



# BOARD OF ADJUSTMENT

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

## Zoning Board of Adjustment Minutes July 29, 2009

### Board Members

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

### Staff

Laura Scott, Director of Economic Development  
Michael McGuire, Building Inspector  
Patricia Kovolyan, Secretary

The Chairman explained that the Board received information from Attorney Campbell and from Ms. Scott regarding conditions that can be added to motions for the following cases.

Ms. Scott said that she was attending the Zoning Board meeting at the request of the Chairman in order to focus on conditions the ZBA may place any on the requested variances. The conditions need to be clear, enforceable and understandable throughout the process.

### Lot #25-E-450, Case #18-2009 (Continued from July 14, 2009)

Applicant – Peter H. Bronstein, Esquire  
Owner – James Morgan  
Location – 7 Abbott Road  
Zone – Residential A

A variance is requested from Section(s) 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a single family dwelling on a private road with side setbacks of 8 feet where 30 feet is required, front setback of 25 feet where 50 feet is required, street frontage of 47 feet where 175 feet is required on a 6040 square foot lot where 50,000 square feet is required with 17% lot coverage.



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### **Deliberative Session, Case #18-2009**

Mr. Alosso motioned and Mr. Murray seconded the motion to grant a variance for Case #18-2009 from Sections 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a single family dwelling on a private road with side setbacks of 8 feet where 30 feet is required, front setback of 25 feet where 50 feet is required, street frontage of 47 feet where 175 feet is required on a 6040 square foot lot where 50,000 square feet is required with 17% lot coverage with the following conditions:

- Setback from the waterfront as shown on the plan dated May 22, 2008.
- Limit 1+1/2 stories on Abbott Road Street frontage.
- Install residential sprinkler system in accordance with NFPA regulations and work with the Windham Fire Department through the installation phase of the system and be present for the final acceptance testing.
- Install a viable septic system without waivers from ENV.WS 1004.16 of the NHDES Sewage Disposal System Design Rules.

Motion passed 5-0.

### **Lot #25-E-430 & 431, Case #19-2009 (Continued from July 14, 2009)**

Applicant – Peter H. Bronstein, Esquire

Owner – James Morgan

Location – 13 Abbott Road

Zone – Residential A

A variance is requested from Section(s) 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a single family dwelling on a private road with side setbacks of 8 feet where 30 feet is required, front setback of 8 feet where 50 feet is required, frontage of 57 +/- where 175 feet is required on a 4788 +/- square foot lot where 50,000 square feet is required with 19% lot coverage.

Mrs. Fallon read the case into the record. Attorney Peter Bronstein, representing the owner, submitted plans marked as Exhibit A and presented the case. The proposal is for a 23' X 32' home. All construction will be 50' outside of the Shoreland Protection District. There will be an approved septic design, residential sprinkler system, no salt use on the road, basically the same as Case #18-2009. Attorney Bronstein read the supporting facts into the record. Mr. Morgan agrees to using the same conditions put on Case #18-2009. Mr. Morgan would recommend using electric heat.

Mr. Joseph Maynard of Benchmark Engineering explained that in addition to the septic system the well might also end up in the road area. Mr. Maynard will explore other heating types. The applicant is not looking for any environmental waivers.



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The following residents spoke in favor of this request:

- Mr. Michael Kennedy of 29 Abbott Road
- Mr. Scott Cousins of 41 Abbott Road
- Mr. James Kennedy of 29 Abbott Road
- Ms. Diane Ciccone of 45 Abbott Road
- Helen Kenndy of 29 Abbott Road
- Gary Ciccone of 45 Abbott Road

The following residents spoke in opposition to this request:

- Mr. Wayne Morris of 14 Jordan Road, President of the Rock Pond Improvement Assoc.
- Mr. Greg Mann of 43 Abbott Road
- Mr. Alan Carpenter of 8 Glenwood Road
- Mr. Robert Caron of 11 Abbott Road

The following residents were in opposition to the request but did not testify:

- Ms. Carole Center of 39 Abbott Road
- Mr. Ed Hoell of 39 Abbott Road

Mr. Maynard explained that typically with the state when a septic system is permitted a permanent easement is attached to the lot for maintenance or future reconstruction. That easement goes with the deed and carries with the land.

