

BOARD OF ADJUSTMENT

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

May 10, 2005

Rob Gustafson – Chairman
Chris Doyle – Vice-Chairman
Georges Roy – Secretary
Tony Pellegrini – Member
Mark Samsel – Member (Excused)

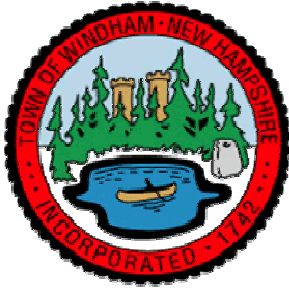
Lot # 17-J-300, Case #20-2005

Applicant – Herbert Associates
Owner – Paul & Ann Masterson
Location – 11 Beech Street
Zone – Residential A

An area variance is requested from Sections 702, 405.2, 405.3 405.5, & 401 of the Zoning Ordinance to permit a new house and connected garage with 4356 square feet of living space (total square footage 7138) to replace a seasonal 1651 square foot existing house and a 200 square foot garage. The house is proposed to go on a lot with no frontage on a town road, a lot that is smaller than current requirements (55% by soils based lot sizing), 20-feet from the east side setback where 30-feet is required, 11-feet from the west side setback where 30-feet is required and 15-feet from the south side where 50-feet is required (Cobbetts Pond). This house will be an increase in volume and area over the existing non-conforming building. An area variance to allow a land exchange between lot 17-J-300 and Lot 17-143A is requested. This exchange of 4473 square feet between each side will result in Lot 17-J-300 being reduced in its soils based area from 61.4% of current minimum lot size to 55.4%.

Mr. Roy read the case into the record. Attorney Bronstein, representing Mr. & Mrs. Masterson, presented the case. Attorney Bronstein explained the land transfer between Lot 17-J-300, owned by Paul & Ann Masterson and Lot 17-J-143A, owned by Doreen Rivers. Both of the properties are pre-existing non-conforming lots with existing year-round houses. Both parcels contain 4472 square feet and are substandard under the current soils lot sizing requirements. The exchange will result in Lot 17-J-300 being reduced in its soils based area from 61.4% of current minimum lot size to 55.4%. From the 1950's through 1995 the existing house was classified as year-round, in 1995 the classification was changed to seasonal. Currently the dwelling is 2-feet from the pond, the proposed building will be 15-feet from the shoreline. The septic plan has been approved for a four-bedroom home but this will be a three-bedroom home. The finished living area in the proposed house is 4356 square feet.

Mr. Doyle motioned and Mr. Roy seconded the motion to combine Cases 20-2005 and 20A-2005. Passed unanimously 4-0. Mr. Roy read Case 20A-2005 into the record.



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Lot # 17-J-300, Case #20A-2005

Applicant – Herbert Associates
Owner – Paul & Ann Masterson
Location – 11 Beech Street
Zone – Residential A

A use variance is requested from Section(s) 1200.1 & 1200.1.3 of the Zoning Ordinance to permit a new house and connected garage with 4356 square feet of living space (total square footage 7138) to replace a seasonal 1651 square foot existing house and a 200 square foot garage. The house is proposed to go on a lot with no frontage on a town road, a lot that is smaller than current requirements (55% by soils based lot sizing). Also requesting a conversion from seasonal to year-round use.

Attorney Bronstein read the supporting facts into the record for Cases 20-2005 and 20A-2005.

Mr. Tom Case said the Selectmen voted to authorize the issuance of a building permit. A conversion from seasonal to year-round use is strictly a Building Department issue. The existing house will be torn down so the seasonal status disappears. The Applicant will then build a house that meets all the current requirements and it will be considered a year-round dwelling.

Mr. Jim Hebert of 5 New Road spoke in opposition to this request. Mr. Hebert had concerns regarding heavy equipment doing damage to the dirt road. Mr. Hebert went on to say that this request seems excessive for that lot.

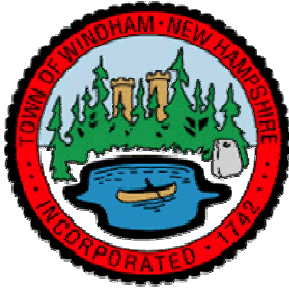
Attorney Bronstein said that the Applicant would be responsible for any road damage. In point 6 of the *Agreement & Release* (to satisfy the 674:41 requirement) form signed by the Applicant it states: *the Town assumes no responsibility for maintenance and/or repair of the Private Road portion of Beech Street & North Shore Road. Owner understands and agrees that they and others using the private road portion of Beech Street & North Shore Road shall be responsible for repairs and maintenance of that traveled portion of Beech Street & North Shore Road in a good and passable condition for travel to and from the locus.*

The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mr. Doyle seconded the motion to go into Deliberative Session. Passed unanimously 4-0.

