



## BOARD OF ADJUSTMENT

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

May 11, 2004

Chris Doyle – Vice-Chairman  
Rob Gustafson – Secretary  
Al Souma – Member  
Georges Roy – Member  
Tony Pellegrini – Member  
Kara DiFruscia – Alternate (Excused)

### **Lot #20-B-46, Case #19-2004**

Gary & Jacqueline Cieszynski  
10 Golden Brook Road

A variance is requested from Sections 601.3 (the building of a structure is not allowed in the WWP, 50-foot encroachment) & 601.4.8 (any use which requires the excavation, filling or otherwise altering the surface configuration for construction shall require a special permit from the Planning Board) of the Zoning Ordinance to permit the building of a 20' X 20' family room addition.

Mr. Gustafson read the case into the record. Mr. Cieszynski presented his case. This subdivision was approved by the Planning Board in July 1969 and met all zoning and subdivision requirements at that time. Since that time conditions have changed and now there are WWP requirements. The proposed family room addition will not be detrimental to surface or groundwater supplies. The addition is located above the 100-year flood plain. Mr. Cieszynski read the five supporting facts into the record. Mr. Doyle closed the public portion of this case. Mr. Pellegrini motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #19-2004**

Mr. Gustafson motioned to grant Case #19-2004 for a variance from Section 601.3 to allow the building of the structure per the plan and from Section 601.4.8 to allow the altering of the surface configuration but still requiring a special permit from the Planning Board. Mr. Pellegrini seconded the motion. Mr. Pellegrini, Mr. Gustafson, Mr. Roy, Mr. Souma and Mr. Doyle voted to grant this variance. Passed 5-0.

### **Lot #16-R-186F, Case #20-2004**

Richard & Connie Grant  
61 Ministerial Road

A variance is requested from Section 702-A-1 of the Zoning Ordinance to permit the building of a 12' X 22' deck 30-feet from the front setback where 50-feet is required, 4-feet from the rear setback where 30-feet is required and 24-feet from the side setback where 30-feet is required.



## BOARD OF ADJUSTMENT

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

Mr. Gustafson read the case into the record. Mr. Grant submitted photos and presented his case. Mr. Grant will demolish the existing 12' X 10' deck and build a 22' X 12' deck. Mr. Grant read the five supporting facts into the record. Mr. Doyle closed the public portion of this case. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #20-2004**

Mr. Pellegrini motioned to grant Case #20-2004 to build the deck as outlined on the plan 4-feet from the rear setback, 24-feet from the side setback and 30-feet from the front setback. Mr. Roy seconded the motion. Mr. Roy, Mr. Souma, Mr. Gustafson, Mr. Pellegrini and Mr. Doyle voted to grant this variance. Passed 5-0.

### **Lot #16-P-999, 1000 & 1002, Case #21-2004**

Dennis Root  
15 Third Street

A variance is requested from Section 702-A-1 of the Zoning Ordinance to permit the building of a single family dwelling with attached breezeway and garage 35-feet from the front setback where 50-feet is required, 8-feet from the rear setback where 30-feet is required and 21-feet from the side setback where 30-feet is required and the proposed dwelling is on a Class VI Road.

Mr. Gustafson read the case into the record. Mr. Root presented his case. There is a well on the property and a state approved septic system. He explained that the proposed dwelling was placed on the lot by the septic designer. Mr. Root read the five supporting facts into the record. Frank and Jean Senna of 22 Fourth Street spoke against this request and voiced their concerns regarding the 8-foot rear setback. One photo was submitted that was marked as Exhibit A. Mr. Doyle closed the public portion of this case. Mr. Roy motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #21-2004**

Mr. Gustafson motioned to deny Case #21-2004 based on the rear setback. The rear setback is not necessarily meeting the spirit of the ordinance in providing enough buffer. Mr. Roy seconded the motion. Mr. Gustafson, Mr. Souma and Mr. Roy voted to deny this variance. Mr. Pellegrini and Mr. Doyle voted to grant this variance. Request denied. Motion passed 3-2.



## BOARD OF ADJUSTMENT

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

### **Lot #8-B-5700, Case #22-2004**

Dean Smith  
61 Goodhue

A variance is requested from Section 702 of the Zoning Ordinance to permit the subdivision of a 27.54 acre parcel into two 13.77 acre lots; one of which shall have 62.64 feet of frontage where 175-feet is required.

