



# BOARD OF ADJUSTMENT

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

## Zoning Board of Adjustment Minutes January 13, 2009

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

### Lot #21-U-30, Case #1-2009

Applicant – Covnett Properties LLC  
Owner – Patrick & Rita Wallace  
Location – 3 Cobbetts Pond Road  
Zone – Business Commercial A

A variance is requested from Section 601.3 of the Zoning Ordinance to permit structures within the WWPD.

### Lot #21-U-30, Case #1A-2009

Applicant – Covnett Properties LLC  
Owner – Patrick & Rita Wallace  
Location – 3 Cobbetts Pond Road  
Zone – Business Commercial A

A variance is requested from Sections 702 Appendix A-1, 704.2.7 and 706.6 of the Zoning Ordinance to permit a 40-foot setback to the right-of-way where 75-feet is required and a 1-foot setback to the right-of-way for parking where 20-feet is required and zero setback to the right-of-way for a freestanding sign where 10-feet is required.

Mrs. Fallon read the case into the record. Mr. Karl Dubay of MHF Design Consultants, representing the owner, presented the case. The existing nonconforming building will be retained and the proposed building expansion will occur to the rear of the property. Vegetated buffers to the sides and rear will screen the view of the proposed addition. The existing building predates all zoning. This redevelopment into the veterinary hospital will retain the rural character of the neighborhood at the intersection of the state-controlled roadways. Parking will be located in the front and a small portion of the parking lot will be in the WWPD. The ordinance requires 15 parking spaces. Only the front central area is not in the WWPD. This proposal also relocates the existing back yard septic system to a new location in the front yard meeting all current septic local and state requirements. The proposed use is reasonable as it is low-impact and requires a



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very small parking area. All drainage from the pavement is directed into large grassy recharge basins.

Mr. Dubay withdrew without prejudice the request for a sign variance. The new sign will meet the 10-foot setback.

Mr. Dubay read the supporting facts into the record.

Dr. Chris Barnett and Jennifer Keefe explained the need for an emergency veterinary hospital that would be open on weekends and evenings.

Mr. John Golec of 4 Heritage Hill Road, Mr. Scott Pelcht of A&M Design, Carol Pynn of 19 Cobbetts Pond Road and Rita Wallace of 3 Cobbetts Pond Road spoke in support of this request.

Mrs. Fallon read into the record a memo from the Windham Conservation Commission. *At the January 8, 2009 Conservation Commission meeting Zoning Board Case #1-2009 was reviewed. The Commission stated that during the October 4, 2008 site walk a discussion took place requesting that the amount of parking spaces be reduced. The Commission asked that the last four spaces at the end toward the brook be eliminated.*

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

### **Deliberative Session, Case #1-2009**

Mr. Murray motioned and Mr. Alosso seconded the motion to grant a variance for Case #1-2009 as requested from Section 601.3 of the Zoning Ordinance. Motion passed 4-0.

### **Deliberative Session, Case #1A-2009**

Mr. Murray motioned and Mr. Alosso seconded the motion to grant a variance from Sections 702 Appendix A-1 and 704.2.7 of the Zoning Ordinance to permit a 40-foot setback to the right-of-way and a 1-foot setback to the right-of-way for parking. Motion passed 4-0.

### **Lot #11-C-2562, Case #2-2009**

Applicant – Geoffrey Andrews

Owner – Darren & Deanna 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.



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Mrs. Fallon read the case into the record. Mr. Geoffrey Andrews, Senior Wetland Scientist from Wetlands Preservation Inc., representing the owner, presented the case. There is minor encroachment into the WWP. Mr. Michael McGuire, Windham Building Inspector, explained that a letter from Al Turner, Director of Planning & Development, dated June 6, 2008 was sent to Mr. & Mrs. Gaiero explaining that they were in violation of Section 601.3 of the Zoning Ordinance regarding the fill that was placed along the back left side of the retaining wall for the pool. Mr. McGuire said that this violation needed to be cleared up before a permit could be issued for the garage. Mr. Andrews read the supporting facts into the record.