Mrs. Fallon read into the record a July 14, 2009 letter from the Conservation Commission and a June 1, 2009 letter from the Windham Fire Department listing their concerns.

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

### **Deliberative Session, Case #19-2009**

Mr. Tierney motioned and Mr. Murray seconded the motion to grant a variance for Case #19-2009, Lot # 25-E-430 & 431 from Sections 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a single family dwelling on a private road as per the plan submitted dated May 22, 2008 with the following conditions:

- Setback from the waterfront as shown on the plan dated May 22, 2008.
- Limit 1+1/2 stories on Abbott Road Street frontage.
- Install residential sprinkler system in accordance with NFPA regulations and work with the Windham Fire Department through the installation phase of the system and be present for the final acceptance testing.



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- Install a viable septic system without waivers from ENV.WS 1004.16 of the NHDES Sewage Disposal System Design Rules.

Motion passed 5-0.

### **Lot #25-F-108, Case #20-2009 (Continued from July 14, 2009)**

Applicant – Peter H. Bronstein, Esquire

Owner – Joseph Morello

Location – 37 Abbott Road

Zone – Residential A

A variance is requested from Section(s) 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a single family dwelling on a private road with side setbacks of 10 feet & 28 feet where 30 feet is required, front setback of 10 feet where 50 feet is required, frontage of 100 feet where 175 feet is required on a 9,940 square foot lot where 50,000 square feet is required with 11% lot coverage.

Mrs. Fallon read the case into the record. Attorney Peter Bronstein, representing the owner, submitted plans and presented the case. The proposal is for a 23' X 32' house with a screened porch. Mr. Morello, the owner, agreed to 1+1/2 stories. There will be an easement from Mr. Morgan to Mr. Morello to use the road for a septic system. There is a discrepancy regarding the frontage from the tax map to what is on file at the registry. The tax map shows the frontage as 100' and the registry has it as 91'. Attorney Bronstein read the supporting facts into the record.

Mr. Joseph Maynard of Benchmark Engineering said that he will work on the easement to meet the state requirements for a septic system and well.

The following residents spoke in favor of this request:

- Mr. Scott Cousins of 41 Abbott Road
- Ms. Diane Ciccone of 45 Abbott Road

The following residents were in favor of this request but did not testify:

- Mr. Michael Kennedy of 29 Abbott Road
- Helen Kennedy of 29 Abbott Road
- James Kennedy of 29 Abbott Road
- Gary Ciccone of 45 Abbott Road

The following residents spoke in opposition to this request:

- Carole Center of 39 Abbott Road
- Greg Mann of 43 Abbott Road
- Wayne Morris of 14 Jordan Road



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- Estelle Decker of 35 Abbott Road

The following resident was against this request but did not testify:

- Ed Hoell of 39 Abbott Road

Mr. Morris questioned if there was a WWPD in the area. After discussion it was determined that there was not sufficient information.

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

### **Deliberative Session, Case #20-2009**

Mr. Tierney motioned and Mr. Alosso seconded the motion to grant a variance from Section(s) 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a single family dwelling on a private road with side setbacks of 10 feet & 28 feet where 30 feet is required with the following conditions:

- Side setbacks of 10-feet and 28-feet per the amended plan dated May 22, 2008.
- Screened porch to be placed on the west side as stated on the amended plan.
- Setback from the waterfront as shown on the plan dated May 22, 2008.
- Limit 1½ stories on Abbott Road Street Frontage.
- Install residential sprinkler system in accordance with NFPA regulations and work with the Windham Fire Department through the installation phase of the system and be present for the final acceptance testing.
- Install a viable septic system without waivers from ENV.WS 1004.16 of the NHDES Sewage Disposal System Design Rules.

Motion passed 4-0. Mrs. Fallon voted against the motion because it is contrary to public interest because of zoning objectives.

### **Minutes**

Mrs. Fallon motioned and Mr. Alosso seconded the motion to approve the July 14, 2009 minutes. Motion passed 5-0.

### **Other Business**

A Workshop is scheduled for September 23, 2009.

Mr. Alosso motioned and Mr. Tierney seconded the motion to adjourn. Motion passed 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for August 11, 2009 at 7:30 PM in the Planning & Development office.



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