



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

3 No. Lowell Road, Windham, New Hampshire 03087

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www.WindhamNH.gov

1
2 **Approved Minutes Zoning Board of Adjustment**
3 **August 9, 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 **Lot 2-B-300, Case # 25-2016**

22 **Applicant** Ryan Carr/GRD, LLC

23 **Owner**-Lionel St. Pierre & Joann Wing

24 **Location**-38 E. Nashua Road

25 **Zoning District**-Rural

26 Variance relief is requested from **Section 702, App. A-1** of the Windham Zoning Ordinance to
27 allow frontage of 152 ft. for lot A and 90.5 ft. for lot B where 175 ft. is required in this district.
28

29 Mr. Ryan Carr, the applicant, submitted a letter on 8/2/16 requesting a continuance to the next
30 meeting.
31

32 Ms. Skinner read the case into the record. The abutters list will be read into the record at the next
33 meeting.
34

35 There was a member of the public present, but would wait to give her testimony until the hearing.
36

37 **MOTION: Mr. Scholz made a motion to continue the hearing for case #25-2016 to the 8/23/16**
38 **meeting.**

39 **Mr. Partington seconded the motion.**

40 **No discussion**

41 **Vote 5-0**

42 **Motion carries**
43

44 **Lot 11-A-520 & 530 Case # 23-2016** continued from 7-26-2016

45 **Applicant**-The Dubai Group

46 **Owner**-Village Center Properties, LLC

47 **Location**- 13 & 15 Indian Rock Road

48 **Zoning District**-Village Center District and Wetland & Watershed Protection District (WWPD).

49 Variance relief is requested from **Section 706.8** for two (2) free standing signs. Sign A on lot 11-A-
50 530 to be (10) ft. high and 39 sq. ft. in area and Sign B on lot 11-A-520 to be 12 ft. high and 60 sq.
51 ft. in area in the Village Center District, where the maximum height is 5 ft. and the maximum area
52 is 16 sq. ft. per lot and **Section 706.4.3.3** to allow internal illumination of cut-out imagery on the
53 two (2) signs where internal illumination is not allowed.

54

55 Ms. Skinner read the case and abutters list into the record.

56

57 Chairman Samsel noted they heard testimony about the size of the signs at the last meeting so they
58 would only hear testimony about the internal illumination.

59

60 Chris McCarthy and Karl Dubay presented the application.

61

62 Mr. McCarthy stated they received conditional approval from the planning board the previous night.

63

64 Mr. McCarthy reviewed the five criteria.

65

66 Mr. McCarthy stated that some businesses have smaller signs but benefit from large canopies.

67

68 Mr. Dubay noted there is a directory sign at the town hall. It is 10' tall and the area is at least 6'x6'.
69 Route 111 crosses many districts but is very homogeneous in terms of traffic. It just so happens that
70 section of road it is the village center district. He does not believe it was the intent to have a 60"
71 sign to take care of a business complex on Rt. 111, when just up the street they are allowed to have
72 very large signs.

73

74 Mr. Dubay added that in terms of illumination, they are only lighting the letters and the bank's logo.
75 They could blast it with a large spotlight and have a large backplate, but they are not going that
76 route.

77

78 Mr. Partington questioned what the benefit was of the internal lighting versus what is allowed in the
79 ordinance. Mr. McCarthy noted their intent was to make it more elegant and in-line with the
80 buildings.

81

82 Mr. Scholz questioned what the backplate was. Mr. Dubay noted it allowed them to make the sign
83 larger—the backplate can be up to 150% larger than the sign.

84

85 Mr. Mazalewski joined the meeting as an alternate.

86

87 The Chair opened the meeting to the public.

88

89 *Susan Hoey – 4 Eastwood Rd.*

90 Ms. Hoey stated they need to keep with town ordinances. There are other signs like McDonalds that
91 are very large. The town changed the ordinance to discourage that within the Village District. She
92 does not want to see Rt. 28 signage on Rt. 111.

