



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Zoning Board of Adjustment Approved Minutes July 14, 2015 7:30 pm @ Community Development Office Minutes

1. Call to Order

Board Members:

Mike Scholz	Chairman	Present
Heath Partington	Vice-Chairman	Present
Mark Samsel	Secretary	Present
Pam Skinner	Member	Present
Kevin Hughes	Alternate member	Present
Bruce Breton	Member	Excused
Mike Mazalewski	Alternate member	Present

Staff:

Dick Gregory, ZBA/Code Enforcement Administrator
Anitra Brodeur, ZBA Minute Taker

Call to Order – Chairman called the meeting to order at 7:30 PM and introduced members and staff present.

2. Public Hearing

Lot 11-A-1415, 15-2015

Owner/applicant – Michael Boutin & Stefanie Snow (Boutin)

Location – 7 Pilgrim Road

Zone – Rural, Wetland & Watershed Protection District

Variance relief from the following sections of the Town of Windham Zoning Ordinance and Land Use Regulations is requested to allow an addition of a mud room, garage and wood shop.

Section 401 to allow an increase the extent of the non-conforming use or structure.

Section 406.2 to allow an increase in the volume and foot print of the structure.

Section 702, App. A-1 to allow the new addition to be 15' 6" from the side lot line, where 30 ft. is required.

(Chairman Scholz asked Mr. Hughes to sit in for Mr. Breton.)

Mr. Michael Boutin, 7 Pilgrim Road addressed the Board. Mr. Boutin pulled a map of his property from public record. Mr. Boutin stated that there is a clearly marked WWPD line on his property that will not be impacted by his proposed addition. Mr. Boutin also submitted a second drawing of the property to further illustrate his point. The distance between the proposed expansion and the

WWPD is unknown according to the homeowner. The issue is a non-conforming lot, not a WWPD issue. There is a need for an increase in volume.

According to Mr Boutin, the goal is to increase the value of the property. The property is being used to the full extent of its ability. The homeowner feels as if the proposal is a reasonable one at this time. They have shown a betterment to the property over the years by converting it from a ranch to a colonial.

Mr. Pliskin of 15 Pilgrim Road, submitted a letter in support of the proposal of the homeowner. He, as an abutter, is in full support of the project.

Mr. Samsel addressed the homeowner. Mr. Samsel would like to confirm that the non-conforming part of the plan is, indeed, the corner of the garage. A site survey was done along with a foundation survey. Mr. Samsel pointed out that the change of an angle could indeed allow this corner to be at the conforming 30 ft.

Mr. Partington wanted to know about the necessity of the mud room. The equipment and clothing, etc... for the children and friends makes this a necessary feature in the proposed addition. Mr. Boutin stated that having this mudroom would indeed help with the flow of traffic in his home. There is also a proposed utility shed and a proposed garage along with a wood shed in the back of the home. The current shed would be demolished; it is free standing and separate from the current structure.

Mr. Samsel wanted to speak to the rear woodshop and if that could be extended. Mr. Boutin stated that he would like to leave room for a chimney for a potential wood stove in the woodshop and the proposed great room on the second floor.

Mr. Samsel stated that he was struggling to comprehend the hardship and the need to attempt to accommodate the setbacks when designing the home. The proposed structure is well under the impervious coverage per staff. 7 Pilgrim Road sits at the crest of Pilgrim Road. There is a drop off on the side of the driveway and the current driveway would be moved.

Mr. Partington made a motion to go into Deliberative Session. Mr. Samsel seconded deliberative session. Vote 5-0. Motion carries.

Mr. Partington spoke to the five points. The proposed variance, according to Mr. Partington is clearly supported in the first 4 points, yet, there is a question on the fifth point. The infringement of the side room appears to be a sticking point. It does not meet code for that specific spot. Mr. Partington would like to grant relief but for several feet less than what is being asked.

Chairman Scholz indicated he would be willing to grant relief for closer to 26 feet instead of 17'6".

Mr. Samsel made a motion to grant the variance for the property. (Section 702, App. A-1) The setback would be changed from 26 feet from the side lot line where 30 feet is required. Mr. Hughes seconded. Vote 5-0. Motion carries.

The Chairman advised the applicant that there is a 30 day appeals process.

Lot 17-J-104, Case # 21-2015

Applicant: Joseph Maynard/ Benchmark Engineering, Inc.

