



BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Minutes January 22, 2008

Mark Samsel – Chairman
Jim Tierney – Vice-Chairman
Dianna Fallon – Secretary
John Alosso – Member
Tom Murray – Member
Bruce Richardson – Alternate

Lot #16-F-6, Case #3-2008

Applicant – Spatharos Family Trust, John Spatharos, Trustee
Owner – Spatharos Family Trust, John Spatharos, Trustee
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 and a letter dated January 22, 2008 from Attorney William Mason requesting Case #-2008 be continued to the next meeting because of a scheduling conflict.

Mr. Alosso motioned and Mr. Tierney seconded the motion to continue Case #3-2008 to the February 12, 2008 meeting. Motion passed 5-0.

Lot #16-E-28, Case #4-2008

Applicant – SFC Engineering Partnership, Inc.
Owner – Nancy Davis & John Botiglieri
Location – 50 Gaumont Road
Zone – Residential A

A variance is requested from Section(s) 405.2, & 702 Appendix A-1, of the Zoning Ordinance to permit the replacement of a pre-existing, non-conforming structure with a new structure that will have an increase in the area and volume on a lot consisting of 10,890 SF where 50,000 SF is required and to allow side setbacks of 10' and 14' where 30' is required and a 30' front setback where 50' is required.

Mrs. Fallon read the case into the record. It was discovered that there was a difference in the setbacks listed on the application that was submitted to the Building Department and advertised



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and the application being presented by Mr. Fredette. Mr. Fredette requested that the application be withdrawn.

Mr. Tierney motioned and Mrs. Fallon seconded the motion to accept the withdrawal of Case 4-2008. Motion passed 5-0.

Lot #25-G-120, Case #5-2008

Applicant – Corey & Alison Lewandowski

Owner – Corey & Alison Lewandowski

Location – 21 Emerson Road

Zone – Residential A

A variance is requested from Section(s) 401, 406.2 & 702 Appendix A-1, of the Zoning Ordinance to permit an increase in volume and footprint of a non-conforming structure and deck and to have a side setback of 11.2' where 30' is required.

Mrs. Fallon read the case into the record. Mr. Corey Lewandowski submitted photos that were marked as Exhibits 1, 2 & 3 and presented his case. The applicant asked to salvage the existing foundation and add a modest two-car garage to the opposite side of the setback requirement and extend the deck. After being granted a variance on May 8th of 1981 the cottage was torn down and a year round home was built. The existing dwelling is 1750 square feet and the proposed would be 3800 square feet. A variance would allow use of the existing foundation, minimizing additional environmental impacts. Because of the unique setting of the property the existing foundation is in the most reasonable location for optimal use. There is an existing three-bedroom approved septic system. Mr. Lewandowski read the supporting facts into the record.

Mr. Gary Ciccone of 45 Abbott Road and Vice-President of the Abbott Road Owners Association asked if the request is for the existing house or the seasonal cottage that is near the water. The request is for the structure that is 109' from the water. Mr. Ciccone thought that 3800 square feet was too large for this area. Mr. Tierney explained that this is not a sub-standard lot, the expansion meets all the setbacks; it is the existing 1½ story structure that is increasing to two stories on a 2.2 acre lot. Most of the increase is conforming.

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

Deliberative Session, Case #5-2008

Mr. Alosso motioned and Mr. Tierney seconded the motion to grant an area variance for Case #5-2008 from Sections 401, 406.2 & 702 Appendix A-1 of the Zoning Ordinance to permit an increase in volume and footprint of a non-conforming structure and deck and to have a side setback of 11.2' where 30' is required. Motion passed 5-0.



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Lot #13-D-90, Case #6-2008

Applicant – SFC Engineering
Owner – 47 Route 28 Realty Trust
Location – 47 Rockingham Road
Zone – Business Commercial A

A variance is requested from Section(s) 601.3 of the Zoning Ordinance to permit an existing paved parking area and building to continue to be within the Wetland Watershed Protection District and for the paved area to be reconstructed within the footprint of the existing paved parking area.