Deliberative Session, Case #20-2005 & 20A-2005

Mr. Doyle motioned and Mr. Pellegrini seconded the motion to grant Case #20-2005 per the plan submitted. Passed unanimously 4-0.

Mr. Doyle motioned and Mr. Pellegrini seconded the motion to grant Case #20A-2005. Passed unanimously 4-0.



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Lot # 1-A-207, Case #21-2005

Applicant – Mary Berce

Owner – Mary & Peter Berce

Location – 7 Grandview Road

Zone – Rural

A Special Exception is requested from Section(s) 602.1.6.1 of the Zoning Ordinance to permit the home to be used to store product and an increase in traffic.

Mr. Roy read the case into the record. Mr. Michael Hatem, representing the Applicant, presented the case. Mr. Hatem explained that Mrs. Berce sells books at book fairs and at companies in the area. The business is primarily outside of the house but what does happen in the home is scheduling, paperwork and once a week there is a book delivery on a 35-foot truck. 15-30 cases of books are delivered every week and occasionally there is an additional Federal Express or UPS delivery. There are no exterior renovations, public displays or signage outside the home. The books are stored in the garage; therefore, they do not take up any of the living area. There are no adverse affects on the neighbors, water supply or septic.

Mr. Paul Conroy of 4 Grandview Road spoke in opposition to this request. Mr. Conroy explained during the past two months there has been an extreme amount of truck traffic going into the Applicant's driveway. Mr. Conroy spoke to the Fire Inspector regarding this request and was told that the Inspector would get back to him after talking with the Planning Board. Mr. Conroy mentioned that 10 residents of Grandview Road and four residents of Carr Hill signed a letter stating that they are not in favor of this request.

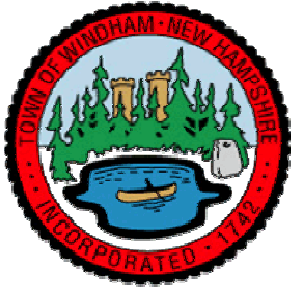
Mr. Lance Dixon of 6 Grandview Road submitted photos and spoke in opposition. Mr. Dixon said that he did not want a distribution center in his residential neighborhood.

The Chairman read into the record the addresses of the residents that signed the letter of opposition.

Mr. Preble, Building Inspector, said that the Fire Department did an inspection of the area and made some recommendations regarding fire extinguishers and alarms.

Mr. Hatem said that the increase in traffic is minimal. There are once a week deliveries not daily deliveries.

The Chairman closed the public portion of this case. Mr. Pellegrini motioned and Mr. Roy seconded the motion to go into Deliberative Session. Passed unanimously 4-0.



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Deliberative Session, Case #21-2005

Mr. Pellegrini motioned and Mr. Doyle seconded the motion to grant the Special Exception with the consideration that the truck delivery is once a week. Mr. Doyle and Mr. Pellegrini voted for the motion. Mr. Roy and Mr. Gustafson voted against the motion. Motion denied 2-2.

Minutes

Mr. Roy motioned and Mr. Pellegrini seconded the motion to move the reading and approval of the April 26, 2005 minutes to the May 24, 2005 meeting. Passed unanimously 4-0.

Other Business

The Members interviewed Mr. Tom Murray of West Shore Road for the position of Alternate Member to the Zoning Board. Mr. Pellegrini motioned and Mr. Roy seconded the motion to appoint Mr. Murray as an Alternate Member to the Zoning Board. Passed unanimously 4-0.

Mr. Pellegrini motioned and Mr. Doyle seconded the motion to approve the *Record of Appointment* form. Passed unanimously 4-0.

The Board received a letter from Mr. Al Souma, former Zoning Board Member, requesting an Alternate position to the Zoning Board. Mr. Doyle motioned and Mr. Roy seconded the motion to waive the interview for Mr. Souma. Passed unanimously 4-0. Mr. Doyle motioned and Mr. Pellegrini seconded the motion to appoint Mr. Souma as an Alternate Member to the Zoning Board. Passed unanimously 4-0.

Mail

- May 4, 2005 Memo from Wendi Devlin regarding 2005 Volunteer Recognition Awards, Certificates of Appreciation and pins.
- May 6, 2005 letter from Al Souma regarding alternate position.
- April 28, 2005 letters from the Audubon Society of NH to Rob Gustafson and Tony Pellegrini regarding useful tools and systems for future growth.

Mr. Roy motioned and Mr. Doyle seconded the motion to adjourn at 9:16 PM. Passed unanimously 4-0.

The next meeting of the Zoning Board of Adjustment is scheduled for May 24, 2005 at 7:30 PM in the Planning & Development office.

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