

BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes July 22, 2008

Mark Samsel – Chairman
Jim Tierney – Vice-Chairman
Dianna Fallon – Secretary (Excused)
John Alosso – Member
Tom Murray – Member
Bruce Richardson – Alternate

Seat Alternates

The Chairman appointed Mr. Richardson to replace Mrs. Fallon for this meeting.

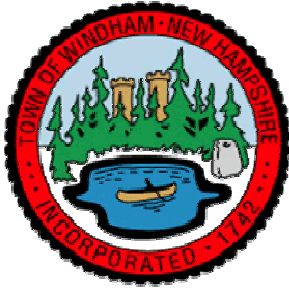
Lot #16-F-5 & 6, Case #43-2008 (Continued from July 8, 2008)

Applicant – John Spatharos Trustee, Spatharos Family Trust
Owner – John Spatharos, Trustee, Spatharos Family Trust
Location – 28 Ash Street
Zone – Residential A

A variance is requested from Section(s) 401, 402, 405.2, 405.5 & 702 Appendix A-1 of the Zoning Ordinance to permit the amendment of the conditions of a variance granted to a prior owner in April of 1980 to rescind the requirement that lots 16-F-5 & 16-F-6 be merged and to allow a lot line adjustment between lots 16-F-5 and 16-F-6 subject to Planning Board approval.

Mr. Murray read the case into the record. Attorney William Mason, representing the owner, presented the case. Attorney Mason reminded the Board that the first time he presented this case was in February of 2006 and at that time a variance was granted. In September of 2007 the Board granted an equitable waiver. There is a 1000 square foot bunk house on Lot 16-F-5 and the owner has received separate tax bills for both lots. The two lots have never been merged and Attorney Mason said that he was told that the requirement to merge the lots was not enforceable because the abutting property already contained existing structures. The granting of this variance will also provide an increased buffer to the existing structure. The development of multiple dwellings on an existing parcel, if merged, is not permitted by current zoning. Mr. Tierney said that the proposed dwelling for Lot #16-F-5 exceeds the 20% lot coverage by 374 square feet and suggested that Lot #16-F-6 be reduced.

Mr. Alosso motioned and Mr. Murray seconded the motion to go into Deliberative Session. Motion passed 5-0.



BOARD OF ADJUSTMENT

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

Deliberative Session, Case #43-2008

Mr. Murray motioned and Mr. Alosso seconded the motion to grant a variance for Case #43-2008 as requested. Mr. Murray amended his motion. Mr. Murray motioned and Mr. Alosso seconded the motion to grant a variance for Case #43-2008 as requested with the stipulation that Lot #16-F-6 be reduced to meet the 20% lot coverage. Motion passed 5-0.

Mr. Tierney recused himself from Cases 46-2008 and 39-2008.

Lot #16-R-183B, Case #46-2008

Applicant – Donna & Martin Delaney, Jr.

Owner – Donna & Martin Delaney, Jr.

Location – 27 First Street

Zone – Residential A

A variance is requested from Section(s) 702 of the Zoning Ordinance to permit the construction of a ground level deck encroaching 8 feet and 6 feet into the side setbacks where 30 feet is required.

Attorney Brian Germaine, representing the owner, requested that Cases 46-2008 and 39-2008 be postponed until there is a five-member board.

Mr. Alosso motioned and Mr. Murray seconded the motion to move Case #46-2008 to the August 12, 2008 meeting. Motion passed 4-0.

Lot #16-R-183B, Case #39-2008 (Continued from June 24, 2008)

Applicant – Donna & Martin Delaney, Jr.

Owner – Donna & Martin Delaney, Jr.

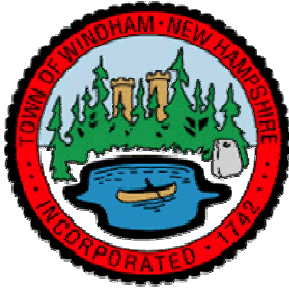
Location – 27 First Street

Zone – Residential A

A variance is requested from Section(s) 1200.1, 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the conversion of a seasonal dwelling to year round use on a lot with 6,171 square feet of area where 50,000 square feet is required, 41-feet of frontage where 175-feet is required, side setbacks of 3-feet and 1-foot where 30-feet is required and a rear setback of 5-feet where 30-feet is required.

Mr. Alosso motioned and Mr. Murray seconded the motion to move Case #39-2008 to the August 12, 2008 meeting. Motion passed 4-0.

Mr. Tierney rejoined the Board.



BOARD OF ADJUSTMENT

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

Lot #11-C-2562, Case #45-2008

Applicant – Darren Gaiero

Owner – Darren & Donna Gaiero

Location – 15 Sheffield Street

Zone – Residential A

A variance is requested from Section(s) 601.3 of the Zoning Ordinance to permit accessory grading within the WWPD.

The applicant was not in attendance. Mr. Alosso motioned and Mr. Murray seconded the motion to deny Case #45-2008 without prejudice. Motion passed 5-0.

Lot 1-C-700, Case #33-2008 (originally heard on May 27, 2008)

Applicant – Carl & Mary Heinzl by their attorney Patricia Panciocco

Owner – Carl & Mary Heinzl

Location – 110 Kendall Pond Road

Zone – Rural

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on May 27, 2008.

Mr. Samsel said that he thought this should have been an application for a variance not a rehearing.

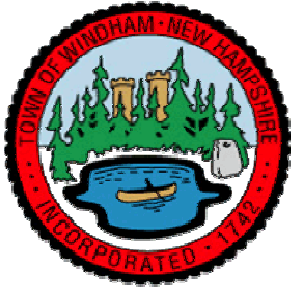
After reviewing the submitted information Mr. Murray motioned and Mr. Alosso seconded the motion to deny the Request for a Rehearing of Case #33-2008 because there was no technical error and no new evidence. Motion passed 5-0; request denied.

Approval of July 8, 2008 Minutes

Mr. Tierney motioned and Mr. Alosso seconded the motion to approve the July 8, 2008 minutes as written. Motion passed 3-0-2. Mr. Richardson and Mr. Murray abstained because they did not attend the July 8, 2008 meeting.

Other Business

Mr. Samsel said that he spoke with Attorney Campbell and was advised that the Board can reconsider a vote within thirty days. This would be done in deliberative session and public notice is not required. It would be a courtesy for the applicant to be in attendance.



BOARD OF ADJUSTMENT

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

Mail

- July/August Issue of *NH Town and City*.
- July 9, 2008 Letter from Attorney Campbell to Mark Samsel regarding 2 Woodvue Road.
- NH LGC Nomination Form Municipal Volunteer Awards.

Mr. Alosso motioned and Mr. Murray seconded the motion to adjourn. Motion passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for August 12, 2008 at 7:30 PM in the Planning & Development Office.

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