Mrs. Fallon read the case into the record along with Case #7-2008. Mr. George Fredette of SFC Engineering presented the case. In 1974 the WWPD Ordinance came into effect. In 1975 the structure on Lot 13-D-90 was built. A-Top Polymers has been in the same location since Mr. Krippendorf purchased Lot 13-D-90 in 1981. One driveway will be eliminated and 9,354 square feet of pavement will be removed. The use of the property will remain the same. Mr. Fredette read the supporting facts into the record.

Mrs. Fallon read a letter of support into the record from the Windham Conservation Commission. The Commission fully supported the plans that were presented and reviewed at their January 10, 2008 meeting because 9,354 square feet of pavement will be removed and improvements will be made to the drainage.

Deliberative Session, Case #6-2008

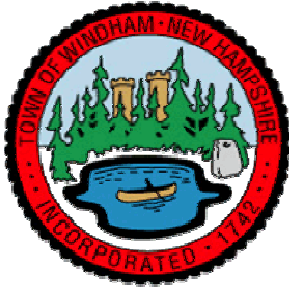
Mr. Tierney motioned and Mr. Alosso seconded the motion to grant a variance for Case #6-2008 from Section 601.3 of the Zoning Ordinance to permit the existing building to continue and to allow the existing paved area to be reconstructed within the existing footprint of the WWPD. Motion passed 5-0.

Lot #13-D-90, Case #7-2008

Applicant – SFC Engineering
Owner – 47 Route 28 Realty Trust
Location – 47 Rockingham Road
Zone – Business Commercial A

An equitable waiver is requested from Section(s) 702 of the Zoning Ordinance to permit a building to be 59-feet from the street or right-of-way.

Mr. George Fredette presented the case and explained that the building has been in its current location since 1976 without any attempt by the municipality to enforce the 75' front yard setback violation. The building has not been a nuisance to the public for 26 years and would have to be



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moved closer to Flat Rock Brook to meet the front setback. Mr. Fredette 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 #7-2008

Mr. Murray motioned and Mr. Tierney seconded the motion to grant an equitable waiver for Case #7-2008 to permit a building to remain 59-feet from the street or right-of-way as requested. Motion passed 5-0.

Lot #25-F-102, Case #81-2007 (Originally heard on 12/11/07)

Applicant – Wayne Morris – Rock Pond Improvement Association

Owner – Michael Kennedy

Location – 29 Abbott Road

Zone – Residential A

A rehearing is requested regarding the decision made by the Zoning Board of Adjustment on December 11, 2007.

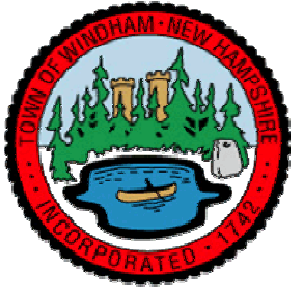
Mr. Murray motioned and Mrs. Fallon seconded the motion to continue the request for rehearing of Case 81-2007 to the February 12, 2008 meeting. Motion passed 4-1. Mr. Alosso voted against the motion because procedures were not being followed.

Approval of Minutes

The Chairman replaced Mr. Murray with Mr. Richardson for the approval of the January 8, 2008 minutes. Mr. Alosso motioned and Mr. Richardson seconded the motion to approve the January 8, 2008 minutes. Motion passed 5-0.

Mr. Tierney motioned and Mr. Murray seconded the motion to approve the November 27, 2007 minutes as amended. Motion passed 5-0.

Mr. Alosso motioned and Mr. Murray seconded the motion to approve the December 11, 2007 minutes. Motion passed 4-1. Mrs. Fallon voted against the motion because she has concerns that the discussion representing the overall height (Case #81-2007) is not represented in the minutes.



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Other Business

Mr. Richardson discussed the procedures followed by the Planning Board in accepting and continuing a case.

Mail

- Notice regarding NH OEP Conference in April 2008
- January 2008 Issue of *Town & City*

The next meeting of the Zoning Board of Adjustment is scheduled for February 12, 2008 at 7:30 PM in the Planning & Development office.

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