



BOARD OF ADJUSTMENT

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

Zoning Board of Adjustment Draft Minutes March 8, 2011

Board Members

Mark Samsel – Chairman
Tom Murray – Vice-Chairman
Dianna Fallon – Secretary
Elizabeth Dunn – Member (Excused)
Heath Partington – Member
Jim Tierney – Alternate
Mike Scholz – Alternate
John Sycamore – Alternate (Excused)
John Alosso – Alternate (Absent)

Staff

Tim Corwin – ZBA/Code Enforcement Administrator
Patricia Kovolyan – Administrative Assistant

Seat Alternates

The Chairman appointed Mr. Scholz to replace Mrs. Dunn for this meeting.

Lot 17-I-112A, Case #9-2011

Applicant – Joseph Maynard, Benchmark Engineering, Inc.
Owner – Shawmut Revocable Trust, Joseph G. and Marianne S. Levis, Trustees
Location – 30 Walkey Road
Zone – Residence District A

Applicant proposes to raise the roof of the existing structure to allow for an expansion. The structure is non-conforming with respect to maximum building coverage requirements and minimum front and side yard requirements. A variance is requested from (a) Section 406.2 of the Town of Windham Zoning Ordinance and Land Use Regulations to permit a 45% increase in volume of a non-conforming structure where no increase in volume of a non-conforming structure is permitted; (b) Section 406.4 to permit an increase in building coverage of approximately 0.15% where an expansion of an existing structure that exceeds the maximum permitted building coverage requirements of Appendix A-1 is not permitted; (c) Section 616.9, the septic systems requirements of the Cobbetts Pond Watershed Protection Ordinance (CPWPO); (d) Section 616.10, the site construction requirements of the CPWPO; (e) Section 702/Appendix A-1 to permit the construction of an overhang to be located no less than 3 ft. from the front lot line where a minimum 50 ft. setback is required; (f) Section 702/Appendix A-1 to permit building coverage of 27.5% where the maximum building coverage permitted is 20%; and (g) Section 702/Appendix A-1 to permit construction on a lot having an area of 5,250 sq. ft +/-



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where 50,000 sq. ft. is the minimum required, and on a lot having frontage of 100 ft. on a private road where minimum frontage of 175 ft. on a public road is required.

Mrs. Fallon read the case into the record.

Mr. Joseph Maynard of Benchmark Engineering, representing the owner, presented the case explaining that the application is to raise the roof of the existing year round three bedroom structure. The addition will be straight up over the 24' X 40' portion with an 18" cantilever toward Walkey Road.

- The existing 24' X 40' dwelling is on a 5000 square foot lot.
- There is an existing enclosed porch on the lake side.
- The well will be relocated which will free up land to allow installation of a clean solution septic system. Mr. Maynard showed the location of the proposed septic system on the displayed plan.
- The Chairman marked the submitted photo as Exhibit A.
- The Chairman marked the submitted plan of the *New First Floor* as Exhibit B.
- There will be an additional 16 feet in height with the proposed addition.
- Currently the impervious surface is 62%.
- There will be no additional bedrooms.

Mrs. Fallon read into the record the following letter from the Conservation Commission dated March 3, 2011.

The Conservation Commission having reviewed Zoning Board Case #9-2011 at its February 24, 2011 meeting had the following comments/concerns.

- *The hardship requirement has not been met.*
- *This would be an expansion of a very small non-conforming lot.*
- *Is a new septic system proposed?*
- *The location of the septic system.*
- *The pond is suffering from all development and this is not in the spirit of the Cobbetts Pond Watershed Protection District.*

Mr. Maynard addressed the points listed in the Conservation Commission letter.

- Mr. Maynard said he is not sure where the Conservation Commission is coming from in regard to the hardship requirement. This is a pre-existing non-conforming lot of record; there is no additional land available.
- The lot size is no different than other lots around the pond.
- Mr. Maynard showed the location of the proposed septic system on the displayed plan.
- The Cobbetts Pond Watershed Protection District is not to deny projects; it is an ordinance that is in place to do the best that can possibly be done.



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Mr. Partington questioned the relief needed from Sections 616.9 and 616.10. Mr. Maynard read into the record Section 616.9 a through d and decided that relief was needed from 616.9a and 616.9b. After reading into the record Section 616.10 a through c Mr. Maynard said that he would need relief from 616.10b.