93
94 *Ross McCleod, 4 Nottingham Rd.*

95 Mr. McCleod was seated on the Planning Board when they heard the case. They approved the site
96 plan and granted waivers. He is not representing the planning board. Mr. McCleod stated that when
97 the town voted on the ordinance back in 2002 it was a 3:1 vote in favor of the ordinance. A lot of
98 what was written for the village center district was for the center of the district. This property is on
99 the periphery and is why he supports some of what they are requesting.

100
101 He has concerns about signs getting bigger because they become a distraction. He also noted
102 concern about putting a lot of tenant names on a small sign. They become hard to read. Many of the
103 businesses that will be in Village Place will be the type of business that people already know are
104 there. He also added there are other businesses along Rt. 111 that do not have signage at all and do
105 very well.

106
107 His main concern is the height of the signs; he is less concerned with the length of the sign and
108 questioned if the board could make an exception for the length but not the height. He was in full
109 support of the internal illumination.

110
111 Mr. McCleod added that NHDOT has plans for a 2-lane rotary so the speeds will be reduced to
112 15mph.

113
114 Mr. McCarthy noted several tenants have concerns with the sign capacity. He also added that the
115 NHDOT project is in the 10-year plan so it will not happen right away.

116
117 Chairman Samsel questioned the grade. It appears flat from the road to the signs. Mr. McCarthy
118 noted for sign A it goes from 202' to 204'. Chairman Samsel questioned how they arrived at the
119 proposed height. Mr. McCarthy noted they went with the recommendation of NH Signs. They came
120 to that conclusion because of snow mounds and safety.

121
122 Ms. Skinner read the letters in support of the application.

123
124 Mr. Dubay noted the frontage on the project has 490' of ROW, which is substantial. The district has
125 evolved and if they went with the tables within the ordinance, they could have signs every 10'. He
126 added the building would be set back and up 10' higher than the ground elevation of sign B so it
127 would not look out of proportion.

128
129 Mr. Scholz noted he struggles with sign A. There are only two businesses in there and he is having a
130 hard time with why they would need a variance when there is not the density.

131
132 Mr. McCarthy noted the bank was concerned with visibility. There is a home that is blocking
133 visibility when you are coming from east to west.

134
135 Ms. Skinner noted she has recently driven through several communities and most of the Enterprise
136 Bank signs she saw were fairly small. Why do they need a large sign there?

137

138 Mr. McCarthy noted the typical sign for an Enterprise Bank is a 36” sign. They are very tasteful.
139 The entire sign for sign A is 32” for both tenants, not just Enterprise Bank.

140
141 Ms. Hoey noted the look of the signs is great, but it is the size of the sign she is concerned with.
142 They do not want a Rt. 28 and want it in conformance with the town ordinances.
143

144 Chairman Samsel asked the applicant to compare the requested size to what is actually allowed. Mr.
145 Dubay noted for sign A they are at 10’ high and 32 sq. ft. and sign B is 49.3 sq. ft. and 12’ high.
146 They are allowed to be 5’ high or 16’ high for a complex. Mr. McCarthy noted they would be
147 willing to further reduce the height of the signs from 10’ to 8’ and 12 to 10’ if the height is the
148 sticking point. They want to be flexible.
149

150 Mr. Breton noted that the height was the biggest concern for some of the residents. If the height
151 were lowered to conforming standards, it would not be so obtrusive. They could make up for the
152 height by going longer. In general, bank customers know where their bank is, so they would not rely
153 as much on the sign.
154

155 **MOTION: Mike Scholz made a motion to go into deliberative**

156 **Ms. Skinner seconded the motion.**

157 **No discussion**

158 **Vote 5-0**

159 **Motion carries.**
160

161 Chairman Samsel noted the challenge is the proportion of the sign to the frontage of the building.
162 From an aesthetic and safety standpoint 16 sq. ft. is not big enough and there will be safety
163 concerns. In fairness to the potential tenants, the smaller signs are not appropriate; whoever writes
164 the ordinances needs to take proportion into consideration.
165

