



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

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### Approved Minutes Zoning Board of Adjustment

November 24, 2015

7:30 pm @ Community Development Office

Mike Scholz	Chairman	Present	Mike Mazalewski	Alternate	Excused
Heath Partington	Vice Chair	Present	Kevin Hughes	Alternate	Present
Mark Samsel	Secretary	Present	Jim Tierney	Alternate	Excused
Pam Skinner	Member	Excused	Jay Yennaco	Alternate	Excused
Bruce Breton	Member	Present			

#### Staff:

Dick Gregory, Code Enforcement Administrator

Suzanne Whiteford, Minute Taker

#### Meeting called to order at 7:30 by Chairman Scholz

#### Case #30-2015 read into the record by Mr. Samsel

#### Lot 11-A-248, Case # 30-2015, continued from 11-10-2015

**Applicant:** KRD Builders

**Owner:** Ed Zabawski

**Location:** 7 Yorkshire Road

**Zone:** Rural, Wetland & Watershed Protection District (WWPD)

Variance relief from the following Sections of the Town of Windham Zoning Ordinance and Land Use Regulations is requested to allow the construction of a 26' x 65' free standing garage.

**Section 601.3** to allow a garage to be constructed in the WWPD where none is allowed.

**Section 702, App.A-1** to allow the garage to be 10 ft. from the side lot line where, 30 ft. is allowed.

Letter from Wayne Morris on behalf of the Conservation Commission dated November 15, 2015 read into the record per Mr. Samsel.

Jeremy McLeod on behalf of Mr. Zabawski requested that an abutter speak on behalf of the proposed garage.

#### Motion by Mr. Samsel to enter into public session

**Second by Mr. Breton**

**Vote 5-0-0**

**Motion carries**

Ted Girata, 10 Yorkshire Road

Spoke in favor of the garage. Mr. Girata believes it will increase surrounding property value.

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Letter in support of the proposed garage from Timothy Stanton, 9 Yorkshire Road, read into the record per Mr. Samsel.

**Motion by Mr. Breton to go into deliberation**

**Second by Mr. Samsel**

**Vote 5-0-0**

**Motion carries**

Mr. Partington reviewed the five variance criteria for Case #30-2015

Mr. Breton requested the plan submitted tonight be dated and marked as Exhibit A. Chairman Scholz agreed and marked the submitted plan as exhibit A and dated; noting the plan submitted was without any new changes or updates. Chairman Scholz believes the five variance criteria are met.

**In consideration of the five variance criteria and testimony presented a motion was made by Mr. Samsel to grant variance relief for Case #30-2015 as requested from the following Sections of the Town of Windham Zoning Ordinance and Land Use Regulations to allow the construction of a 26' x 65' free standing garage. Section 601.3 to allow a garage to be constructed in the WWPd where none is allowed and Section 702, App.A-1 to allow the garage to be 10 ft. from the side lot line where, 30 ft. is allowed, per plans submitted noted as exhibit A and includes the drainage solution for runoff.**

**Second by Mr. Breton**

**Vote 5-0-0**

**Motion carries**

Chairman Scholz notified the applicant of a 30 day appeal period.

**Case #41-2015, abutter list, and letter of authorization were read into the record by Mr. Samsel.**

**Lot 22-L-202, Case # 41-2015**

**Applicant** – Edward N. Herbert Assoc., Inc.

**Owner** – Brian & Pamela McCarthy

**Location** – 11 Prescott Road

**Zone** – Residence A, Cobbetts Pond and Canobie Lake Watershed Protection District (CPCLWP).

Variance relief from the following section of the Town of Windham Zoning Ordinance and Land Use Regulations is requested to construct a new dwelling.

**Section 702, App. A-1** to allow 78 ft. frontage where 175 ft. is required, lot area of 9,755 sq. ft. where 50,000 sq. ft. is required, 20 ft. setback from the front lot line, where 50 ft. is required, 33 ft. setback from the rear lot line (lake) where 50 ft. is required, 10 ft. setback from both (2) side lot lines, where is 30 ft. required.

Mr. Shane Gendron presented Case #41-2015 and reviewed the five variance criteria.

Exhibit A, a handout regarding the proposed stormwater brick to be used for pavement and driveway, was entered into the record.

Robert Kahl, 15 Prescott Road spoke in favor of the proposal.

Justin Weiner, 9 W Shore Rd spoke in opposition to the proposal. Mr. Weiner's view will be obstructed by the proposed construction and he believes his property value will be diminished. Mr. Weiner is also concerned about blasting and the potential damage to his foundation as a result of the blasting. Mr. Weiner discussed his suggestions for the location of the home and making it smaller to spare his water view. Mr. Weiner believes the proposed construction is overbuilt for the land.

Robert Kahl, 15 Prescott Road, commented that Mr. Weiner had an opportunity to buy lake front property and chose not to.

