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**ZONING BOARD OF ADJUSTMENT**  
**MEETING AGENDA \*Revised on 5-17-23\***  
**May 23, 2023 – 7:00 pm @ Community Development Department**

**Physical Location:** 3 North Lowell Road (Community Development Department) Live  
**Broadcast:** WCTV Channel 20 – Local Cable TV  
**Live Stream:** <http://www.wctv21.com/>

**To access via Zoom:** [ZBA Meeting](#)

**Meeting number/access code:** 865 4393 1593 **Password:** 250013 **To join by phone:** 1 646 876 9923

**Call to Order**

**Case #18-2023** Parcel 22-L-81 & 22-L-83

**Applicant – Benchmark LLC**

**Owner – Thomas J Jr & Lynn Murray**

**Location – 27-29 W. Shore Rd**

**Zoning District – Residential District A/ WPOD**

The applicant is requesting a variance from **Sections 406.2, 702 / Appendix A-1, 703, 616.6.4.2** to allow construction of an addition to the existing dwelling on 22-L-81 (29 W. Shore Rd), which is a pre-existing non-conforming lot with two frontages. The new plan incorporates 22-L-83 (27 W. Shore Rd), which will be voluntarily merged with 29 W. Shore Rd upon receiving all local and state approvals. Upon the merger, the owner would want to expand the single-family dwelling on 29 W. Shore Rd to allow the expansion in the area and/or volume of the house from 1,800 sf to 4,065 sf in area and from 32,400 cu/ft to 82,078 cu/ft in volume.

To allow the lot size of 24,820 sf where a minimum lot size of 50,000 sf is required with 130 ft of frontage, where 175 ft is required. To allow the new addition of the single-family dwelling to have a front yard setback from W. Shore Rd of approximately 16 ft from the ROW where 50 ft is required. The existing SFD has an 8 ft easterly side yard setback, where 30 ft is required, and a Canobie Lake shoreline setback of 32 ft, where 50 ft is required. The proposed swimming pool would also be placed 35 ft from Canobie Lake, where 50 ft is required and within the front setback. Under the Windham Zoning Ordinance, a pool or Accessory Building may not be in the front yard. The proposed addition will have a 31 ft setback from Canobie Lake, where 50 ft is required, a garage with a front setback of 20 ft, and a subsurface utility vault with a 16 ft front yard setback, both of which would require a 50 ft ROW setback. The proposal would result in a 46% impervious lot coverage, where a maximum of 30% is permitted in the Residential District A and Cobbetts Pond and Canobie Lake Watershed Protection District. A previous variance was granted (Case # 34-2019) for the above proposal, which is now expired.

**Case # 12-2023** Parcel 22-L-81 & 22-L-83

**Applicant – Benchmark, LLC**

**Owner – Thomas J Jr & Lynn Murray**

**Location – 27-29 West Shore Road**

**Zoning District – Residential District A / WPOD**

***\*Previously heard on April 11, 2023***

The applicant is requesting a variance from **Section(s) 406.2, 702/ Appendix A-1, and 703** to construct an addition to the existing single-family dwelling (22-L-81), on a pre-existing, non-conforming lot. The addition to the SFD would expand the area from 2,462 sf to 3,052 sf and the area from 44,316 cu/ft to 50,300 cu/ft in volume

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and be 30 feet from the front lot line and 33 feet from the pond, where such addition increases the non-conforming nature of the property. To construct an inground pool 22 ft from the side lot line, where 30 ft is required; 33 ft from the pond where 50 ft is required; and 28 ft from the front lot line, where such are prohibited within the front yard. To construct a greenhouse 10 ft from the front lot line, where such are prohibited within the front yard. To construct a shed 18 ft from the front lot line, where such are prohibited within the front yard; and 15 ft from the side property line, where 30 ft is required.

**Case #19-2023 Parcel 21-Z-264**

**Applicant – Benchmark LLC**

**Owner – Steven J. DeLuca**

**Location – 6 Horne Road**

**Zoning District – Residential District A/ WPOD**

The applicant is requesting a variance from **Sections 406.2, 702/Appendix A-1** to allow the construction of a new addition and deck to a pre-existing, non-conforming, year-round, single-family dwelling, on a pre-existing, non-conforming lot. To allow the expansion in the area and/or volume of the house from approximately 3,485 sf to 4,180 sf in area, and 51,152 cu/ft to 59,912 cu/ft in volume, which is prohibited under the Windham Zoning Ordinance (WZO).