166 Mr. Scholz noted there are only two businesses on one of the signs. Why does that sign need relief?
167 What resonates from a proportion standpoint for him is the volume of businesses going on one sign.
168

169 Chairman Samsel noted for him it is the proportion of the sign to the size of the building and the
170 frontage. He would like the height to be reduced.
171

172 Mr. Partington reviewed the five criteria. In his opinion:
173

- 174 1. (contrary to public interest): meets the criteria
- 175 2. (spirit of the ordinance): meets the criteria
- 176 3. (substantial justice): meets the criteria
- 177 4. (value of surrounding properties): meets the criteria
- 178 5. (hardship): the argument for uniqueness is difficult. What is special about this property? The
179 only argument he can think of is that it is close to Rt. 111. The center of the district is where the
180 smaller signs would be appropriate. He does not believe it meets this criteria.
181

182 Mr. Partington added the public should decide what the frontage of Rt. 111 should look like.
183

184 Mr. Breton noted there is nothing really unique because all the businesses have frontage on Rt. 111.
185

186 Chairman Samsel noted they are jumping to the conclusion that others are going to come forward
187 for larger signs. They only have those two signs before them. He would like to be clear to those that
188 craft the ordinances that there needs to be some kind of change to adjust for proportion.
189

190 Mr. Scholz noted there is a significant parcel in the back that could be developed in the future.
191 Would the smaller sign be sufficient for those added businesses? He does not know what the public
192 wants, so he is unsure if it meets the spirit and intent of the ordinance. He does not believe lot 11-A-
193 530 meets the hardship criteria.
194

195 Chairman Samsel noted the board needed to be careful about being concerned with what the public
196 wants. The entire zoning ordinance is what the public wants. Everything that comes in front of the
197 board is a relief from what the public wants. Otherwise they are setting up a bias for every variance.
198 For this case, they heard testimony for and against.
199

200 Mr. Scholz noted lot 11-A-530 does not meet spirit, intent or hardship. For lot 11-A-520, there are a
201 number of businesses planned for that lot and he does not believe the size of the sign is viable to fit
202 that many businesses.
203

204 Chairman Samsel questioned if they should split the vote and vote for the height and size separately.
205 Mr. Breton did not think they should do that. If they were to do that, there should have been two
206 separate testimonies and applications.
207

208 Mr. Scholz noted they could revise the designs and come back with something different.
209

210 Ms. Skinner noted the applicant did suggest they would be open to a change in the height of the
211 signs. Should they consider that? Chairman Samsel did not believe it would change the outcome.
212

213 Chairman Samsel felt it met the criteria for backlighting. Mr. Partington did not believe it met the
214 hardship criteria. Mr. Breton noted, in their testimony they stated they could front light it if they
215 needed to, so he does not believe there is hardship.
216

217 Mr. Breton noted he is not comfortable with the height. He would be in favor of illumination.
218 He would rather it go wider than higher.
219

220 **MOTION: Mr. Partington made a motion to deny the variance from Section 706.8 for two (2)**
221 **free standing signs. Sign A on lot 11-A-530 to be (10) ft. high and 39 sq. ft. in area and Sign B**
222 **on lot 11-A-520 to be 12 ft. high and 60 sq. ft. in area in the Village Center District, where the**
223 **maximum height is 5 ft. and the maximum area is 16 sq. ft. per lot.**

224 **Mr. Breton seconded the motion.**

225 **No discussion.**

226 **Vote 4-1. Chairman Samsel against.**

227 **Motion carries.**
228

229 Mr. Scholz, Mr. Partington, Ms. Skinner and Mr. Breton noted it did not meet the criteria for public
230 interest, spirit and intent and hardship.
231

232 Chairman Samsel noted there is a 30-day appeal period.
233

234 **MOTION: Mr. Breton made a motion to deny without prejudice a variance from Section**
235 **706.4.3.3 to allow internal illumination of cut-out imagery on the two (2) signs where internal**
236 **illumination is not allowed.**

237 **Mr. Scholz seconded the motion.**

238 **No discussion.**

239 **Vote 5-0.**

240 **Motion carries.**

241

242 Chairman Samsel noted there is a 30-day appeal period.

243

244 **Lot 3-B-952 Case # 26-2016**

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

246 **Owner**-18 Depot Road LLC

247 **Location**-18 Depot Road

248 **Zoning District**-Rural

249 Variance relief is requested from **Section 702 App. A-1** for (lot 3-B-956) to allow a frontage of
250 134.53 ft. where 175 ft. is required. For lot (3-B-952) to allow a frontage of 134.60 ft., where 175
251 ft. is required, and will be 81.56% of the required lot area by soil type.

