



BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes September 8, 2009

Board Members

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

Staff

Michael McGuire – Building Inspector
Patricia Kovolyan - Secretary

Lot #17-L-50, Case #31-2009

Applicant – Benchmark Engineering, Representing Derek Monson
Owner – Derek Monson
Location – 18 Turtle Rock Road
Zone – Residential A

A variance is requested from Section(s) 405, 405.2, 405.5, & 702 Appendix A-1 of the Zoning Ordinance to permit the razing and reconstruction of an existing structure on a non-conforming lot with 80-feet of frontage where 175-feet is required, side setback of 8-feet where 30-feet is required on a 20,000 square foot lot where 50,000 square feet is required.

Mrs. Fallon read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing the owner, presented the case. The existing property has 45% of impervious surface. The outbuildings will be removed.

- In addition to the existing dwelling many of the existing sheds and garages on the site will be removed.
- Proposed 2600 square foot two level structure.
- New well.
- New driveway.
- Side setbacks will be 8-feet.
- Proposed dwelling will be 75-feet back from the pond.
- 45% of impervious surface will be reduced to 35%.
- Lot coverage will be under 20% (including garage).



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Mr. Maynard read the supporting facts into the record.

The owner, Mr. Derek Monson along with Mr. Jeffrey Kay, showed on the displayed plans the direction of the runoff.

Mr. Jeffrey Kay, of 1 Farmer Road, spoke in support of this request.

Mr. Alosso motioned and Mr. Tierney seconded the motion to go into Deliberative Session. Motion passed 4-0.

Deliberative Session, Case #31-2009

Mr. Alosso motioned and Mrs. Fallon seconded the motion to grant an area variance from Sections 405, 405.2, 405.5, & 702 Appendix A-1 of the Zoning Ordinance to permit the razing and reconstruction of an existing structure on a non-conforming lot with 80-feet of frontage where 175-feet is required, side setbacks of 8-feet where 30-feet is required on a 20,000 square foot lot where 50,000 square feet is required. Motion passed 4-0.

Lot #18-L-1, Case #17-2009 Request for Rehearing

Applicant – Attorney Gregory Michael
Owner – Andrew P & Christine J. Lane Revocable Trust
Location – 2 Woodvue Road
Zone – Residential A

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on July 28, 2009.

The Chairman appointed Mr. Souma to the Board for Case #17-2009. Mr. Tierney recused himself from Case #17-2009.

After reviewing the request for a rehearing the Chairman said that in a case previous to this the Zoning Board turned an area variance into an equitable waiver that went to the Supreme Court and was turned down by us basically because the court said this is not an area variance it is a use variance. Based on that information and the input from Attorney Michael this case needs to be heard as a use variance. Mr. Alosso motioned and Mrs. Fallon seconded the motion to rehear Case #17-2009. Motion passed 4-0.



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Lot #25-F-108, Case #20-2009 Request for Rehearing

Applicant – Carole Center & Edmund Hoell

Owner – Joseph Morello

Location – 37 Abbott Road

Zone – Residential A

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on July 29, 2009.

The Chairman released Mr. Souma and appointed Mr. Tierney for the balance of the meeting.

After reviewing the request for a rehearing Mr. Tierney motioned and Mr. Alosso seconded the motion to deny the request for a rehearing of Case #20-2009. Motion passed 3-1; request denied. Mrs. Fallon voted against the motion.

Minutes

Mrs. Fallon motioned and Mr. Alosso seconded the motion to accept the August 25, 2009 minutes as amended. Motion passed 4-0.

Other Business

Mrs. Betty Dunn of Woodvue Road advised that during a file review of 2 Woodvue Road she came upon a letter from Attorney Donovan that had a note attached to it stating *Do Not Read*. Mrs. Dunn said other Zoning Boards allow letters from Attorneys to be considered during a request for rehearing. She suggested that the Board talk with the town Attorney so that they don't get into a jam.

Mrs. Fallon read into the record a letter from Mr. & Mrs. Donald Klemm of 4 York Road . Mr. & Mrs. Klemm requested an extension of their variance that was granted on August 26, 2008, Case #48-2008. Mr. Alosso motioned and Mrs. Fallon seconded the motion to grant a fifteen (15) day extension. Mr. Alosso withdrew his motion. The Members decided that Mr. & Mrs. Klemm should submit an application for An Appeal of An Administrative Decision.

Mail

- Copy of September 1, 2009 letter from Dr. Finn to NHDES regarding Lot 16-D-450.
- Copy of September 2, 2009 memo from Laura Scott to James Armstrong of Varney & Sons Tree Service regarding tree removal over town owned Rail-Trail (off Fern St.)
- Letter received on September 8, 2009 from Mr. & Mrs. Donald Klemm regarding ZBA Case 48-2008.

Mr. Alosso motioned and Mr. Tierney seconded the motion to adjourn. Motion passed 4-0. The next meeting of the Zoning Board of Adjustment is scheduled for September 22, 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.