



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

3 No. Lowell Road, Windham, New Hampshire 03087

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1
2 **Approved Minutes Zoning Board of Adjustment**
3 **July 12, 2016**
4 **7:30pm @ Community Development Department**
5
6

7 **Mark Samsel, Chairman** - present

Mike Mazalewski, Alternate - present

8 **Heath Partington, Vice Chair** - present

Kevin Hughes, Alternate - present

9 **Pam Skinner, Secretary** - present

Jim Tierney, Alternate - excused

10 **Mike Scholz, Member** - present

Jay Yennaco, Alternate - excused

11 **Bruce Breton, Member** - present
12

13 **Staff:**

14 Dick Gregory, ZBA Code Enforcement Administrator

15 Andrea Cairns, Minute Taker
16

17 Meeting called to order at 7:31p.m. by Chairman Samsel.
18

19 Chairman Samsel reviewed the process for the public.
20

21 **Lots 20-D-2500 & 2600, Case # 22-2016**

22 **Applicant-** Joseph Maynard

23 **Owner-** 16 London Bridge Road LLC & Marlene Clemons

24 **Location-** 16 London Bridge Road

25 **Zoning District-** Rural and Wetland & Watershed Protection District (WWPD)

26 Variance relief is requested from **Section 702, App. A-1** of the Windham Zoning Ordinance to
27 allow each dwelling area to be less than the required 100 ft. by 100 ft. rectangle development box
28 and less than the required 30,000 sq. ft. of contiguous area and not meet Minimum Lot Area by Soil
29 Type. **Section 601.3** to allow a dwelling to be built in the WWPD on lot 20-D-2500 with a WWPD
30 impact of 12,000 sq. ft. and a dwelling to be built in the WWPD on lot 20-D-2600 with a WWPD
31 impact of 8,000 sq. ft.
32

33 Ms. Skinner read the case, abutters list and authorization letters into the record.
34

35 Mr. Maynard presented the application. He noted there were two owners of the properties. Lot 20-
36 D-2600 is a 3-acre landlocked parcel that is currently accessed through a driveway easement. They
37 are requesting to adjust the lot lines. Even though the lot sizes are sizeable, the soils do not meet
38 minimum standards for either lot. In order to get a driveway to the landlocked parcel, there would
39 be 35,000 sq. ft. of WWPD impact. With the adjustment of the lot line they are creating 175' of
40 legal frontage for the landlocked parcel and are making it 3.4 acres. There is a large wetland on the
41 parcel and the area that exists outside of the WWPD is only 27,000 sq. ft. so the lot does not meet
42 the 30,000 sq. ft. requirement. In order to meet the 50' setback, small portions of the houses would

43 fall within the WWPD. A 100'x100' building area is required outside of the WWPD limits and
44 property line. The property doesn't meet that requirement.

45
46 Chairman Samsel asked for clarification on the 100'x100' building area requirement. Mr. Maynard
47 noted that if you can fit a 100'x100' square outside of the WWPD, you meet zoning. It is to
48 establish a building box to build a home. It can be within the required setbacks but needs to be
49 outside of WWPD.

50
51 Mr. Partington questioned what drainage measures they could implement. Mr. Maynard noted they
52 could do things to mitigate runoff like drip line infiltration. They would implement those if the
53 board made it a condition of approval. Any larger methods would result in larger WWPD
54 disturbances.

55
56 Mr. Maynard read the five criteria into the record.

57
58 *Jocelyn Steven, 22 London Bridge Road*

59 Ms. Stephen submitted a letter with the reasons why she opposed the project. (Exhibit A).

60
61 One of Ms. Steven's concerns was flooding on her property. Chairman Samsel questioned if she
62 would have an issue if the homes were further back on the property. She noted she would prefer
63 there were no homes. Chairman Samsel noted there would be homes because they are buildable lots.
64 She indicated the water does get high sometimes and is afraid it will impact her property.

65
66 There were no other questions from the board for Ms. Stephen.

67
68 Mr. Maynard noted from an engineering standpoint, not crossing the wetland with a driveway
69 would be better. They are proposing all their work in uplands. By right he could get a dredge and
70 fill to get to the upland in the back if they did not receive approvals on these plans. He would be
71 open to something to offset drainage. In general the grade of the property is a 5-6% slope into the
72 wetland complex for both properties. The homes will be about 6' higher than the wetlands. The
73 driveway will be close to 3' higher because of the culverts. He would likely need to do some sort of
74 mitigation for a driveway going through the wetland. He doesn't feel he would impact the
75 neighborhood by going in through the back. It is an expansive wetland complex.

