



BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes September 11, 2007

Mark Samsel – Chairman
Jim Tierney – Vice-Chairman
Dianna Fallon – Secretary
Gail Webster – Member
John Alosso – Member
Tom Murray – Alternate
Bruce Flanders – Alternate (Absent)

Lot #3-B-625, Case #52-2007 (Corrected)

Applicant – Benchmark Engineering, Inc.

Owner – West Rock Endowment

Location – 183 Rockingham Road

Zone – Neighborhood Business

A variance is requested from Section(s) 601, 602.2, 702.5, 704.2.2, 704.2.2.1, 704.2.2.2 & Appendix A-1 of the Zoning Ordinance to permit the expansion of the existing parking area which is currently 30' from the abutting residential zone. Expanded parking area will be approximately 5' from abutting residential property line where 100' is required. Existing parking area to be reconfigured to be 8' from the ROW where 20' is required. A small portion of the parking, turn-around and grading is to be constructed within the WWPD.

Mrs. Fallon read the case into the record. Mr. Joseph Maynard of Benchmark Engineering presented the case. Mr. Maynard explained the need for expanding the parking requirements for the intended use and displayed a plan detailing two options. The land surrounding the area is part of the Spruce Pond Subdivision, owned by H&B Homes. The building is 8600 square feet with 31 existing parking spaces and a total of (43) 9' X 18' parking spaces is required. There will be an additional 4300 square feet of impact to the WWPD. Mr. Maynard explained that although he could go to the Planning Board for a special permit he would rather seek a variance for this proposal that has less impact on the WWPD. Mr. Maynard read the supporting facts into the record. A photo was submitted and marked as Exhibit A. Drainage was discussed. Mr. Maynard said that the water sheet flows onto H&B land and the driveway acts as a dam. Any increase generated from the additional 4300 square feet of paving would be negligible. Drainage will have an overland flow of 100 feet. Parking distance to the WWPD would be 30'.



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

Deliberative Session, Case 52-2007

The Board decided that Section 602.2 does not apply to this case. Mrs. Fallon motioned and Mrs. Webster seconded the motion to grant an area variance from Sections 601, 702.5, 704.2.2, 704.2.2.1, 704.2.2.2 & Appendix A-1 with no more than 6300 square feet of encroachment into the WWPD as shown on the plan. Motion passed 5-0.

Lot #17-C-5, Case #54-2007

Applicant – Edward N. Herbert Associates, Inc.
Owner – Sawtelle Realty Trust, Richard Sawtelle Trustee
Location – 2 Spring Street
Zone – Residential A

A variance is requested from Section(s) 401, 406.2 & 702 Appendix A-1, of the Zoning Ordinance to permit a 24' X 32' addition and a 10' X 20' connecting addition to an existing house on a lot of 15,571 square feet (31,771 square feet upon merger with 17-C-3) 100' of road frontage on Spring Street and 109' of frontage on Sawtelle Road, both private roads, with a front setback of 38.5' where 50' is required and side setbacks of 21.7' on the east side and 17.8' on the west side where 30' is required and conversion to year round use.

Mrs. Fallon read the case into the record. Wes Aspinwall, Land Surveyor and Septic Designer with Herbert Associates presented the plan. Two lots would be merged to accommodate the new addition. Three photos were submitted and marked as Exhibits A, B & C. A proposed Septic Design meets all state criteria. Mr. Aspinwall read the supporting facts into the record. The existing structure has a cement pier foundation and the possibility of raising it was discussed. There is a well that is shared with Lot 17-C-4.

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

Deliberative Session, Case 54-2007

Mr. Alosso motioned and Mr. Tierney seconded the motion to grant an area variance for Case 54-2007, lot #17-C-5 from Sections 401, 406.2 & 702 Appendix A-1 combining Lots 17-C-5 and 17-C-3. Motion passed 5-0.



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Lot #11-C-2512, Case #55-2007

Applicant – George Boelee

Owner – David Scott

Location – 8 Camelot Road

Zone – Residential A

A variance is requested from Section(s) 702 Appendix A-1 of the Zoning Ordinance to permit the construction of a shed 17' from the lot line where 30' is required.

Mrs. Fallon read the case into the record. Mr. Boelee presented the case for the 11.5' X 16' shed. The shed would provide storage for lawn items, bicycles, etc. Because of the pool, pool storage building and leach field, there is no other location for the shed. Mr. Boelee read the supporting facts into the record.