Mr. Maynard read the supporting facts into the record.

Mrs. Fallon read into the record the seven letters of support submitted by Mr. Maynard. The letters were written by:

- John & Georgette Sampson of 8 Bedford Street, Lexington, Ma.
- Branden & Cheryl Tsetsilas of 31 Walkey Road, Windham, NH
- Edwin & Lorraine Walkey of 22 Walkey Road, Windham, NH
- Joe & Ann Barbagallo of 21 Walkey Road, Windham, NH.
- Adam & Elizabeth Clough of 23 Walkey Road, Windham, NH
- Joe Levis Jr. of 20 Walkey Road, Windham, NH
- Dave Tokanel of Lakeview Farm Condo Association, Windham, NH

The following residents spoke in favor of this request:

- Vince Bonanno of 27 Walkey Road, Windham NH.
- Edwin Walkey of 22 Walkey Road, Windham, NH.
- Brandon Tsetsilas of 31 Walkey Road, Windham, NH.
- Joe Levis of 30 Walkey Road, Windham, NH.
- Joe Levis, Jr. of 20 Walkey Road, Windham, NH.

Existing and proposed lot coverage is 27.5%.

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

Deliberative Session, Case 9-2011

The Board entered the Deliberative Session based on testimony provided and the five criteria as set forth in the Applicant's Variance Application.

In regard to the letter submitted by the Conservation Commission the Chairman said that the hardship requirement is the Zoning Board's job. There are roughly 8+1/2 pages of the Cobbetts Pond Watershed Ordinance and basically states what can be done.

Mr. Murray said that there will be minimal impact to the site.



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Mr. Partington said that if the Conservation Commission had the benefit of Mr. Maynard's presentation their last three points would have been satisfied and Mr. Partington has no issue with the Cobbetts Pond Watershed Protection Ordinance. This is a reasonable expansion.

Mrs. Fallon had concerns regarding Section 616.9 but testimony was given that was helpful in explaining why a variance is needed from that Section of the Ordinance and she agreed with Mr. Murray that there would be very little impact to the site.

Mr. Scholz agreed and said that he did not have any other comments.

Mr. Scholz motioned and Mr. Partington seconded the motion to grant a variance for Case #9-2011 from Sections 406.2, 406.4, 616.9a, 616.9b, 616.10b, Section 702/Appendix A-1 to permit the construction of an overhang to be located no less than 3 ft. from the front lot line where a minimum 50 ft. setback is required; Section 702/Appendix A-1 to permit building coverage of 27.5% where the maximum building coverage permitted is 20%; and Section 702/Appendix A-1 to permit construction on a lot having an area of 5,250 sq. ft +/- where 50,000 sq. ft. is the minimum required, and on a lot having frontage of 100 ft. on a private road where minimum frontage of 175 ft. on a public road is required with a requirement of a dry well on the Walkey Road side per the plan submitted. Motion passed 5-0.

Review of Revised ZBA Applications

Mr. Corwin said that the Zoning Board recently passed changes to their bylaws causing a need to update the following applications.

- Variance
- Equitable Waiver
- Appeal of an Administrative Decision
- Special Exception
- Rehearing

The major change in all applications except the Rehearing the main change is within the instructions that reflect the bylaw change regarding withdrawal or request to reschedule. The second change is from the internal procedures namely that the applicant should submit all material in support of the application with the application.

Mr. Tierney said in the interest of making the applications simpler he would like to see the instructions on a separate sheet and the list of abutters on another separate sheet.

The words *strongly encourage* will be added to number 7 in the list of Application Instructions.



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Approval of February 22, 2011 Minutes

Mr. Tierney said after a quick review of the minutes they appear to be one sided. Comments made by the Board are not reflected in the minutes. The Chairman suggested that Mr. Corwin and Mrs. Kovolyan check the February 22, 2011 minutes. Mr. Tierney will also check the tape. The February 22, 2011 minutes will be reviewed at the March 22, 2011 meeting.

Adjournment

Mr. Partington motioned and Mr. Scholz seconded the motion to adjourn. Motion passed 5-0.

The next meeting of the Zoning Board of Adjustment is scheduled for March 22, 2011 at 7:30 PM in the Community Development Office.

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