Mr. Gustafson read the case into the record. Attorney Mason, representing the Applicant, presented the case. This property is unique in that it is located in two towns, Windham and Derry. This request, if granted, would avoid the building of a road that would be maintained by the Town and would eliminate significant WWPD encroachment. Mr. Zohdi of Herbert Associates said that the Planning Board agrees that this lot has legal frontage in the town of Derry. Mr. Doyle asked the Applicant if he had any objections to any of the statements made by Mr. Zohdi. The applicant did not have any objection. The plan submitted was marked as Exhibit A. Attorney Mason read the five supporting facts into the record. Mr. Doyle closed the public portion of this case. Mr. Gustafson motioned and Mr. Roy seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #22-2004**

Mr. Roy motioned to grant Case #22-2004 as presented. Mr. Souma seconded the motion. Mr. Gustafson, Mr. Pellegrini, Mr. Souma, Mr. Roy and Mr. Doyle voted to grant this variance. Passed 5-0.

### **Lot #21-K-33, Case #23-2004**

Brad Bemister  
58 Turtle Rock Road

A variance is requested from Section 702-A-1 of the Zoning Ordinance to move the exit door from the rear to the side and to permit the building of a 4' X 8' deck 16-feet from the side setback where 30-feet is required.

Mr. Gustafson read the case into the record. Mr. Walsh, representing the Applicant, presented the case. Mr. Walsh explained that the rear door needs to be moved because grades will not allow a rear exit. It will be 17-feet from the deck to the property line. Mr. Walsh read the five supporting facts into the record. Mr. Doyle closed the public portion of this case. Mr. Pellegrini motioned and Mr. Gustafson seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #23-2004**

Mr. Roy motioned to grant Case #23-2004 as presented. Mr. Gustafson seconded the motion. Mr. Souma, Mr. Pellegrini, Mr. Gustafson, Mr. Roy and Mr. Doyle voted to grant this variance. Passed 5-0.



## BOARD OF ADJUSTMENT

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

### **Lot #21-G-856, Case #24-2004**

Herbert Associates for Joel Asadoorian  
3 Candlewood Road

An Equitable Waiver is requested concerning Section 702 of the Zoning Ordinance to permit a building to remain 16-feet from the side lot line where 30-feet is required.

Mr. Gustafson read the case into the record. Attorney Mason, representing the Applicant, presented the case. Attorney Mason explained that the placement of the foundation was a result of an error made by the engineer in locating the side boundary line. The building is on a 4.19-acre lot and is new construction and is not in close proximity to abutting structures. To correct this mistake a portion of the structure would need to be demolished. The cost and subsequent reconstruction of the garage and family room would not result in a public benefit which would justify that expense. Mr. Jim Tierney, Building Inspector, advised the board that the structure was substantially complete when a *Stop Work* order was issued on the garage portion of the structure. Attorney Mason read the four supporting facts into the record. William Dryden of 215 Range Road, Mary Kesslak of 213 Range Road, Jeff Torrice of 211 Range Road and Christine Dryden of 215 Range Road spoke against this request. Mr. Doyle closed the public portion of this case. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to go into Deliberative Session. Passed unanimously.

### **Deliberative Session, Case #24-2004**

Mr. Gustafson motioned to grant an Equitable Waiver for Case #24-2004 per Exhibit A. Mr. Pellegrini seconded the motion. Mr. Roy, Mr. Souma, Mr. Pellegrini, Mr. Gustafson and Mr. Doyle voted to grant the Equitable Waiver. Passed 5-0.

### **Lot #21-G-856, Case #25-2004**

Herbert Associates for Joel Asadoorian  
3 Candlewood Road

A variance is requested from Section 702 of the Zoning Ordinance to permit a building to remain 16-feet from the side lot line where 30-feet is required.

Attorney Mason, representing the Applicant, withdrew Case #25-2004.

### **Minutes**

Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to accept the April 27, 2004 minutes as written. Passed unanimously.

### **Other Business**

Mr. Gustafson requested current zoning maps for the entire board.

### **Mail**

Spring issue of *Town & City*

Page 4 of 5

ZBA Minutes May 11, 2004



## BOARD OF ADJUSTMENT

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

Mr. Gustafson motioned and Mr. Souma seconded the motion to adjourn at 9:34 PM.  
Passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for May 25, 2004 at 7:30 PM in the Planning & Development Office.

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