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

Deliberative Session, Case #55-2007

Mr. Alosso motioned and Mrs. Webster seconded the motion to continue Case #55-2007 to the September 25, 2007 meeting in order to allow time for each member, on their own accord, to visit the site. Motion passed 5-0.

Lot #9-A-116, Case #56-2007

Applicant – Ephraim & Elizabeth Dobbins

Owner – Ephraim & Elizabeth Dobbins

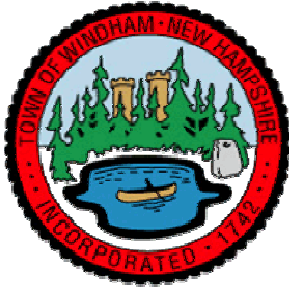
Location – 7 Red Fox Road

Zone – Rural

A variance is requested from Section(s) 702 Appendix A-1, of the Zoning Ordinance to permit the construction of a 24' X 36' garage 3' from the side lot line where 30' is required.

Mrs. Fallon read the case into the record. Mr. Ephraim Dobbins presented the case explaining that he has multiple vehicles that need to be covered. Two photos were submitted and marked as Exhibits A & B. Mr. Dobbins read the supporting facts into the record. Mr. Dobbins said that the driveway width is approximately 15' and the width would be doubled if the variance is granted.

Mrs. Fallon read into the record a letter of support from Stephen & Kathleen Guilmette of 8 Red Fox Road.



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Mr. James Brayer spoke in opposition to the request and submitted his three photos marked as Exhibits C, D & E, an aerial photo marked as Exhibit F another photo marked as Exhibit G and his testimony marked as Exhibit I and two more photos marked as Exhibits J & K. Mr. Brayer said that he believes the application should not be approved for the following reasons:

1. The ordinance is in place to protect the residents of Windham.
2. Concerned that the garage raises a safety issue for his children.
3. Concerned about the physical impact the garage would have situated 3' off of his property line.
4. The construction process may cross his property line.
5. The garage would be out of character with the neighborhood.

Mr. Dobbins responded to Mr. Brayer's testimony and submitted a photo of water flow that was marked as Exhibit L.

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

Deliberative Session, Case #56-2007

Mr. Alosso motioned and Mrs. Webster seconded the motion not to grant a variance for Case #56-2007 from Section 702 Appendix A-1 to permit the construction of a 24' X 36' garage 3' from the side lot line where 30' is required. Mr. Alosso amended his motion to read *deny* rather than *not to grant*. Motion passed 5-0; request denied. The request was denied because hardship was not proven, safety and there are other alternatives.

The Chairman granted a five-minute recess.

The Chairman called the meeting back to order.

Lot #25-E-400, Case #57-2007

Applicant – Randy & Deborah Casey

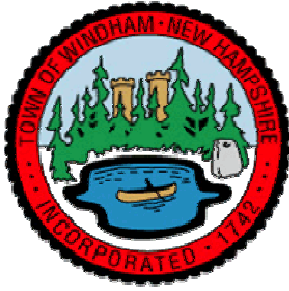
Owner – Randy & Deborah Casey

Location – 25 Abbott Road

Zone – Residential A

A variance is requested from Section(s) 401, 1200, 1200.1.3 & 702 Appendix A-1 of the Zoning Ordinance to permit conversion from seasonal to year round use.

Mrs. Fallon read the case into the record. Mr. Randy Casey presented his case. He would like to return to the original year round status. Mr. Casey read the supporting facts into the record. Currently there is a functioning septic system and a new septic system and well plan are on file. Road safety and septic systems were discussed.



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The following spoke in opposition to the request:

- Mr. Wayne Morris spoke for The Rock Pond Improvement Association and submitted two letters marked as Exhibits A & B and one page of the Subdivision Regulations marked as Exhibit C. One letter was from Highway Agent Jack McCartney and one from retired Police Officer, Bruce Moeckel. Mrs. Fallon read the letters into the record.
- Mr. Alan Decker of 35 Abbott Road who is on the Board of Directors of the Rock Pond Association.
- Mr. Robert Bell of 31 Abbott Road.

Mr. Alan Carpenter of 8 Glenwood Road explained that although his property on Abbott Road is listed as year round it is occupied seasonally.

