

# BOARD OF ADJUSTMENT

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

## Zoning Board of Adjustment Minutes October 23, 2007

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

### Lot #22-L-79, Case #66-2007

Applicant – Edward N. Herbert Associates, Inc.

Owner – Eric & Ellen Nickerson Family Trust

Location – 31 West Shore Road

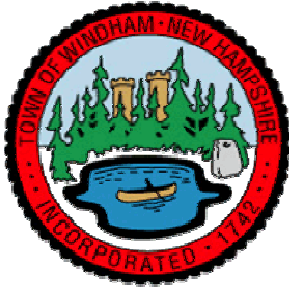
Zone – Residential A

A variance is requested from Section(s) 401, 405.2, 405.3, 405.5, 501 & 702 Appendix A-1, of the Zoning Ordinance to permit an existing seasonal dwelling to be razed and replaced with a new year round dwelling on a pre-existing, non-conforming lot. The proposed two-bedroom dwelling will be 20' from West Shore Road where 50' is required, 20' from the west lot line where 30' is required, 15' from the east property line where 30' is required and have a porch 41' from the shore of Canobie Lake where 50' is required.

Mr. Alosso recused himself from the case. Mr. Zohdi said that he would have no issue with Mr. Alosso remaining on the Board and hearing the case.

Mrs. Fallon read the case into the record. Mr. Peter Zohdi of Herbert Associates presented the case. The proposed house will be further away from the shoreline than the existing house; the closest corner of the proposed house will be 41.6-feet to the shore line. There will be 10-feet from the proposed dwelling to the proposed leach field. The existing boat house will remain. The plan presented by Mr. Zohdi was marked as Exhibit A by the Chairman. The east side of the property abuts Town of Windham Conservation land.

Attorney William Mason read the supporting facts into the record. Both town records and a visual inspection of the existing property indicate that very few updates have been made over the past 40 years. Most of the mechanical systems do not meet the current building code. The current septic system is old, inadequate and does not meet the present requirements. The existing house has no driveway and all parking is on the shoulder of West Shore Road. The proposed house



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would meet the current building codes; have a new septic system and a driveway that provides off-street parking. The proposed house will cover 19.36% of the lot.

Mrs. Fallon read into the record a letter of support from Thomas & Lynn Murray of 29 West Shore Road.

Mr. Tierney motioned and Mrs. Fallon seconded the motion to go into Deliberative Session. Motion passed 3-0.

### **Deliberative Session, Case #66-2007**

Mr. Tierney said that a variance was not required from Section 501 of the Zoning Ordinance. Mr. Tierney motioned and Mrs. Fallon seconded the motion to grant an area variance for Case #66-2007 from Sections 401, 405.2, 405.3, 405.5, & 702 Appendix A-1 per the plan submitted. Motion passed 3-0.

### **Lot #20-E-270, Case #67-2007**

Applicant – Monomoy Development  
Owner – Mark Widdison  
Location – 44 Lowell Road  
Zone – Rural

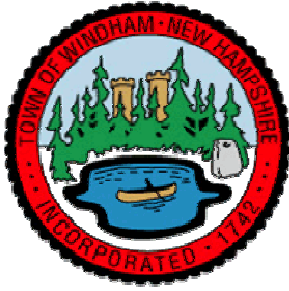
A variance is requested from Section(s) 602.1 & 706.6, of the Zoning Ordinance to permit a new building and signage to be constructed and utilized pursuant to the permitted uses in the Business Commercial District A but constructed on land in the Rural District.

### **Lot #20-E-270, Case #68-2007**

Applicant – Monomoy Development  
Owner – Mark Widdison  
Location – 44 Lowell Road  
Zone – Rural

A variance is requested from Section(s) 405.2, 405.3, 602.2 & 702.5 of the Zoning Ordinance to permit the replacement of a pre-existing non-conforming structure with a new larger building setback 65' from the front lot line and 34' from the side lot line, has a parking area 20' from the front lot line and 10' from the side lot line and has a buffer of 10' where 50' is required. Lot 20-E-270 is to be merged with Lot 20-E-260.

Mr. Peter Zohdi of Herbert Associates requested that both Cases 67-2007 & 68-2007 be postponed because he would like to have a full board present. Mr. Tierney motioned and Mrs. Fallon seconded the motion to reschedule cases 67-2007 and 68-2007 to be first on the November 27, 2007 agenda. Motion passed 4-0.



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### **Lot #25-C-11C & 25-D-154, Case #69-2007**

Applicant – Edward N. Herbert Associates, Inc.

