

# BOARD OF ADJUSTMENT

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

## **Zoning Board of Adjustment Minutes** **August 8, 2006**

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

The Chairman appointed Mr. Souma to replace Mr. Samsel and Mr. Tierney to replace Mrs. Fallon for this meeting.

### **Lot # 7-A-3005, Case #36-2006**

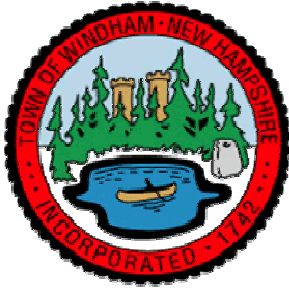
Applicant – Leanne Lummis  
Owner – Malcolm & Leanne Lummis  
Location – 69 Searles Road  
Zone – Rural

A special exception is requested from Section(s) 602.1.6 of the Zoning Ordinance to permit a home business using two rooms on the second floor of the home to perform facials, waxing and related esthetic services.

Mr. Pellegrini read the case into the record. Leanne Lummis presented her case explaining that there would be approximately 12 customer per week for which she would use approximately 1 gallon of water per client. The 3200 square foot home is on a four acre lot with a 530-foot circular driveway. Mrs. Loomis said she is requesting one employee that she may need to hire in the future. Her business will be licensed by the NH State Board of Cosmetology, Barbering & Esthetics. The two rooms that will be used do not occupy more than 25% of the home. UPS deliveries would be approximately one per week. There will no signage on the dwelling. The products used will be organic and natural. Mr. Pellegrini read into the record a June 1, 2006 letter from Mrs. Lummis to Rebecca Hebert, Town Planner requesting authorization to start a business within her residence. The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mrs. Webster seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session, Case #36-2006**

Mr. Pellegrini motioned and Mr. Tierney seconded the motion to grant Case #36-2006. Motion passed 5-0.



# BOARD OF ADJUSTMENT

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

## **Lot # 3-B-600 & 601, Case #37-2006**

Applicant – Attorney Peter Bronstein

Owner – H&B Homes

Location – Rockingham Road

Zone – Rural

A variance is requested from Section(s) 611 & 611.3 of the Zoning Ordinance to permit the repeal of variance #26-2006 which allowed said lots to be used as open space for Spruce Pond, Phase II and the use of said lots, except for one single family residential house lot in the southwest corner of Lot 3-B-600, as open space for Spruce Pond Phase II.

Mr. Pellegrini read the case into the record. Attorney Peter Bronstein, representing the owner, presented the case. The variance granted on May 23, 2006 allowed Lot # 3-B-600 (9.47 acres) and lot 3-B-601 (14.22 acres) to be counted as open space for Spruce Pond Phase II. The difference in this request is that a single family residential lot, less than an acre in size, will be carved out of the corner of lot 3-B-600. The balance of lot 3-B-600 and 3-B-601 will still be used for open space. Lots 3-B-1000, 12 acres and 3-B-1001, 3 acres are under contract and will add additional open space with no effect to the WWPD or wetlands. Mr. Joseph Maynard of Benchmark Engineering explained that this is an open space subdivision and the majority of the lots in Phase I range in size from .8 to an acre. Attorney Bronstein read the supporting facts into the record. Mr. Tom Case of 70 Mountain Village Road said that there is no obligation to use the variance that was granted, the applicant could exercise the variance on 90% of the land. Mr. Case went on to say that the notice that was advertised did not make sense. The Chairman said that the Zoning Board does not repeal variances but they can be abandoned. The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mrs. Webster seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

## **Deliberative Session, Case #37-2006**

Mr. Pellegrini motioned and Mr. Souma seconded the motion to grant Case #37-2006 contingent upon the Planning Board approving the other two open space lots. Motion passed unanimously 5-0.

## **Lot # 17-L-86, Case #38-2006**

Applicant – Edward N. Herbert Associates Inc.

