



BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes June 8, 2010

Board Members

Mark Samsel – Chairman
Tom Murray – Vice-Chairman
Dianna Fallon – Secretary
Elizabeth Dunn – Member
Heath Partington – Member
Jim Tierney – Alternate
John Alosso – Alternate (Excused)

Staff

Michael McGuire – Building Inspector
Patricia Kovolyan – Administrative Assistant

Lot # 16-D-14 Case # 21-2010

Applicant – Benchmark Engineering Inc.
Owner – Susan Messina
Location – 25 No Shore Rd
Zone – Residential A

A variance is requested from Section(s) 401, 406.2, 601.3, 601.4.2, 602.1.9.2, 601.4.8, 616.6© (1), 616.8 and 702 and Appendix A-1 of the Zoning Ordinance to permit the reconstruction of the existing shed and dwelling in same footprint. Construct a new detached garage with accessory apartment above and construct a covered walkway from upper parking area to dwelling.

<u>Required</u>		<u>Provided</u>
50 ft	Shoreline setback	3 ft dwell / 6 ft shed
59 ft	Street setback	30 ft
30 ft	Side set back	3 ft shed
100 ft	WWPD	15 ft dwelling
100 ft	Tributary buffer	15 ft dwelling
10 %	Lawn area	20%
50,000 sq ft	Lot size	35,980 sq ft

Mrs. Fallon read into the record a letter from the applicant, Joseph Maynard of Benchmark Engineering, requesting a withdrawal. In the letter the applicant states that they will be making changes and will resubmit an application.



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Mrs. Dunn mentioned that there may be a change made to the by-laws that withdrawals must be submitted at least 24 hours before a meeting.

Lot # 21-H-2 Case # 20-2010

Applicant – Benchmark Engineering Inc.

Owner – Adam & Patricia Carley

Location – 51 Cobbetts Pond Road

Zone – Residential A

A variance is requested from Section(s) 401, 406.2, 616.6 (C)(1), 616.10(B), 702 and Appendix A-1 of the Zoning Ordinance to permit the removal and reconstruction of the waterfront portion of the dwelling and accessory structure (boat house) in the same footprint.

<u>Required</u>	<u>Provided</u>
Shoreline 50 feet	15 feet Dwelling, 0 Feet Boathouse
Front 50 feet	200 feet
Side 30 feet	15 feet dwelling, 3.5 feet boathouse
50,000 Sq ft lot size	16,900 Sq feet
10 % grass area	70 % grass area

Mrs. Fallon read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing the owner, submitted six photos marked as Exhibit A and a letter of support from an abutter and presented the case. Mr. & Mrs. Carley received a variance in 1999 to renovate a portion of the property. The rear portion of the home was renovated approximately 10 years ago and this is the final phase of the renovation.

- There is a new septic system
- New foundation to be installed under home is designed to flood standards.
- The reconstruction of the home and boat house will be on the same footprint.
- The existing asphalt and paver walkway to the shoreline will be removed.
- A Shoreline application will be filed to allow for construction.
- Drainage improvements will be proposed along the northerly side of the home.
- The boat house falls under NH Wetlands Bureau regulations. The Wetlands Bureau will allow re-construction under a PBN (Permit By Notification).
- Impervious coverage is at 32% and will remain at 32% in a post development situation.
- Grass coverage is at 70%. No removal is proposed because it is an existing stabilized area. Any removal would be a potential for erosion. Ten feet from the property line could go back to a natural state.
- Cobbetts Pond High Water Mark is 177'.

Mr. Maynard read the supporting criteria into the record.

The Chairman marked the seven pages of house plans submitted by Mr. Maynard as Exhibit B.



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Mrs. Dunn questioned the height of the dwelling before and after construction.

Mr. Maynard explained that the height of the building would not have any impact to any of the abutters.

Mr. Murray asked if the dwelling would exceed the 35' regulation.

Mr. Maynard explained that 35 feet is to the second floor egress. The roof and proposed widow's walk are not habitable areas.

Mr. Tierney explained that in the Zoning Regulations height is calculated as 8 feet above the most habitable floor. The proposed height would be 31'.

Mrs. Fallon read into the record a letter of support from Margaret Gunning of 47 Cobbetts Pond Road.

Mr. Charles Tomes of 53 Cobbetts Pond Road spoke in support of this request.

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

Deliberative Session, Case #20-2010

Mr. Murray motioned and Mrs. Fallon seconded the motion to grant a variance for Case 20-2010 per the plan submitted with a reduction in lawn area. A 10' strip along the west side from Cobbetts Pond Road to the high water mark of the shoreline shall remain natural. **Motion passed 4-1.** Mrs. Dunn voted against the motion because she felt it did not meet the hardship criteria.