Owner: Roberts Family Trust

Location: 15 Rocky Ridge Road

Zone: Residence A – Cobbetts Pond & Canobie Lake Watershed Protection District (CPCLWP)

Variance relief from the following sections of the Town of Windham Zoning Ordinance and Land Use Regulations is requested to raze the existing dwelling and allow the construction of a new dwelling.

Section 401 to allow an increase in the extent of the non-conforming use or structure.

Section 406.2 to allow an increase in volume from 10,900 cu. ft. to 12,600 cu. ft. and an increase in footprint from 984 sq. ft. to 1,220 sq. ft.

Section 702, App. A-1 to allow frontage of 50 ft. where 175 ft. is required, lot area of 6,856 sq. ft. where 50,000 sq. ft. is required, to allow side setback of 9 ft. where 30 ft. is required, rear (lake) setback of 12 ft. where 50 ft. is required and front setback of 26 ft. where 50 ft. is required.

Mr. Samsel made a motion to move Case #21-2015 to the July 28th, 2015 meeting of the ZBA because of a faulty notice. Mr. Hughes seconded. Vote 5-0. Motion carries.

Lot 17-I-111C, Case #22-2015

Applicant: Joseph Maynard, Benchmark Engineering, Inc.

Owner: David & Linda Latta

Location: 23 Walkey Way

Zone: Residential A & Cobbetts Pond & Canobie Lake Watershed Protection (CPCLWP) & Wetland & Watershed Protection District (WWPD).

Variance relief from the following sections of the Town of Windham Zoning Ordinance and Land Use Regulations is needed to raze the existing structure and to allow construction of a new dwelling.

Section 401 to allow an increase in the extent of the non-conforming use or structure.

Section 406.2 to allow an increase in volume from 7,215 cu. ft. to 28,062 cu. ft. and an increase in footprint from 962 sq. ft. to 1,330 sq. ft.

Section 601.3 to allow a dwelling to be constructed in the WWPD.

Section 601.4.6 to allow a septic system to be 50 ft. from the WWPD where 100 ft. is required.

Section 601.4.8 to allow the construction of the dwelling without a special permit from the Planning Board.

Section 601.4.8.3 to not require evidence that the WWPD disturbance is the minimum possible.

Section 601.4.8.4 to not require WWPD markers

Section 616.6.4.1 to allow a driveway within the 75 ft. buffer.

Section 616.8 to allow some of the 100 ft. buffer to be disturbed.

Section 616.9 to the septic system to be 50 ft. from hydric-B soil where 75 ft. is required.

Section 702, App. A-1 to allow frontage of 70 ft. where 175 ft. is required, lot area of 4,650 sq. ft. where 50,000 sq. ft. is required, to allow side setback of 9 ft. where 30 ft. is required,) and front setback of 26 ft. where 50 ft. is required.

Mr. Samsel made a motion to continue Case# 22-2015 to the July 28th, 2015 meeting of the ZBA, because of a faulty notice. Mr. Hughes seconded. Vote 5-0. Motion carries.

Lot 24-B-5, Case# 24-2015

Applicant –Colin Walker III

Owner – Walker Family Rev. Liv Tr., Colin J. & Clair Walker, 2631 Engle Drive, Melbourne, FL 32940

Location – 137 Lowell Road

Zone – Rural District

Variance relief from the following sections of the Town of Windham Zoning Ordinance and Land Use Regulations is needed to allow the installation of a 28 ft. above ground pool.

Section 501 to allow the installation on non-conforming lot.

Section 702, App. A-1 to allow the installation of an above ground pool to be 15 ft. from the rear lot line, where 30 ft. is required

(Chairman Scholz asked Mr. Mazalewski to sit in for Mr. Breton.)

Mr. Colin Walker of 137 Lowell Road addressed the Board. He would like to install an above-ground pool where an in-ground ground pool once sat. It is in a fenced- in area. The pool will be replacing an in-ground ground pool that was in place for 35 years on the property. The applicant feels as if the pool will increase the property value of the home. There is also the leach field along with a well and the septic location to consider. The other pool was filled in in 2010. The area is currently flat. There is a six foot fence. The proposed pool is actually further away from the lot line than the older pool.

Mr. Samsel made a motion to go into Deliberative Session. Seconded by Mr. Mazalewski. Vote 5-0. Motion passes.