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

Deliberative Session, Case #57-2007

Mrs. Fallon motioned and Mr. Tierney seconded the motion to continue Case #57-2007 to the October 9, 2007 meeting in order to allow time for the applicant to provide a site assessment to the Zoning Board and time to request a presentation from the Fire Department regarding the safety of Abbott and Woodbury Roads. Motion passed 5-0.

Lot #16-F-6, Case #58-2007

Applicant – John Spatharos, Trustee

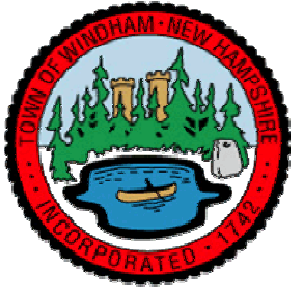
Owner – Spatharos Family Trust

Location – 28 Ash Street

Zone – Residential A

A variance is requested to amend the conditions of a variance granted to the prior owners in April of 1980 to rescind the requirement that lots 16-F-5 and 16-F-6 be merged.

Mrs. Fallon read the case into the record. Attorney William Mason presented the case and submitted a copy of a deed, two assessors cards and a letter to Mr. Spatharos from Donald Dollard stating that he received information from the Code Enforcement Administrator and the Town Engineer that the Zoning Board does not have the power to require lots be combined as stated in the 1980 Zoning Board decision. All four items were marked as Exhibit A. Mrs. Fallon read into the record a June 15, 2007 letter from Al Turner, Director of Planning & Development to Attorney Mason stating that an application for a variance would have to be submitted to the Zoning Board to remove or modify the variance condition of approval granted in 1980. The former owner was required to consolidate lots 16-F-6 and 16-F-5. Because the addition was built without merging the lots and was never noticed by code enforcement and is more than 10 years old both Mr. Tierney and Mr. Murray thought this should be a request for an equitable waiver not a variance.



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Deliberative Session, Case #58-2007

Mr. Alosso motioned and Mr. Tierney seconded the motion to grant an equitable waiver to amend the conditions of a variance granted to the prior owners in April of 1980 to rescind the requirement that lots 16-F-5 and 16-F-6 be merged. Motion passed 5-0.

Lot #16-F-5, Case #59-2007

Applicant – John Spatharos, Trustee

Owner – Spatharos Family Trust

Location – 26 Ash Street

Zone – Residential A

A variance is requested from Section(s) 401 & 702 Appendix A-1 of the Zoning Ordinance to permit the remodeling and enlarging of an existing dwelling with a proposed setback to remain 14' where 30' is required and to have a front setback of 47' where 50' is required. Original variance granted March 14, 2006.

Mrs. Fallon read the case into the record. Mr. Tierney motioned and Mrs. Fallon seconded the motion to waive the reading of the abutters list. Motion passed 5-0. Attorney William Mason presented the case.

Deliberative Session, Case #59-2007

Mr. Tierney motioned and Mr. Alosso seconded the motion to grant an area variance for Lot 16-F-5, Case #59-2007 from Sections 401 & 702 Appendix A-1 to permit the existing dwelling with a proposed setback to remain 14' where 30' is required and to have a front setback of 47' where 50' is required. Motion passed 5-0.

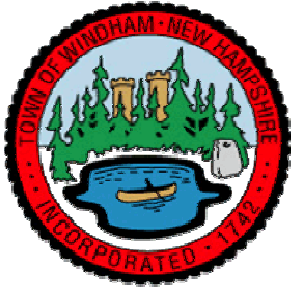
Approval of August 21 & 28, 2007 Minutes

Mrs. Fallon motioned and Mr. Alosso seconded the motion to approve the August 21, 2007 minutes. Motion passed 5-0.

Mrs. Webster motioned and Mr. Tierney seconded the motion to accept the August 28, 2007 minutes. Motion passed 5-0.

Other Business

None



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Mail

- Copy of August 28, 2007 letter from Attorney Campbell to Al Turner regarding 2 Woodvue Road.
- September 7, 2007 Memo from RPC regarding the Second Annual Growth Management Training Conference scheduled for September 29, 2007.

At midnight Mr. Alosso motioned and Mr. Tierney seconded the motion to adjourn. Motion passed 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for September 25, 2007 at 7:30 PM in the Planning & Development office.

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