252

253 **Lot 3-B-952, Case # 27-2016**

254 **Applicant**-Edward N. Herbert Assoc., Inc.

255 **Owner**- 18 Depot Road LLC

256 **Location**- 18 Depot Road

257 **Zoning District**-Rural

258 Variance relief is requested from **Section 702 App. A-1** to allow frontage of 93.13 ft. on lot 952
259 where 175 ft. is required and will be 80.44% of the required lot area by soil type.

260

261 Mr. Cronin submitted Exhibit A which was photographs of the site.

262

263 The board felt it would be appropriate to hear both cases together since they were for the same lot.

264

265 John Cronin presented the application on behalf of the applicant.

266

267 The property has a single-family home situated close to the side lot line leaving a very large side
268 yard. The goal when the owner acquired the property was to fix up the home and the adjacent lot
269 and sell off both. There are two scenarios: one is to split the frontage so both lots have equal
270 frontage; the other is to have one lot with the required frontage and seek a variance for the second
271 lot. They will meet all other required setbacks. The purpose of the ordinance is to prevent
272 overcrowding. There will be no burden on the safety, health and welfare to the community. Both
273 lots would be consistent with the rest of the lots in the neighborhood. They are all about an acre. It
274 would not alter the existing character of the neighborhood. By fixing up the home and the adjacent
275 lot, they believe it would enhance the aesthetics and value of the surrounding properties.

276

277 Mr. Cronin noted there was a small lot at the front of the property. If they were able to acquire that
278 parcel they would be very close to having the required frontage. The owner is not willing to sell the
279 property at this time. There is historical value to the family.

280

281 The photographs provided are of the existing home and the distance from the house to the side lot
282 line. The bottom pictures show the condition of the existing lot.

283
284 Chairman Samsel clarified where the driveways would go.

285
286 Mr. Partington confirmed they were subdividing the lot. Mr. Jay Yennaco, property owner,
287 confirmed they were. The existing home would be staying in the same location.

288
289 Mr. Cronin read the five points into the record for both applications.

290
291 They are taking the lots and dividing the lots evenly. They discussed making one lot conforming so
292 they would only need one variance, but they believe dividing the frontage is more inline with the
293 spirit of the ordinance.

294
295 Mr. Partington questioned if they would be able to subdivide the property without variances if they
296 were able to acquire the smaller lot. Mr. Cronin noted they would be about 8' short on the frontage,
297 but they would meet the soil requirements.

298
299 *Patricia Wilson Fowler, owner of lot 3-B-954*

300 Ms. Fowler noted her family has owned lot 3-B-954 since the 1740s. It is the last remaining piece of
301 land owned by their family. The ordinances are there for a reason. It looks like someone is just
302 flipping the house and trying to make a grandfathered lot less legal and make a secondary lot short
303 of what is required. She does not believe there is hardship. She is opposed to it on the basis of the
304 smaller frontage.

305
306 Mr. Partington noted they have two sets of plans in front of them. One plan meets the setbacks, but
307 in the other set of plans neither lot meets the requirements. Ms. Fowler noted she still sees numbers
308 that are too low. She thinks the 90' frontage is too small and they are asking for quite a bit for a lot
309 to be reduced to that, with the sole purpose of building in an area that does not want too much
310 congestion. It is a historical area.