Mr. Partington went through the five points and Mr. Partington indicated that it does indeed comply with all five of the criteria.

Mr. Partington made a motion to grant the variance for Case#24-2015. Mr. Samsel seconded. Vote 5-0. Motion passes.

The Chairman advised the applicant that there is a 30 day appeals process

Lot 7-A-781, Case # 26-2015

Applicant/Owner - Jeff Hodgdon, Colonel (Ret) USAF

Location - 27 Endinburg Road

Zone: Rural District

Variance relief is needed from the following section of the Town of Windham Zoning Ordinance and Land Use Regulations to allow the installation of a 10 ft. tall fence.

Section 710.3.1 to allow a fence to be 10 ft. tall where 6 ft. is allowed.

(Chairman Scholz asked Mr. Hughes to sit in for Mr. Breton.)

Mr. Hodgdon of 27 Endinburg Road addressed the Board. The abutters were listed and there were no abutters present. The home sits on a cul-de-sac and it does sit close to I-93. The 93 expansion has impacted his property. Many trees have been taken away by the construction. Mr. Hodgdon stated that the noise has impacted the property values of his home and his neighbours. Mr. Hodgdon hopes to reduce the noise with the proposed buffer. Mr. Hodgdon read the five points. The State, according to the homeowner, has cut down a significant amount of trees and has altered the slope of the property. Hence, the fence is necessary to create a noise buffer between his home and the highway. The homeowner did talk to the Department of Transportation. Sound tests were done in 2004, yet, the properties were built in 2006. The Department of Transportation, according to the homeowner, is not interested in installing sound fences at this time due to the low population and housing density in Windham, along this section of Rt. 93.

Mr. Samsel would like to speak to 5A 1 and 2, relative to the uniqueness of this property. His concern was around the application and the testimony from the homeowner. Mr. Samsel would like to know if the information under A1 and A2 could also be under B, as B was left blank on the application. Mr. Samsel would like to point out that the neighbours also have the same issues around the sound of the highway.

Mr. Samsel made a motion to go into Deliberative Session. Mr. Hughes seconded. Vote 5-0. Motion passes.

Mr. Partington spoke to the five points. The fence is on the rear lot line and will not be impacting anyone's views, just the homeowner's views of 93. Mr. Partington stated that this was a reasonable request.

Mr. Samsel made a motion for Case # 26-2015 to grant relief from the following Sections of the Zoning Ordinance, specifically from 710.3.1 to allow a 10' high fence where 6' is allowed, in consideration of the 5 points read into the record and as well under Section 5B, the property cannot be used in strict conformance with the Ordinance, therefore a variance is necessary for reasonable use of the property. Seconded by Mr. Hughes. Vote 5-0. Motion passes.

The Chairman advised the applicant that there is a 30 day appeals process.

3. Review and Approval of Draft Minutes of 5-26-2015, 6-9-2015 & 6-23-2015 Mr. Gregory made notes of the proposed revisions.

Motion to approve the revised minutes for 5-26-2015 by Mr. Samsel. Seconded by Mr. Partington. Vote 5-0. Motion passes.

Motion to approve the revised minutes for 6-9-2015 by Mr. Samsel. Seconded by Mr. Partington. Vote 4-0-1. Motion passes.

4. Discussion – alternate terms of office and surveyor stamps/plot plans.

Mr. Scholz, after consulting with Mr. Bernie Campbell, stated that the alternate board member terms should be 3 years.

Mr. Samsel made a motion to appoint Mr. Kevin Hughes, to a 3 year term, which will expire on May 31, 2018. Seconded by Mr. Partington. Vote 5-0. Motion passes.

Ms. Skinner found a piece of Zoning Board History. Postcards used to be distributed to let people know about upcoming meetings and the locations of the meetings.

Mr. Gregory wished to clarify that a stamped plot plan is not required by the ZBA for a proposal at this time. Chairman Scholz stated that any improvements that can be made to the application process would be helpful.

Mr. Samsel made a motion to adjourn at 9:07 pm. Ms. Skinner seconded. Vote 5-0. Motion passes.

5. Adjournment

Copies of all Zoning Board of Adjustment applications and materials are available for review at the Community Development Department; open Monday – Friday, 8 AM – 4 PM.

These minutes submitted by Dick Gregory