



# BOARD OF ADJUSTMENT

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

## Zoning Board of Adjustment Minutes September 23, 2008

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

### Seat Alternates

The Chairman appointed Mr. Richardson to replace Mr. Murray.

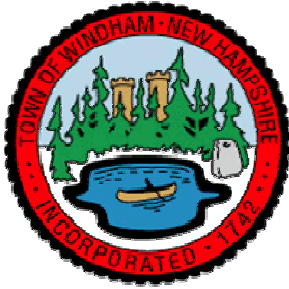
### Lot #20-E-127, Case #53-2008

Applicant – Marjorie Dastous  
Owner – Marjorie & Steven Dastous  
Location – 22 Bear Hill Road  
Zone – Rural

A special exception is requested from Section(s) 602.1.6 of the Zoning Ordinance to permit the operation of a pet grooming business as a customary home occupation.

Mrs. Fallon read the case into the record. Marjorie Dastous presented her case and read the supporting facts into the record.

- 10' X 13' Grooming Room in the basement.
- 5' X 6' Bathing area.
- Up to 3 clients per day, 5 days a week.
- No signs on the outside of the home.
- 6 Parking spaces available in the driveway.
- 1 Delivery every few months for supplies.
- The business would occupy 5% of the living area.
- Dog hair will be disposed of properly.
- No hazardous waste from this business.
- No overlapping of appointments.
- 12-14 gallons of water is used for each bath.
- There is a 4-bedroom septic on the property for a 3-bedroom home.
- At no time will dogs be left outside alone.
- No exterior or interior construction is required for this business.
- Mrs. Dastous requested 1 employee, if needed in the future, would be part-time.



## BOARD OF ADJUSTMENT

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

Mrs. Dastous submitted three letters of support from the following residents:

- Lynn P. McNamara of 19 Bear Hill Road (Exhibit A).
- Guy & Tracy Mulder of 35 Bear Hill Road (Exhibit B).
- Pamela & Dan Kaiser of 12 Bear Hill Road (Exhibit C).

The following residents asked questions and voiced their concerns regarding property value, noise etc.:

- Michael Fitzgerald of 24 Bear Hill Road
- Allan Putnam of 26 Bear Hill Road.

### **Deliberative Session, Case #53-2008**

Mr. Alosso motioned and Mr. Richardson seconded the motion to reject the Special Exception requested from Section(s) 602.1.6 of the Zoning Ordinance to permit the operation of a pet grooming business as a customary home occupation. Motion passed 3-2. Mrs. Fallon and Mr. Tierney voted against the motion because they felt that the request met the spirit and intent of the ordinance.

The Chairman appointed Mr. Murray to replace Mr. Richardson for the balance of the meeting.

### **Lot #11-C-701, Case #54-2008**

Applicant – Indian Rock Office Park II, LLC

Owner – Indian Rock Office Park II, LLC

Location – 51 Indian Rock Road (1 Wall Street)

Zone – Professional Business & Technology

A variance is requested from Section(s) 614.2.10 of the Zoning Ordinance to permit the use of all or a portion of the two proposed commercial buildings for retail sales involving goods not manufactured on site and where floor sales exceed 33%.

### **Lot #11-C-701, Case #55-2008**

Applicant – Indian Rock Office Park II, LLC

Owner – Indian Rock Office Park II, LLC

Location – 51 Indian Rock Road (1 Wall Street)

Zone – Professional Business & Technology

A variance is requested from Section(s) 706.4.5 & 706.6 of the Zoning Ordinance to permit a 15' high freestanding sign for the proposed pharmacy/commercial building complex (there is a sign on the parcel designating the entrance to Shaw's access driveway) where 12' is allowed and to allow 4 wall signs totaling 183.72 square feet where 75 square feet is allowed.



## BOARD OF ADJUSTMENT

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

Mrs. Fallon read both Case #54-2008 and 55-2008 into the record. Attorney John Cronin, representing the Applicant, introduced Mr. Peter Zohdi of Herbert Associates who will talk about

the site specific issues and the layout of the property, Mr. & Mrs. Mesiti and Mr. James Gove of Gove Environmental who did work on the wetlands. Attorney Cronin submitted a binder containing supporting documents. A development on this property will raise an inquiry whether there will be any impact to Cobbetts Pond. The binder contains Mr. Gove's report states *the proposal will not lead to either surface or ground water contamination*. There is a report from Mark Fougere a Planning Consultant. In Mr. Fougere's report he states that the standards of the Simplex Test have been met. A report from Mr. David Rauseo, an appraiser, is also included in the binder and Mr. Rauseo states that the value of the surrounding property would not be diminished.