Mr. Gendron commented the existing cottage is in a hole and is very difficult to access. Mr. Gendron addressed Mr. Weiner's concern regarding blasting; he does not have any intention of doing any blasting. Any ledge removal will be done with a hammer. Mr. Gendron does not believe the proposal is oversized. Tree removal is governed by Shoreland Protection and Mr. Gendron will have to meet the ordinance regarding tree maintenance and removal.

Mr. Breton commented the proposal will better meet the shoreline ordinance because it will be pulled back further from the shoreline. Mr. Gendron confirmed.

Chairman Scholz asked Mr. Gendron to speak to the possibility of reducing the garage stalls from 3 to 2. Mr. Gendron responded the garage style and size was considered; the 3<sup>rd</sup> stall is sloped and really only shed size.

**Motion by Mr. Breton to go into deliberation**

**Second by Mr. Samsel**

**Vote 5-0-0**

**Motion carries**

Mr. Partington reviewed the five variance criteria for Case #41-2015. Mr. Partington is not clear that the property value of the house in the rear will not be diminished. Mr. Partington does not believe the proposal meets criteria #4.

Mr. Samsel reviewed the five variance criteria and believes they are all covered. Mr. Samsel believes criteria #4 is met. The height is within the ordinance and the applicant is not asking for relief from height. Mr. Samsel does not think values will go down for any surrounding properties. 20% coverage is allowed and the applicant is asking for 19%.

Mr. Breton agrees with Mr. Samsel. The applicant did make an effort to take into consideration the abutters by decreasing the height of the third bay of the garage.

Chairman Scholz agrees with Mr. Partington. Chairman Scholz believes the third bay of the garage should be removed.

**In consideration of the five variance criteria and testimony presented a motion was made by Mr. Breton to grant variance relief for Case #41-2015 from the following section of the Town of Windham Zoning Ordinance and Land Use Regulations is requested to construct a new dwelling. Section 702, App. A-1 to allow 78 ft. frontage where 175 ft. is required, lot area of 9,755 sq. ft. where 50,000 sq. ft. is required, 20 ft. setback from the front lot line, where 50 ft. is required, 33 ft. setback from the rear lot line (lake) where 50 ft. is required, 10 ft. setback from both (2) side lot lines, where is 30 ft. required.**

**Second by Mr. Samsel**

**Vote 3-2-0 Mr. Partington and Chairman Scholz opposed, they do not believe criteria #4 of the five variance criteria is met.**

**Motion carries**

Chairman Scholz notified the applicant of a 30 day appeal period.

**Case #42-2014, abutter list, and letter of authorization read into the record by Mr. Samsel  
Lot 25-D-32 Case #42-2015**

**Applicant** – Marc McGinn

**Owner** – Martin & Kristina Boermeester

**Location** – 42 Sharon Road

**Zone**- Residence A

Variance relief from the following section of the Town of Windham Zoning Ordinance and Land Use Regulations is requested to construct a new dwelling.

**Section 702, App. A-1** to allow a dwelling to be constructed on a lot with 43,647 sq. ft. where 50,000 sq. ft. is required.

Mr. McGinn presented Case #42-2015 and reviewed the five variance criteria.

Andrew Michal, 40 Sharon Rd, not in opposition of the proposal. Mr. Michal is concerned about potential damage to his in ground swimming pool and foundation from blasting. Mr. Breton assured Mr. Michal there is a blasting ordinance.

Shane Gendron worked on the design. Mr. Gendron spoke in favor of the proposed plan. Mr. Gendron does not anticipate a need for any blasting.

**Motion by Mr. Samsel to go into deliberation**

**Second by Mr. Breton**

**Vote 5-0-0**

**Motion carries**

Mr. Samsel believes the proposal meets the five variance criteria.

Mr. Partington reviewed the five variance criteria for Case #42-2014

Chairman Scholz agrees the proposal meets the five variance criteria.

**In consideration of the five variance criteria and testimony presented a motion was made by Mr. Breton to grant variance relief for Case #42-2014 from the following section of the Town of Windham Zoning Ordinance and Land Use Regulations is requested to construct a new dwelling. Section 702, App. A-1 to allow a dwelling to be constructed on a lot with 43,647 sq. ft. where 50,000 sq. ft. is required**

**Second by Mr. Samsel**

**Vote 5-0-0**

**Motion carries**

Chairman Scholz notified the applicant of a 30 day appeal period.

**Motion by Mr. Breton to approve 10/13/2015 Draft minutes as amended**

**Second by Mr. Samsel**

**Vote 5-0-0**

**Motion carries**

**Motion to adjourn by Mr. Breton**

**Second by Mr. Hughes**

**Vote 5-0-0**

**Motion carries**

**Meeting adjourned at 9:00pm**

Minutes submitted by Suzanne Whiteford, ZBA Minute Taker