



ZONING BOARD OF ADJUSTMENT

Approved Minutes

May 10, 2022 – 6:30pm @ 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/>

Attendance:

Chairman Betty Dunn- present
Vice Chair Nick Shea- present
Pam Skinner, Secretary- present
Michelle Stith, regular member- present
Neelima Gogumalla, regular member- present
Ruth Ellen Post, alternate- present
Mike Scholz, alternate- present

Staff:

Alex Mello- Community Development Director
Julie Suech- Planning Technician
Anitra Lincicum- present via Zoom at 7pm

Discussion with ZBA Alternate candidates

The Board discussed appointing alternates to one of the appointed terms even when they were clear that they could not attend every meeting but would be interested in filling in as needed. The Board and staff discussed the best way to proceed with scheduling potential alternates that could not make it this evening for the interview process.

Miscellaneous

Chairman Dunn discussed the correspondence from Attorney Campbell regarding Play All Day.

A motion was made by Vice Chair Shea to approve the February 22, 2022 revised draft. Seconded by Ms. Skinner. Vote 5-0. Motion passes.

A motion was made by Vice Chair Shea to approve the March 22, 2022 draft minutes as amended. Seconded by Ms. Skinner. Vote 5-0. Motion passes.

39 A motion was made by Vice Chair Shea to approve the March 29th, 2022 site walk draft minutes as
40 presented. Seconded by Ms. Stith. Vote 5-0. Motion passes.

41
42 A motion was made by Vice Chair Shea to approve the March 29, 2022 draft minutes as presented.
43 Seconded by Ms. Stith. Vote 5-0. Motion passes.

44
45 A motion was made by Vice Chair Shea to approve the April 6th, 2022 site walk draft minutes as amended.
46 Seconded by Ms. Stith. Vote 5-0. Motion passes.

47
48 **Discussion regarding remote participation options for future meetings**

49
50 This discussion occurred at the end of the meeting and the Board is in favor of making the remote option available.

51
52 Public Hearings

53 **Case # 10-2022** Parcel 24-F-6 (continued from April 26, 2022)

54 **Applicant – Benchmark LLC**

55 **Owner – Edward and Renee Hahn**

56 **Location – 6 Johnny Hill Rd**

57 **Zoning District – Rural District**

58

59 Variance Relief is requested from **Section(s) 702, and Appendix A-1** to construct a single- family dwelling on an
60 approximately 7.26-acre lot that does not have the required 175-feet of frontage on a Town Class V Road. The lot
61 does have 240-feet of frontage on a discontinued Road.

62

63 Attorney James Lombardi addressed the Board. Attorney Lombardi stated that the applicant, Mr. Hahn is his client
64 and he has just started researching this case. Attorney Lombardi stated he would like to request a continuance to
65 June 14th in order to understand the case and the concerns of the applicant and the abutters. Attorney Lombardi
66 stated that the applicant has some health concerns and that is another reason for the continuance.

67

68 Ms. Dunn invited public comment regarding the continuance.

69

70 Mr. Paul Odette, 1 Burnham Road addressed the Board. Mr. Odette has no objection to a continuance.

71

72 A motion was made by Ms. Stith to continue Case #10-2022 to June 14th at 7pm. Seconded by Gogumalla.
73 Vote 5-0. Motion passes.

74

75 **Case #11-2022** Parcel 21-V-230A (continued from April 26, 2022)

76 **Applicant – Benchmark LLC**

77 **Owner – Arthur Breslin**

78 **Location – 28 Fish Rd**

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

80

81 Variance Relief is requested from **Section(s) 405.2, 405.3, 702, and Appendix A-1**
82 to raze the existing structure and construct a new single-family dwelling on a pre-existing, non-conforming lot. To
83 allow the dwelling to be placed 8-feet from the front lot line, 9-feet from the northeastern side yard, 2-feet from the
84 southwestern side yard, and 9-feet from the rear yard lot lines. Where the setback requirements are 50-feet for
85 front yard, and 30-feet for side and rear yards. To allow a lot size of approximately 4,571 sq. ft., where a minimum
86 lot size of 50,000 sq. ft., is required. To allow approximately 63-feet of frontage on a private road, where 175-feet

