



*OLD VALUES - NEW HORIZONS*  
**COMMUNITY DEVELOPMENT**

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**Zoning Board of Adjustment  
Draft Minutes  
February 14, 2012**

**ZBA Board Members**

Tom Murray – Chairman  
Heath Partington – Vice-Chairman  
Elizabeth Dunn – Member  
Mark Samsel – Member  
Dianna Fallon – Member  
Jim Tierney – Alternate  
Mike Scholz – Alternate

**Staff**

Laura Scott – Community Development Director  
Mike Garrepy – ZBA/Code Enforcement  
Administrator

Chairman Murray called the meeting to order at 7:35pm.

Ms. Dunn described for the record that the meeting that occurred prior to the current meeting was a meeting with counsel and not a non-public meeting.

Mr. Murray explained that the meeting has been noticed as a joint meeting with the Planning Board. The Chair introduced the ZBA members and appointed Mr. Tierney as voting member to sit in place of regular member Dianna Fallon, who recused herself from the case.

Mr. Murray described the process for a joint hearing. The ZBA portion of the meeting will take place first then yield floor to the Planning Board for their portion of the application request.

**Zoning Board of Adjustment Case # 6-2012**

**Applicant – Robert and Pamela Lundquist**  
**Owner - Robert and Pamela Lundquist**  
**Location – 2 Winter Street (Lot 19-B-912)**  
**Zone – Rural District**

Variance is requested from Sections 602.1 of the Town of Windham Zoning Ordinance and Land Use Regulations to expand a previously approved commercial use in the Rural District. The proposed expansion is the hours of operation and products.

If the variance is granted, the following application will be considered by the Planning Board. If the Planning Board Application is deemed to be complete, the public hearing will immediately follow.

Ms. Dunn read the above case into the record. Ms. Dunn read the abutters names into the record.

The applicant's daughter, Wendy Lundquist, read the request into the record. She stated that they would like to expand to their business from weekend and holidays 10am to 5pm seasonally to year round seven days a week and to increase the hours of operation to 10am -8pm. Ms. Lundquist read for the record the application intent and listed the five criteria and rationale for granting variance request from the application.

Mr. Tierney asked for clarification of the application intent and expressed concern regarding the proposed expansion of the hours of operation with respect to the year-round request to operate the business. Ms. Lundquist stated that they would like the flexibility to be open 7 days a week.

Mr. Tierney asked if the square footage was changing. Ms. Lundquist stated that no increase in size is proposed nor any change in the products sold.

Mr. Partington asked about the day care operation and whether the retail sales were conducted in same space and if so how would both uses work together with expanded hours. Ms. Lundquist stated that they moved the store to the sun room to eliminate any conflict.

Ms. Dunn asked where the pumpkins come from. Ms. Lundquist stated that the pumpkins came from their farm.

Ms. Dunn asked why the applicant needed a variance. Mr. Partington explained that this was discussed at the original hearing in 2011 that in order the business to be considered agricultural at least 35% of products sold would need to be produced on the farm. Additionally that it did not fall under the Home Occupation requirements due to parking.

Chairman Murray opened the Public Hearing at 7:48pm. There were no public comments and the Public Hearing was closed at 7:49pm

Chairman Murray called for Board deliberations at 7:50pm

Ms. Dunn stated she has no issues that the proposal fits the spirit and intent of the ordinance and that denying the variance request would be injustice because the property is unique due to power line and rural location.

Mr. Partington stated that the proposal could change the character of the neighborhood based on the expanded hours however noted that no public testimony was offered to the contrary.

Ms. Dunn stated that she felt that the 350 square foot size of the retail sales area was self limiting.

Mr. Partington stated that traffic is his primary concern.

Mr. Tierney stated that he has no issues with the proposal for year round operation but struggles with 7 days a week and the hours of operation. He felt that there were no boundaries and reminded the Board that the variance runs with the land. Mr. Murray stated that the variance is for an alpaca farm and related product sales.

Mr. Tierney suggested allowing a Thursday and Friday to have expanded hours but not 7 days a week.

There is general discussion about product sales and that it is determined that there is no proposed change in products sold and the applicant stated that they have all required State permits to operate a kitchen to produce and sell baked goods.

Mr. Murray asks if the general concern is 7 days a week 365 days a year. Mr. Partington stated yes with traffic as the primary concern.

Mr. Tierney suggested a modification of hours to weekends and holidays 10am-5pm and weekdays 10am-8pm. The expanded weekday hours would give school children opportunity to visit the farm. There was general discussion about the hours of operation.

Chairman Murray called for an end of deliberations.

**Mr. Partington made motion to grant the variance for Case #2-2012 as requested with the condition that weekend and holiday hours be limited to 10am-5pm. Motion was seconded by Ms. Dunn. There is brief discussion on the motion for clarification. Approved 5-0.**

Chairman Murray suspends ZBA business at 8:05pm in order for the Planning Board to discuss the application.

**NOTE: The Planning Board meeting was conducted at this time hold a hearing on Planning Board Case #2012-4. See Planning Board meeting minutes from 2/14/12 for the complete record.**

ZBA Chairman Murray calls the ZBA meeting back in session at 8:12pm.

#### **Review and Approval of Meeting Minutes**

Mr. Samsel made a motion to approve minutes from 11-8-11 as amended and presented Motion was seconded by Ms. Dunn. Minutes approved by a vote of 5-0.

Discussion of minutes for meeting of 1-24-2011. The Board requested staff review two sections (pg 2 and 5) of the minutes to add more detail on the discussion. One correction on page 1 was suggested. The Board continued approval of the 1-24-2011 meeting minutes to the next meeting after the revisions are made.

#### **New Business/Correspondence**

Chairman Murray asks the Board as to their availability to meet with the Board of Selectmen and Planning Board regarding application processing. The consensus from the Board was that they are available to meet on 2/27/2012.

Several legal memos were discussed. One was voted to be made public regarding legal services. Two other legal memos were related to ongoing court cases and were determined by the Board to remain confidential and to remain in the ZBA legal case files.

Staff suggested, given the light agenda upcoming on February 28, 2012, might want to work on ZBA bylaws. Consensus was that the Board wants to wait to consider amendments to bylaws for after Town Meeting.

#### **Adjournment**

Ms. Dunn made a motion to adjourn, seconded by Mr. Samsel. Unanimous. Meeting adjourned at 8:29pm.

These minutes submitted in draft form by:  
Mike Garrepy, ZBA/Code Enforcement Administrator.