76
77 Chairman Samsel questioned what specifically would be proposed for the mitigation. Mr. Maynard
78 suggested he could model it after the Canobie Lake/Cobbetts Pond Watershed ordinance, which
79 would likely mean something like drip line infiltration. Overall WWPD impacts are a lot less with
80 this scenario since they will be keeping an unfragmented buffer along the wetland. The closest a
81 house would be to the wetland is 65'. The homes would be entirely out of the WWPD, but the yard
82 would be within it.

83
84 Mr. Breton clarified the disturbance between the two options. Mr. Maynard noted, as the property
85 exists, it would be 35,000 sq. ft. of disturbance just for the driveway on one lot vs. 20,000 sq. ft. for
86 both.

87
88 Mr. Partington questioned if the location indicated on the plans was the final location for all
89 infrastructure. Mr. Maynard noted he oversized the home a bit but they are very close. Mr.
90 Partington noted he asked because they do not have any distance requirements from the wetlands.

91 There is nothing stopping them from moving the buildings closer to the wetlands. Mr. Maynard
92 noted they were asking for a total impact so that would restrict them. If the structures went further
93 back, there would be greater WWPD impact.

94
95 Mr. Scholz looked through the ordinances trying to find one that they could reference in the motion
96 to help guide what mitigation they may be required to use.

97
98 Mr. Maynard noted that smaller drainage methods like dry walls, rain gardens and drip line
99 mitigation would be appropriate. Anything larger would require full geological studies and possibly
100 more impact. He added they still needed to go before the planning board where the plans would
101 undergo a full review by the town engineer.

102
103 **MOTION: Mr. Breton made a motion to go into deliberative.**

104 **Mr. Partington seconded the motion.**

105 **No discussion**

106 **Vote 5-0**

107 **Motion carries**

108
109 Chairman Samsel believed the smaller impact of the property was a benefit. The uniqueness of the
110 property and the improvement in conformity were also positive. He believed the application met the
111 five points.

112
113 Mr. Breton agreed the impacts were less.

114
115 Chairman Samsel had concerns about adding any other regulations as a requirement. He questioned
116 how they could enforce it and noted they have never gone to that limit before.

117
118 Mr. Partington reviewed the five criteria and believed the plan was reasonable and met all five
119 criteria.

120
121 Mr. Scholz agreed. He added that the applicant offered they would be willing to accept some kind
122 of condition for mitigation. The impact has been thought through and minimized.

123
124 Chairman Samsel had concerns about tying the approval to other regulations. They have not done
125 that in the past. To start tying relief to other sections is not a wise way to go. He would fall back on
126 the professionalism of the engineer and the fact that he would be going back to the planning board
127 for review to determine what is necessary.

128
129 **MOTION: Mr. Partington made a motion to approve the variance request from Section 702,**
130 **App. A-1 of the Windham Zoning Ordinance to allow each dwelling area to be less than the**
131 **required 100 ft. by 100 ft. rectangle development box and less than the required 30,000 sq. ft.**
132 **of contiguous area and not meet Minimum Lot Area by Soil Type. Section 601.3 to allow a**
133 **dwelling to be built in the WWPD on lot 20-D-2500 with a WWPD impact of 12,000 sq. ft. and**
134 **a dwelling to be built in the WWPD on lot 20-D-2600 with a WWPD impact of 8,000 sq. ft. per**
135 **plan submitted conditioned that at a minimum, drip edge infiltration measures at the rear and**
136 **sides of the new structures as appropriate would be implemented.**

137 **Mr. Scholz seconded the motion.**

138 **No discussion**

139 **Vote 5-0**
140 **Motion carries**
141
142 **Review of the 5/24/16 Minutes**
143 **MOTION: Ms. Skinner made a motion to approve the 5/24/16 minutes as amended.**
144 **Mr. Partington seconded the motion.**
145 **No further discussion.**
146 **Vote 4-0-1, Mr. Scholz abstained.**
147 **Motion carries.**
148
149 **MOTION: Mr. Breton made a motion to approve the 6/14/16 minutes as amended.**
150 **Mr. Partington seconded the motion.**
151 **No further discussion.**
152 **Vote 5-0**
153 **Motion carries.**
154
155 **MOTION: Mr. Scholz made a motion to adjourn at 8:38 p.m. Mr. Breton seconded the**
156 **motion.**
157 **Vote 5-0-0.**
158 **Motion passes.**
159
160 **Submitted by Andrea Cairns**