Owner – Martin & Kristina Boormeester

Location – 34 & 17 Jordan Road

Zone – Residential A

A variance is requested from Section(s) 401, 405.2, 405.3, 405.5 & 702 Appendix A-1, of the Zoning Ordinance to permit an existing seasonal cottage to be razed and replaced with a new year round two-bedroom house (28' X 40' with a deck) and a detached two-car garage (26' X 26') on a separate lot. The lots are proposed to be merged prior to construction. Both lots have 82+ feet of road frontage on a private road. The house is proposed to be 57' from the shore of Rock Pond and the deck is proposed to be 50' from the pond with only a landing and some stairs being 46' from the setback. The house is to be 21' from the street where 50' is required, 19' from the westerly sideline where 30' is required, 20' from the easterly sideline where 30' is required with the deck at 19' from the westerly sideline where 30' is required and 16.6' from the easterly sideline where 30' is required. The garage will have a front setback of 18' where 50' is required, an easterly side setback of 27' where 30' is required, a westerly side setback of 28' where 30' is required. The lot areas are currently 9,320 square feet for the house lot and 8,169 square feet for the garage lot totaling 17,489 square feet after the lot merger.

Mr. Wes Aspinwall of Herbert Associates requested Case #69-2007 be postponed to the November 27, 2007 meeting. Mr. Tierney motioned and Mrs. Fallon seconded the motion to reschedule Case #69-2007 to the November 27, 2007 meeting. Motion passed 4-0.

### **Lot #2-B-900, Case #70-2007**

Applicant – John F. Williams, Jr.

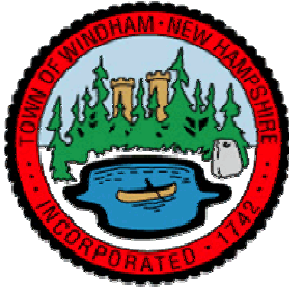
Owner – John F. Williams, Jr.

Location – 5 Hidden Valley Road

Zone – Residential B

A variance is requested from Section(s) 702 Appendix A-1, of the Zoning Ordinance to permit the installation of a 12' X 20' storage shed with a rear setback of 10' where 30' is required.

Mrs. Fallon read the case into the record. Mr. Williams presented his case and explained that the topography of the property and the location of the leach field make the proposed site the only cleared level area suitable for the shed. The water runoff from the shed will be contained in the 10-foot setback. Mr. Williams read the supporting facts into the record.



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Mr. Alosso motioned and Mrs. Fallon seconded the motion to go into Deliberative Session. Motion passed 4-0.

### **Deliberative Session, Case #70-2007**

Mr. Tierney motioned and Mrs. Fallon seconded the motion to grant an area variance for Case #70-2007 from Section 702 Appendix A-1 to permit the installation of a 12' X 20' storage shed to be placed 10-feet where 30-feet is required. Motion passed 3-1. Mr. Alosso voted against the motion because there was no hardship and the shed could be moved to another location.

### **Approval of October 9, 2007 Minutes**

Mr. Tierney motioned and Mrs. Fallon seconded the motion to accept the October 9, 2007 minutes as written. Motion passed 4-0.

### **Other Business**

The Chairman introduced Mr. Bruce Richardson of 33 Armstrong Road who had submitted a letter requesting an alternate appointment to the Zoning Board. Mr. Richardson said that he has been a resident of Windham since 1986 and is a former member of the Planning Board and CIP Committee. Because of his past appointments, Mr. Richardson said that he feels that he is familiar with the general operation of the Zoning Board.

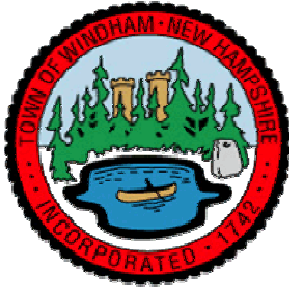
Mr. Tierney nominated and Mrs. Fallon seconded the nomination of Bruce Richardson as an alternate member of the Zoning Board. Motion passed 4-0.

### **Mail**

- October 19, 2007 Letter from Mr. Jeffrey Blecharczyk of NHDES, Shoreland Compliance Coordinator, regarding an anonymous complaint of potential violations of the Shoreland Protection Act at 95 West Shore Road.
- October 10, 2007 Memo from Eric Steltzer, Regional Planner regarding the 2007-2008 Zoning Ordinance Amendment Schedule.
- October 2007 Issue of *New Hampshire Town and City* publication.

Mr. Alosso motioned and Mr. Tierney seconded the motion to adjourn. Motion passed 4-0. Mr. Alosso withdrew his motion to adjourn.

Mr. Tierney motioned and Mr. Alosso seconded the motion to go back into Deliberative Session. Motion passed 4-0.



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**Lot #11-C-2512, Case #55-2007 Request for Rehearing, Originally heard on 9/25/07**

Applicant – David Scott

Owner – David & Holly Scott

Location – 8 Camelot Road

Zone – Residential A

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on September 25, 2007.

Mrs. Fallon read the request into the record. After reviewing the request Mr. Tierney motioned and Mr. Alosso seconded the motion to deny the request for rehearing of Case #55-2007, Lot #11-C-2512 because the request failed to show new evidence and/or prove a technical error made by the Board. Request denied; motion passed 4-0.

Mr. Alosso motioned and Mr. Tierney seconded the motion to adjourn. Motion passed 4-0.

The next meeting of the Zoning Board of Adjustment is scheduled for November 13, 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.