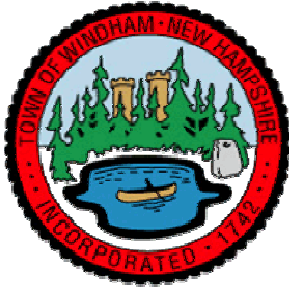
Mr. Peter Zohdi of Herbert Associates went through the submitted plans with the Board. Two buildings are proposed on the 4.22 acre parcel; one for a pharmacy that would be approximately 13,000 square feet and the second building will be commercial on the first floor and office space on the second floor. Each floor is 9,000 square feet. The plan shows both existing and proposed conditions. There are no wetlands on the property. The second variance requested is for signage. Mr. Zohdi said that in a letter from Mr. McGuire he states that there is 183.72 square feet of signage but directional signs should not be part of the square footage calculation. In Mr. Zohdi's opinion some of the signs shown on the plan are directional.

Attorney Cronin brought attention to letters of support submitted by Corbett Realty Trust, Albert J. Lynch, Trustee and Fin-Lyn Trust, Albert J. Lynch, Trustee marked as Exhibits A and B. For the purpose of the record the details laid out in the application are more than sufficient together with the expert reports to satisfy each of the criteria. The supporting facts were read into the record. Attorney Cronin summarized Mr. Gove's report.

The following spoke in support of this request:

- Albert J. Lynch, Jr. of Fin-Lyn Corporation.
- Selectman Charlie McMahon

Mr. Tom Case pointed out that there would be other alternatives to accomplish the same result. The Planning Board is looking at rezoning this area to commercial.



## BOARD OF ADJUSTMENT

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

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

### **Deliberative Session, Case #54-2008**

Mr. Murray motioned to approve a Use Variance from Section 614.2.10 of the Zoning Ordinance as stated and each of the five criteria were satisfied. Motion passed 4-1. Mrs. Fallon voted against the motion because the hardship criteria was not met.

### **Deliberative Session, Case #55-2008**

Mr. Alosso motioned and Mr. Tierney seconded the motion to grant an Area Variance for Case #55-2008 from Sections 706.4.5 and 706.6 of the Zoning Ordinance to permit a 15' high freestanding sign for the proposed pharmacy/commercial building complex per the plan submitted. Motion passed 4-1. Mrs. Fallon voted against the motion because Criteria 2, *Waiving the terms of the ordinance will not be contrary to the public interest*, was not met.

### **Approval of September 9, 2008 Minutes**

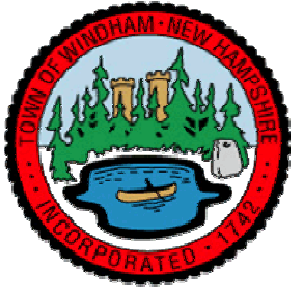
Mr. Tierney motioned and Mr. Murray motioned to approve the September 9, 2008 minutes as written. Motion passed 4-0-2. Mrs. Fallon and Mr. Alosso abstained because they were not at the September 9, 2008 meeting.

### **Other Business**

Mr. Samsel will talk with Mrs. Crisler to get more background information regarding the letter of support for the Windham Economic Development Committee's grant application.

### **Mail**

- Copy of September 8, 2008 Letter from Attorney Campbell to Michael McGuire regarding Heinzl vs. Town of Windham.
- September 10, 2008 Memo from David Sullivan regarding meetings.
- Copy of September 12, 2008 Letter from Attorney Campbell to Rockingham County Superior Court regarding Heinzl vs. Town of Windham.
- September 14, 2008 Letter from Margaret McKee Crisler to the Zoning Board requesting a letter of support for the Windham Economic Development Committee's grant application.
- September 16, 2008 letter from Attorney Campbell to Mark Samsel regarding 2 Woodvue Road.
- September 2008 issue of *NH Town and City*.



## **BOARD OF ADJUSTMENT**

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

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

The next meeting of the Zoning Board of Adjustment is scheduled for  
October 14, 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.