311
312 *Tom Case*

313 He was confused by the publication. He did not think it was clear that it was going to become two
314 lots.

315
316 *Don B. Cott, Pamela Cott, 14 Depot Road*

317 Mr. Cott noted it would help his property values to see the property cleaned up. He likes that aspect
318 of the project. His main concern is that there is a vernal pool on the back corner of that lot. If they
319 build a house, will it change where the vernal pool goes and that water has to go somewhere? It is a
320 good size vernal pool.

321
322 Ms. Cott noted there are flags in that area but was not sure what they were for. She is not only
323 concerned with the drainage, she does not want to see the vernal pool disturbed.

324
325 Mr. Breton noted he would assume the applicant was aware that the vernal pool was there.

326
327 Jay Yennaco noted he has been enrooted in the town for a long time. His intent is never to do
328 anything detrimental. He 100% understands where they are coming from. He is happy to work with

329 them to preserve the vernal pool. He is just doing what he thinks is best. His intent is not to come in
330 and bulldoze trees.

331
332 Mr. Cronin noted the applicant did have a wetland scientist go out and look at the property and it
333 did not meet the classification of a vernal pool. They will have to demonstrate to the planning board
334 that no drainage will impact any other properties and will need to be addressed on site. The
335 planning board is very diligent about protecting wetlands.

336
337 Mr. Breton questioned if Ms. Fowler intended on keeping that property. She noted she would like to
338 keep it as long as possible. Mr. Breton suggested they add a granite marker on the property to
339 signify the history. The applicant agreed he would be willing to do that.

340
341 **MOTION: Mike Breton made a motion to go into deliberative**
342 **Mr. Scholz seconded the motion.**

343 **No discussion**

344 **Vote 5-0**

345 **Motion carries.**

346
347 Ms. Skinner read a letter from conservation commission. They would prefer to see the small
348 adjacent lot be purchased to prevent a smaller sized lot.

349
350 Mr. Partington reviewed the five criteria. In his opinion:

- 351
352 1. (contrary to public interest): meets the criteria
353 2. (spirit of the ordinance): meets the criteria
354 3. (substantial justice): The benefit of splitting the lots is to the owner. There is a negative tax
355 revenue when you split lots. He does not believe it meets this criteria.
356 4. (value of surrounding properties): meets the criteria
357 5. (hardship): he does not believe there is anything unique about the property. There is already a
358 home there. He does not believe it meets this criteria.

359
360 Mr. Partington did not believe either plan met substantial justice or hardship.

361
362 Mr. Scholz thought the location of the home on the lot is different than the rest in the area. He did
363 not have an issue with substantial justice.

364
365 Mr. Breton agreed with Mr. Scholz. They are fulfilling the intent of what the neighborhood looks
366 like.

367
368 Chairman Samsel noted it is a historic district. They are larger sized lots than the average. The
369 hardship being the smaller piece in the front that is historic value. If the lots had smaller acreage he
370 would have a bigger concern. Because they are bigger it is more palatable. His concern is the
371 proximity to the driveways across the street and the vernal pool.

372
373 Ms. Skinner noted she always remembers that being wet in the spring. That does indicate what
374 would potentially be a vernal pool. We have had an unusually dry spring and summer.

375
376 Chairman Samsel believes all five points were met. Mr. Scholz agreed.

377
378 Chairman Samsel noted he was confident the planning board would have further discussion about
379 the vernal pool.

380 Mr. Breton noted they could not require a granite marker but the applicant acknowledged they
381 would be willing to do a nice granite marker that would be there forever.

382
383 **MOTION: Mr. Scholz made a motion to grant variance relief for Section 702 App. A-1 for (lot**
384 **3-B-956) to allow a frontage of 134.53 ft. where 175 ft. is required. For lot (3-B-952) to allow a**
385 **frontage of 134.60 ft., where 175 ft. is required, and will be 81.56% of the required lot area by**
386 **soil type, as presented.**

387 **Mr. Breton seconded the motion.**

388 **No discussion**

389 **Vote 3-2. Mr. Partington and Ms. Skinner against.**

390 **Motion carries.**

391
392 Mr. Partington noted it was substantial justice and hardship that it did not meet. Ms. Skinner agreed.