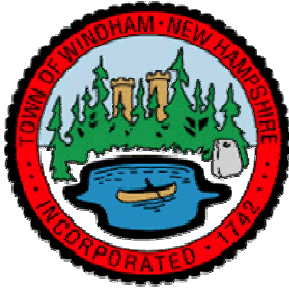
Owner – Barbara & Alan Adamson

Location – 20 Grove Street

Zone – Residential A

A variance is requested from Section(s) 401, 406.2, 702, & 1200.1.3 of the Zoning Ordinance to permit the expansion of a pre-existing non-conforming structure and expansion from seasonal to year-round use on a lot that is undersized by current requirements with less than 30-foot side setbacks (11.5 feet and 18.3 feet side setbacks) and frontage on a private road.

Mr. Pellegrini read into the record an August 3, 2006 letter from Wesley Aspinwall of Herbert Associates requesting that Case #38-2006 be postponed to the next available meeting. Mr. Pellegrini read the case into the record. Mrs. Webster motioned and Mr. Pellegrini seconded the motion to continue Case #38-2006 to the August 22, 2006 meeting. Motion passed unanimously 5-0.



## BOARD OF ADJUSTMENT

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

### **Lot # 14-A-908, Case #39-2006**

Applicant – J.Patrick & Katherine M. Kusior.  
Owner – Katherine M. Kusior Living Trust  
Location – 1 Cobblestone Road  
Zone – Rural

A variance is requested from Section(s) 710 of the Zoning Ordinance to permit the installation of a 6-foot fence (either vinyl or wood stockade) along the side of the property line that abuts Mammoth Road.

Mr. Pellegrini read the case into the record. Mr. J. Patrick Kusior presented his case. The proposed fence would be 6-feet high and 150-feet wide. The fence would go along two-thirds of tree line on Mammoth Road. The tree line is 30-feet high. The proposed fence would not interfere with traffic. Mr. Kusior read the supporting facts into the record. The Chairman closed the public portion of this case. Mr. Tierney motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session, Case #39-2006**

Mr. Tierney motioned and Mr. Pellegrini seconded the motion to grant Case #39-2006 per the plan submitted and not to exceed 150-feet in length. Motion passed unanimously 5-0.

### **Lot #17-L-60, Case #33-2006-Request for Rehearing, Originally heard on 6/27/06**

Applicant – Herbert Associates  
Owner – William & Kathleen Deluca  
Location – 19 Farmer Road  
Zone – Residential A

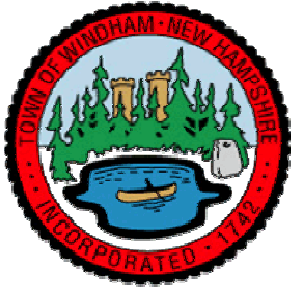
A variance is requested from Sections 603.1.1 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a duplex to replace an old existing house on a non-town approved road 10.81–feet from the left rear setback and 11.97–feet from the right rear setback where 30-feet is required.

The Chairman stated that he would prefer to have all of the members present that originally heard Case #33-2006 before hearing the request for a rehearing. Mr. Pellegrini motioned and Mrs. Webster seconded the motion to continue the request for a rehearing of Case 33-2006 to the August 22, 2006 meeting. Motion passed 3-0-2. Mr. Tierney and Mr. Souma abstained.

### **Approval of July 25, 2006 Minutes**

Mr. Pellegrini motioned and Mrs. Webster seconded the motion to accept the June 27, 2006 minutes as written. Motion passed unanimously 5-0.

Mrs. Webster motioned and Mr. Pellegrini seconded the motion to accept the July 25, 2006 minutes as written. Motion passed unanimously 5-0.



## BOARD OF ADJUSTMENT

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

### Other Business

The Chairman read a draft of a letter to Attorney Campbell requesting a workshop to discuss:

- Non-conforming lots and vested rights.
- Buildable lots-can the right be abandoned?
- Lot mergers that create a non-conforming lot
- Update on Area versus Use variance.

Mr. Tierney suggested that Rex Norman, Tax Assessor, be invited to attend the workshop. Mr. Pellegrini motioned and Mrs. Webster seconded the motion that the Chairman start the process and forward the request going through the proper channels. Motion passed unanimously 5-0.

### Mail

- New address for Gove Environmental Services, Inc., 8 Continental Drive, Unit H, Exeter, NH 03833-7507.
- Ultimate Office Catalog.

Mr. Pellegrini motioned and Mr. Tierney seconded the motion to adjourn. Passed unanimously 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for August 22, 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.