To allow approximately 400 sf of frontage on a private road, where 175 ft of frontage is required on a Class V Road, and to allow the addition to be 24 ft from the reference line of Cobbetts Pond. Where, under WZO a lakeside and rear yard setback of 50 ft is required. The proposed addition will result in less than 30% impervious area coverage for the lot, which is permitted under the WZO.

**Case #20-2023 Parcel 16-Q-205A**

**Applicant – Benchmark LLC**

**Owner – Rhonda Michelson Solomon**

**Location – 5 Viau Road**

**Zoning District – Residential District A/ WPOD/ WWPD**

The applicant is requesting a variance from **Sections 200, 405.2, 405.3, 405.5, 601.3, 601.4.6, 601.4.8, 601.4.8.4.1, 616.8.1, and 702/Appendix A-1** to allow the replacement of a year-round single-family dwelling with a pre-existing, non-conforming lot, and to rebuild/raze an accessory bunk house.

<b>Zoning Ordinance</b>	<b>Proposal</b>	<b>Requirements</b>
405.2	Main House: Expansion in area/volume by 832 sf and 16,376 cf. Bunkhouse: Expansion in area/volume by 200 sf and 1,600 cf.	No increase in area and/or volume permitted.
405.3	Main House: The proposed expansion will increase the nonconformity of the structure. (15' side yard setback)	No increase in nonconformity permitted.
405.5 / 702 / Appendix A-1	Main House: Side yard setbacks: 15 feet Pond setback: 25 feet  Bunkhouse: Pond setback: 15 feet	A replacement of a non-conforming structure shall whenever possible be made to conform to the required setback requirements. Side yard: 30 feet Pond: 50 feet
601.3	Expansion of structures (main house and bunkhouse) within the WWPD	No permanent structure shall be erected in the WWPD, which has a 200 ft. buffer in this case, per 601.4.5.
601.4.6	To allow existing septic system to remain within the WWPD	Any waste disposal system shall not be located closer than 100 ft to any wetland

		contiguous to a WWPDP or within a WWPDP
601.4.8	To allow improvements and development to continue without the requirement of applying to the Planning Board	Special Permit required from the Planning Board.
601.4.8.4.1	To allow WWPDP markers to be installed at the limits of the existing yard area.	WWPDP markers shall be placed along the WWPDP boundary.
616.8.1	To allow existing and proposed improvements to be within the 100 ft buffer to a tributary to the pond.	A 100-foot-wide buffer zone shall be maintained along the edge of any tributary stream discharging into the protected water body along the edge of any wetlands associated with those tributary streams.
Section 200	The lot is on a private road.	A measured parcel of land having fixed boundaries, with the required frontage on a town approved road and conforming to Town Zoning and/or Subdivision Control Regulations.

**Case #21-2023 Parcel 11-A-1006**

**Applicant – Ernest & Krystie Dascoli**

**Owner – Same**

**Location – 14 Greenway Road**

**Zoning District – Rural District**

The applicant is requesting a variance from **Sections 702/Appendix A-1** to allow the construction of a detached 34x24 sq ft garage to be 0 ft away from the side yard lot line, where 30 feet is required.

**Case #22-2023 Parcel 16-Q-186J**

**Applicant – Ana Fultz-Desouza**

**Owner – Richard Desouza & Ana Fultz-Desouza**

**Location – 4 First Street**

**Zoning District – Residential District A/ WPOD**

The applicant is requesting a variance from **Sections 702/Appendix A-1** to allow the construction of a 15 x 16 sq ft deck in the back of the cottage, which will be 15 ft from the northerly lot line, and 7 ft from the southerly lot line, where 30 feet is required.

**Meeting Minutes to Review and Approve: 05-09-23**

**Planning Sessions and By-law updates**

**Legislative/Staff Updates**

**Adjournment**

**Copies of all Zoning Board of Adjustment applications and materials are available for review at the Community Development Department; 3 North Lowell Road, Monday – Friday 8am – 4pm.**