393
394 **MOTION: Mr. Scholz made a motion to deny without prejudice variance relief from Section**
395 **702 App. A-1 to allow frontage of 93.13 ft. on lot 952 where 175 ft. is required and will be**
396 **80.44% of the required lot area by soil type.**

397 **Mr. Breton seconded the motion.**

398 **No discussion.**

399 **Vote 5-0.**

400 **Motion carries.**

401
402 Chairman Samsel noted there is a 30-day appeal period.

403
404 *10:04 – 5 minute recess*

405
406 **Lot 3-A-640, Case # 28-2016**

407 **Applicant/Owner -Rebecca LaFrance**

408 **Location-23 Mitchell Pond Road**

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

410 Variance relief is requested from **Section 601.3** to allow an in-ground pool in the WWPD.

411 Applying for a variance to put in an in-ground pool.

412
413 Ms. LaFrance presented the application and reviewed the five criteria. There is no where else on the
414 property where they could put the pool. Many other homes in the neighborhood have pools. The
415 entire buildable area of their yard is within the WWPD.

416
417 Chairman Samsel questioned the plans presented and whether the 20'x40' area indicated was just
418 the pool or if it included the decking. Ms. LaFrance noted that was just the pool.

419
420 *Michael LaFrance*

421 Mr. LaFrance noted the patio decking will be between 1,100 and 1,500 sq. ft. and encompass the
422 20'x40'. It will be shaped around the pool with widths varying from 8'w to 14'w.

423

424 The filter house will be to the left on the decking. They are installing a salt-water pool, which
425 requires fewer chemicals.

426
427 Ms. Skinner questioned if they could move the pool closer to the back of the house. Ms. LaFrance
428 noted they were putting the pool as close as they could to the house.

429
430 Mr. Partington questioned if they would be open to a smaller pool. Ms. LaFrance noted they would
431 be but started with a standard size.

432
433 Chairman Samsel noted in the past, they have received conceptual designs of the deck the pool and
434 the contour to see the impervious coverage. Is the board comfortable with what they have been
435 provided?

436
437 Mr. Breton noted he was comfortable with what was provided. It might change slightly when they
438 begin construction. He has no issues.

439
440 Ms. Skinner read a letter from the conservation commission. They questioned if the pool could be
441 moved closer to the house. They questioned where the chemicals would be discharged.

442
443 Mr. Scholz questioned if the sketch was to scale. Mr. LaFrance noted they were not. The pool
444 company suggested they get the permit before doing drawings.

445
446 **MOTION: Mike Scholz made a motion to go into deliberative**

447 **Mr. Breton seconded the motion.**

448 **No discussion**

449 **Vote 5-0**

450 **Motion carries.**

451

452 Mr. Partington reviewed the five points. In his opinion:

453

- 454 1. (contrary to public interest): the salt water helps meet this and should be a condition. Mr.
455 Mazalewski suggested they should require that the pool not intrude the WWPD any further than
456 what is indicated on the plan.
- 457 2. (spirit of the ordinance): meets the criteria
- 458 3. (substantial justice): meets the criteria
- 459 4. (value of surrounding properties): meets the criteria
- 460 5. (hardship): Because the property is unique, the location and slope of the land, location of wells
461 and septic there is no other location on the lot for the pool. Meets the criteria.

462

463 The application is reasonable and meets all five criteria.

464

465 Mr. Scholz agreed it met all five criteria and also agreed with the two conditions to approval.

466

467 **MOTION: Mr. Partington made a motion to grant the variance from Section 601.3 to allow**
468 **an in-ground pool in the WWPD. The following conditions to apply:**

469

- **The pool be a salt water pool**
- **The picture of the pool on the plan provided is the maximum intrusion towards the
471 wetland**

472 **Mr. Breton seconded the motion.**

473 **No discussion.**

474 **Vote 5-0.**

475 **Motion carries.**

476

477 Chairman Samsel noted there is a 30-day appeal period.

478

479 **Lots 21-C-80 & 21-C-70, Case # 29-2016**

480 **Applicant**-Joseph Maynard

481 **Owner**-EB Rich, Inc.& Bernice Kowalski-Richards

482 **Location**-208 & 212 Range Road

483 **Zoning District**-Residence A, Cobbett's Pond & Canobie Lake Watershed Protection District

