



## BOARD OF ADJUSTMENT

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

October 11, 2005

Chris Doyle – Chairman  
Rob Gustafson – Vice-Chairman  
Tony Pellegrini – Secretary  
George Roy – Member  
Mark Samsel – Member  
Al Souma – Alternate  
Tom Murray – Alternate

### **Lot #18-L-680, Case #46-2005**

Applicant – Jeremiah & Kathleen Cronin  
Owner – Jeremiah & Kathleen Cronin  
Location – 8 North Policy Street  
Zone – Residential A

A variance is requested from Section 702 Appendix A-1 of the Zoning Ordinance to permit an 8' X 8' shed to be 12-feet from Canobie Lake where 50-feet is required. The northwest setback is 1-foot where 30-feet is required.

Mr. Pellegrini read the case into the record. Mr. Cronin, the applicant, read the supporting facts into the record. Mr. Cronin explained that he could not locate the shed in another area because of the septic system. Mr. Preble, Building Inspector, spoke in favor of this request. The Chairman closed the public portion of this case. Mr. Gustafson motioned and Mr. Samsel seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session, Case #46-2005**

Mr. Gustafson motioned and Mr. Samsel seconded the motion to grant Case #46-2005 per the plan submitted. Passed unanimously 5-0.

### **Lot #21-K-44, Case #47-2005**

Applicant – Donald & Dolores LeClair  
Owner – Donald & Dolores LeClair  
Location – 36 Turtle Rock Road  
Zone – Residential A

A variance is requested from Sections 702 Appendix A-1 and 401 of the Zoning Ordinance to permit the construction of a garage with a west side setback of 10-feet where 30-feet is required and an east side setback of 15-feet where 30-feet is required resulting in an expansion of a non-conforming use. The garage contains a 6' X 6' bump out.



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Mr. Pellegrini read the case into the record. Attorney William Mason, representing the applicant, presented the case. Attorney Mason explained that the size of the garage has been reduced from 30' X 24' to 24' X 24', with a 6' X 6' bump out and an elevator, and the height has been reduced by 5-feet. The proposed garage would be 13-feet from Ms. Ambrosio's (an abutter) property and 10-feet from Dr. Hannon's (an abutter) property. Mr. Pellegrini read into the record a letter of support, marked as Exhibit A, from Lisa Ambrosio of 34 Turtle Rock Road. Ms. Ambrosio's letter states that she is in support of the revised plan. The Chairman closed the public portion of this case. Mr. Gustafson motioned and Mr. Samsel seconded the motion to go into Deliberative Session. Passed unanimously 5-0.

### **Deliberative Session, Case #47-2005**

Mr. Gustafson motioned and Mr. Samsel seconded the motion to grant Case #47-2005 per the plan submitted showing a 24' X 24' garage with a 6' X 6' bump out. Passed unanimously 5-0.

Mr. Souma replaced Mr. Roy for Case #32-2005 because Mr. Roy did not hear the original case.

### **Lot #1-A-207, Case #32-2005 Request for Rehearing (Originally heard on 8/23/05 & Continued from 9/27/05)**

Applicant – Mary Berce

Owner – Mary Berce

Location – 7 Grandview Road

Zone – Rural

The Applicant requests a rehearing of the decision made by the Zoning Board on August 23 2005. Since the denial was based on the definition of Customary Home Occupation and not on the frequency of deliveries and the definition of excessive traffic, a new aggrievement was created. There was no opportunity for Ms. Berce to be heard on this issue, as it was never raised during the open hearing. Under *Dziana, Trustee of the Malt House Exchange Realty Trust v. City of Portsmouth*, 140 N.H. 542 (1995), where a board's decision on rehearing creates a new aggrievement, RSA 677:3 requires the aggrieved party to file a new motion for rehearing based on the new issues raised in order to allow the board to correct its errors.

Mr. Pellegrini read the rehearing request into the record. Mr. Gustafson motioned and Mr. Pellegrini seconded the motion to deny the request for a rehearing of Case #32-2005 based on the grounds that there was no technical error and there was opportunity for Mrs. Berce to be heard on this issue. Request denied 5-0.

Mr. Roy replaced Mr. Souma for the balance of the meeting.



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### Approval of Minutes

Mr. Samsel motioned and Mr. Roy seconded the motion to accept the September 13, 2005 minutes as written. Passed unanimously 5-0.

Mr. Samsel motioned and Mr. Gustafson seconded the motion to accept the September 27, 2005 minutes as written. Motion passed 3-0-2. Mr. Doyle and Mr. Pellegrini abstained because they did not attend the September 27, 2005 meeting.

### Other Business

None

### Mail

- October 4, 2005 letter from Attorney Campbell regarding the Schroeder Appeal.

Mr. Roy motioned and Mr. Gustafson seconded the motion to adjourn at 8:20 PM. Passed unanimously 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for October 25, 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.