passed unanimously 5-0.

### **Lot #11-A-165, Case #32-2006**

Applicant – Benchmark Engineering

Owner – James Freda

Location – 4 Ledge Road

Zone – Limited Industrial

An equitable waiver is requested from Section(s) 702 Appendix A of the Zoning Ordinance to permit an existing building to remain 23.5-feet from the rear property line.

Mr. Pellegrini read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing the applicant, presented the case. Mr. Maynard explained that a site plan was approved in 1977 and a building permit was issued in 1978. The original survey showed the building to be 30-feet from the rear property line. A more recent survey, done in April 2006 discovered the rear setback to be 23.5 feet. Mr. Maynard read the supporting facts into the record. The violation was discovered in April of 2006 and the building was substantially built by



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the spring of 1978. The entire building would have to be torn down to correct this violation. The violation is not a public or private nuisance and does not diminish the value of other property and does not adversely affect any present or permitted future uses of the property. The Chairman 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 #32-2006**

Mr. Samsel motioned and Mr. Pellegrini seconded the motion to grant an Equitable Waiver from Section 702 Appendix A for Case #32-2006. Motion passed unanimously 5-0.

### **Lot #17-L-60, Case #33-2006**

Applicant – Herbert Associates

Owner – William & Kathleen Deluca

Location – 19 Farmer Road

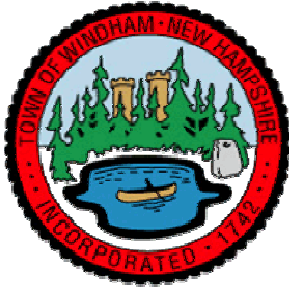
Zone – Residential A

A variance is requested from Section(s) 603.1.1 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a duplex to replace an old existing house on a non-town approved road 10.81-feet from the left rear setback and 11.97-feet from the right rear setback where 30-feet is required.

Mr. Pellegrini read the case into the record. Mr. Peter Zohdi of Herbert Associates, representing Mr. & Mrs. William Deluca, presented the case. Mr. Zohdi submitted plans that show a change from the plans submitted with the application. The Chairman marked the plans as Exhibit A. Page two of the plans show that the doors in the front of the house were moved to the side. Lot 17-L-60 is 1.134 acres and the proposed 6-bedroom duplex would comply with the Shoreland Protection Act. The proposed dwelling would be moved back from Cobbetts Pond. Mr. Pellegrini read the supporting facts into the record for the applicant. Mr. Arthur Mueller of 11 Farmer Road spoke in opposition to the request. Mr. Tom Case said that the request could be granted if hardship was proven. The Chairman closed the public portion of this case. Mrs. Fallon motioned and Mr. Samsel seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session, Case #33-2006**

Mrs. Fallon motioned and Mr. Pellegrini seconded the motion to deny Case #33-2006 specific to Section 603.1.1 because multi-family use is not allowed in the Residential A zone and the request does not meet the hardship test. Motion passed unanimously 5-0.



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### **Approval of June 13, 2006 Minutes**

Mr. Samsel motioned and Mr. Pellegrini seconded the motion to approve the June 13, 2006 minutes as written. Motion passed 4-0-1. Mrs. Webster abstained because she did not attend the June 13, 2006 meeting.

### **Other Business**

The Chairman asked that issues for a workshop with Attorney Campbell be brought to the next Zoning Board meeting.

### **Mail**

- June 16, 2006 letter announcing that Hancock Associates of Danvers, Ma acquired the Pembroke Land Survey Co., of Salem, NH.

At 9:00 PM Mr. Samsel 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 July 25, 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.