484 Variance relief from **Section 611.6.4.2** to allow two (2) of the lots to not meet the setbacks of the

485 underlying district and **Section 616.2.3** to allow the most easterly lot (which is the only new house

486 lot in the Cobbett's Pond & Canobie Lake Watershed Protection District) to be the only lot to be

487 required to meet the Cobbett's Pond & Canobie Lake Watershed Protection District requirements.

488

489 Mr. Maynard reviewed the application. The project was previously before the board as an open
490 space development. On the first lot, the location of the home was placed where it is to maintain
491 minimum grades. If they were to move the location of the home to meet the driveway setback, they
492 could not build it because of grades, which would approach 20%.

493

494 On the second lot, there is an abutting lot that has frontage on Range Rd. that has a driveway
495 easement through the property. Because of where that driveway easement sits, to keep the proposed
496 driveway at a maximum of 50' back from the ROW, they could not park a car in the driveway
497 without blocking the easement. They are looking to have that driveway be 65-70' back.

498

499 For the final lot, there is a caveat in the ordinance that states if any portion of the property falls
500 within the Cobbett's Pond/Canobie Lake watershed the entire site needs to be designed as if it was
501 in that watershed. At their design review meeting, they discussed that was never the intent of the
502 ordinance. The reason the ordinance was written that way was to prevent water from one watershed
503 going into another watershed. There is no physical way to get drainage from one side of the site to
504 the other. They are asking for relief to design the one lot for that watershed, but not the entire site.

505

506 Mr. Partington noted the way the notice was posted, it just listed the one lot that was going to meet
507 the ordinance instead of listing the other lots. He would like to see the motion list the other lots. He
508 questioned if that would include the open space lots as well? Mr. Maynard noted there is no
509 drainage in the open space lots. They are essentially a buffer.

510

511 Mr. Maynard clarified they are requesting one lot be 175-225' back from the proposed road system;
512 the other lot he is looking for 65-75'. Chairman Samsel questioned if that was a straight line to the
513 road. Mr. Maynard noted it is the distance is from the private driveway and is a straight line to the
514 base of the house.

515

516 Mr. Maynard read the five points into the record.

517

518 **MOTION: Mike Scholz made a motion to go into deliberative**

519 **Mr. Breton seconded the motion.**

520 **No discussion**

521 **Vote 5-0**

522 **Motion carries.**

523
524 Chairman Samsel believed the five points were met; especially the hardship criteria because of the
525 length of the driveways and the private road limiting what they could do.

526
527 Mr. Partington reviewed the five criteria and believed in his opinion the project met all five points.

528
529 **MOTION: Mr. Partington made a motion to grant the variance relief from Section 611.6.4.2**
530 **to allow lot 21-C-70 to have a maximum of 210' front yard setback and lot 21-C-80 to have a**
531 **maximum 75' front yard setback and variance relief from Section 616.2.3 to allow lots:**
532 **21-C-A - open space, 21-C-B - open space, 21-C-70, 21-C-70-1, 21-C-70-2, 21-C-70-3, 21-C-C -**
533 **open space to not be required to meet Cobbett's Pond and Canobie Lake watershed**
534 **protection district requirements, per plans submitted**

535 **Mr. Scholz seconded the motion.**

536 **No discussion.**

537 **Vote 5-0.**

538 **Motion carries.**

539

540 Chairman Samsel noted there is a 30-day appeal period.

541

542 **7/12/16 Minutes**

543 These were already reviewed and approved.

544

545 **Correspondence**

546 Thank you note from Laura Scott.

547

548 **MOTION: Mr. Scholz made a motion to adjourn at 10:58 p.m. Mr. Breton seconded the**
549 **motion.**

550 **Vote 5-0-0.**

551 **Motion passes.**

552

553 **Submitted by Andrea Cairns**