Lot # 3-B-265 Case # 22-2010

Applicant – Benchmark Engineering Inc.
Owner – Hadleigh Woods Adult Community
Location – Hadleigh Rd. Pump House
Zone – Rural

A variance is requested from Section(s) 601.3 and 601.4.8 of the Zoning Ordinance to permit the installation of a 14 ft x 20 ft shed a portion of which will be within the WWPD setback requirements. Required setback is 100 ft proposed setback will be 85 ft.

Mrs. Fallon read the case into the record. Mr. Joseph Maynard of Benchmark Engineering, representing the owner, submitted two photos and presented the case. Mr. Maynard explained that the location was chosen for access, next to the parking lot and for the electrical connection for lighting. Only a small portion of the structure would be in the WWPD. There are no areas



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outside the WWPD to place the shed because they are remote and near Flat Rock Brook which would require a driveway through the WWPD. The area chosen for the shed is near other improvements and will require minimal disturbance to the WWPD. The location is central to the Development and close to parking. The plan was presented to the Conservation Commission who had no objections. The shed would be in a grassy area, therefore, run off will not have road pollutants.

Mr. Richard Michaud, president of the Hadleigh Woods Association spoke in support and explained that there is no clubhouse on the property, nor do the residents want one. The shed would provide centralized storage for items such as wheelchairs, walkers, etc.

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

Deliberative Session, Case #22-2010

Mr. Partington motioned and Mr. Murray seconded the motion to grant a variance for Case 22-2010 as submitted. **Motion passed 5-0.**

Lot # 11- A- 1411 Case # 23-2010

Applicant – Michael Chervincky
Owner – Michael & Ann Chervincky
Location – 8 Pilgrim Rd.
Zone – Rural

A variance is requested from Section(s) 702 and Appendix A-1 of the Town of Windham Zoning Ordinance and Land Use Regulations for the removal of a pool house and the construction of a detached 24 x 40 ft garage with a side setback of 18 feet where 30 feet is required.

Mrs. Fallon read the case into the record. Mr. Chervincky, owner, presented a plot plan marked as Exhibit A and four photos marked as Exhibit B and presented his case. There is an existing one car garage occupied by a classic car. Snow removal is a big issue. The proposed garage would allow reasonable snow removal from the driveway. Mr. Chervincky does not want to move the location of the proposed garage because it is planned for grade protection. Mr. Chervincky showed on the displayed plan why this is the only location for the proposed garage. Well, leach field, no access etc. prevents him from placing the garage on another area of the lot. Mr. Chervincky read the supporting criteria into the record.

Mrs. Ann Chervincky, owner, spoke in favor of this request.

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



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Deliberative Session, Case 23-2010

Mrs. Dunn motioned and Mr. Partington seconded the motion to approve a variance for Case #23-2010 as requested in plan. **Motion passed 5-0.**

Approval of April 27, May 11 & May 25, 2010 Minutes

The Chairman replaced Mr. Murray with Mr. Tierney for the approval of the April 27, 2010 minutes. Mrs. Dunn motioned and Mr. Partington seconded the motion to approve the April 27, 2010 minutes. **Motion passed 5-0.**

The Chairman replaced Mr. Tierney with Mr. Murray for the balance of the meeting. Mrs. Dunn motioned and Mr. Murray seconded the motion to approve the May 11, 2010 minutes. **Motion passed 5-0.**

The May 25, 2010 minutes will be reviewed at the June 22, 2010 meeting.

Miscellaneous Board Business

After reading the May 27, 2010 letter from Mr. Mike Scholz of 17 Balmorra Road asking to be considered an alternate member of the Zoning Board the Chairman asked that Mr. Scholz be invited to attend the June 22, 2010 meeting.

The Chairman said that changes to the by-laws will be discussed at the July 13, 2010 with a back up date of July 20, 2010.

The Chairman asked that the May 28, 2010 memo from Rex Norman, Assessor, be sent to all ZBA Members.

Correspondence

- May 27, 2010 Letter from Mike Scholz of 17 Balmorra Road regarding an alternate position.
- May 28, 2010 Memo from Rex Norman to Mark Samsel regarding involuntary mergers Case 15R-2010, Lot 17-J-113.

Mr. Murray motioned and Mr. Partington seconded the motion to adjourn. **Motion passed 5-0.**

The next meeting of the Zoning Board of Adjustment is scheduled for June 22, 2010 at 7:30 PM in the Community Development Department.

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