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

### **Deliberative Session, Case #2-2009**

Mr. Murray motioned and Mr. Alosso seconded the motion to grant a Use Variance for Case 2-2009 from Section 601.3 of the Zoning Ordinance to permit accessory grading within the WWP as it pertains to the stabilization of the retaining wall. Motion passed 4-0.

### **Lot #8-B-1000, Case #3-2009**

Applicant – Heritage Baptist Church  
Owner – Heritage Baptist Church  
Location – 108 Rockingham Road  
Zone – Rural

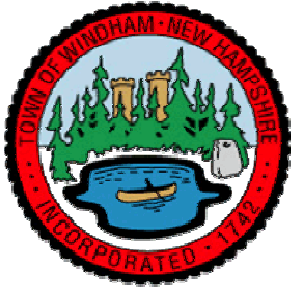
A variance is requested from Section(s) 706.6 of the Zoning Ordinance to permit the installation of a 28 square foot, 8 foot tall freestanding sign with a 1 foot front yard setback where a maximum 3 square foot, 6 foot tall freestanding sign with a minimum 10 foot front yard setback is allowed.

Mrs. Fallon read the case into the record. Mr. David Jordan of SFC Engineering, representing the owner, submitted a packet of material marked as Exhibit A and presented the case. The property has over 700 feet of frontage along Rockingham Road with the proposed sign located near the mid-point. It is important for the sign to be a sufficient size so that it is visible to motorists on Rockingham Road. The sign will be located 20 feet from the actual pavement because of the one foot setback and the 66 foot wide road. Mr. Jordan read the supporting facts into the record.

Pastor Matt Fagan said that as far as the design is concerned they just went with what the designer suggested.

Mr. Tom Case of 70 Mountain Village Road spoke in opposition to this request.

Mrs. Fallon motioned and Mr. Murray seconded the motion to go into Deliberative Session. Motion passed unanimously.



## BOARD OF ADJUSTMENT

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Mr. Jordan explained that he checked the math and the size of the proposed sign would be 21 square feet not the 28 square feet requested. Mr. Alosso motioned and Mrs. Fallon seconded the motion to go back into Public Session. Motion passed unanimously.

Mr. Jordan asked that the application be withdrawn and filed at a later time. After some discussion regarding size Mr. Murray motioned and Mr. Alosso seconded the motion to go back into Deliberative Session. Motion passed unanimously.

### **Deliberative Session, Case #3-2009**

Mr. Alosso motioned and Mr. Murray seconded the motion to grant a variance from Section 706.6 of the Zoning Ordinance to permit the installation of a 20 square foot, 7-1/2 foot tall free standing sign with a 1 foot front yard setback. Motion passed 3-1. Mrs. Fallon voted against the motion because there are other options that can be explored.

### **Approval of 12/9/08 Minutes**

The December 9, 2008 minutes will be reviewed at the January 27, 2009 meeting.

### **Other Business**

None

### **Mail**

- Copy to Mark Samsel of the December 15, 2008 Letter from Attorney Campbell to Michael McGuire regarding Heinzl vs. Town of Windham.
- Copy to Mark Samsel of the December 15, 2008 Letter from Attorney Campbell to Al Turner regarding Bauchman Towing.
- Christmas Card from Board of Selectmen.
- December 22, 2008 Letter from Attorney Campbell regarding 2 Woodvue Road.
- January 5, 2009 Letter from Attorney Campbell regarding 2 Woodvue Road.
- Calendar from NH LGC.
- Advertisement from American Planning Association to subscribe to *Zoning Practice*.
- Copy to Mark Samsel of the January 5, 2009 Letter from Attorney Campbell to Al Turner regarding Bauchman ZBA Appeal.

Mr. Alosso motioned and Mr. Murray seconded the motion to adjourn. Motion passed 4-0.

The next meeting of the Zoning Board of Adjustment is scheduled for January 27, 2009 at 7:30 PM in the Planning & Development Office.

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