87 of frontage on a Town Class V Road is required. To allow the coverage of 25.4 %, where a maximum of 20% is
88 required in Residential District A, Cobbett's Pond and the Canobie Lake Watershed Protection Districts.
89
90 This case is continued so it did not need to be read into the record nor did the list of abutters need to be read.
91
92 Mr. Joseph Maynard of Benchmark LLC addressed the Board and reviewed the presentation from the last meeting.
93 The existing home has a well and a septic system currently. Mr. Maynard reviewed the current structure.. 25.4% is
94 the lot coverage currently, and there would be a reduction to 24.5% coverage under the proposed plan. Mr.
95 Maynard stated that there would be a reduced impervious surface from 60% to 41% coverage. Mr. Maynard stated
96 that the lot falls under Cobbetts Pond WPOD so the application will need to go before Planning Board for a major
97 site plan. Drip line infiltration will be used on site as well according to Mr. Maynard. This will be a two-bedroom
98 structure with a clean solutions septic system. Mr. Maynard stated that they would like a one bay garage.
99
100 Vice Chair Shea asked what the life span was of a Clean Solutions system. Mr. Maynard stated that they can last as
101 long as 30 years if well maintained.
102
103 Ms. Post stated that she appreciated the information given by the applicant. Ms. Post would like to know the
104 dimensions of the present structures. Mr. Maynard stated that 1,100 square feet is the house and 55 square feet is
105 for the shed. Mr. Maynard stated that the shed will be removed and the new home will replace the existing
106 footprint but Mr. Maynard does not have the exact dimensions of the house.
107
108 Chairman Dunn stated that she has concerns that this house is so close to the pond. Chairman Dunn stated that she
109 is concerned about the large structure on the lot. Mr. Maynard stated that he had testimony from all the neighbors
110 in support of the project including the president of the community beach. Chairman Dunn is concerned about the
111 added nutrients to the area over time and the increase in congestion. Chairman Dunn is concerned about the
112 condition of the road. Mr. Maynard stated that the lot has plenty of snow storage with the way the lot is designed.
113 Mr. Maynard stated that post development the structure will be about 4000 more cubic feet. The increase is due to
114 a full dormer on the lake side. Ms. Gogumalla asked how many structures were year-round in the area. Mr.
115 Maynard estimated that about 50% were year-round structures.
116
117 The Board and Mr. Maynard discussed the VLAP testing of Cobbetts Pond, a voluntary lake water testing
118 program. Chairman Dunn stated that the level of nutrients at Cobbetts Pond has been a challenge over the years.
119 Mr. Maynard stated that the WPOD is actually more restrictive than the state regulations. Chairman Dunn stated
120 that this is a concern if all of these lots are developed and have year-round homes on them with all of the things
121 that come along with a full-time structure, like laundry and dishwashers, etc. Mr. Maynard stated that the run off of
122 a smaller structure will be less invasive. There is a reduction of impervious surface and Mr. Maynard thinks this
123 will have a positive impact. Mr. Maynard stated that the property is approximately 200 feet from the lake. Ms. Post
124 asked for clarification around the impervious and building coverage. Mr. Maynard stated that two factors have a
125 large improvement on the system: the drip line infiltration and the improved septic. Mr. Maynard also mentioned
126 the geo grid as a site improvement.
127
128 Chairman Dunn invited public comment at this time.
129
130 Mr. Maynard stated that he thinks they did a good job with this very small lot.
131
132 The Board entered deliberative session without objection.
133
134 Vice Chair Shea does see the value of the improvement to the property with an existing structure. Vice Chair Shea
135 stated that he has stated before and would like to state again that he thinks the town should take the initiative to
136 offer incentive for alternatives to a lawn. Vice Chair Shea stated that he does believe it meets the 5 criteria. Vice

137 Chair Shea stated that these improvements will help the safety and welfare. Ms. Gogumalla is impressed by the
138 mitigation and while she does have reservations, she does agree that this is an improvement.

139
140 Chairman Dunn stated that the Board is supposed to do Not sure what this means. Is this saying the Board needs to
141 consider if substantial justice is done by the project? substantial justice and she does not know where that line is
142 and when they may have to say no someday.

143
144 **A motion was made by Ms. Gogumalla for Case #11-2022 to grant relief Variance Relief as requested from**
145 **Section(s) 405.2, 405.3, 702, and Appendix A-1to raze the existing structure and construct a new single-**
146 **family dwelling on a pre-existing, non-conforming lot. To allow the dwelling to be placed 8-feet from the**
147 **front lot line, 9-feet from the North Eastern side yard, 2-feet from the South Western side yard, and 9-feet**
148 **from the rear yard lot lines. Where the setback requirements are 50-feet for front yard, and 30-feet for side**
149 **and rear yards. To allow a lot size of approximately 4,571 sq. ft., where a minimum lot size of 50,000 sq. ft.,**
150 **is required. To allow approximately 63-feet of frontage on a private road, where 175-feet of frontage on a**
151 **Town Class V Road is required. To allow the coverage of 25.4 %, where a maximum of 20% is required in**
152 **Residential District A, Cobbett’s Pond and the Canobie Lake Watershed Protection Districts as requested**
153 **per plan dated February 1, 2022. Seconded by Ms. Stith.**

154
155 **Vote 5-0.**
156 **Motion passes.**
157 **The Chair advised of the 30-day appeal period.**

158
159 **Case #12-2022 Parcel 5-A-351**
160 **Applicant – Anthony Dancona**
161 **Owner – Anthony Dancona**
162 **Location – 2 Baldwin Street**
163 **Zoning District – Rural District**

164
165 Variance Relief is requested from **Section(s) 702.2, 703** to construct an approximate 672 SF accessory building.
166 The location of the proposed garage is on the front yard of the property. The property is located on a corner lot
167 which creates two (2) front yards. The Windham Zoning Ordinance states that no detached accessory building
168 shall be located in the front yard of a property.

169
170 Ms. Skinner read the case into the record. The list of abutters was part of the public packet.

171
172 Mr. Anthony Dancona, the applicant, addressed the Board. Mr. Dancona stated that the position of the proposed
173 garage is so that cars can access the garage. His lot has two front yards so the only place they could place the
174 garage without the variance would be a place the cars could not access. Mr. Dancona stated that they are not
175 violating any of the setbacks. Mr. Dancona stated that there is no plumbing in the garage and there are no lines of
176 septic or anything else. Chairman Dunn asked if the applicant had anything to add to the application including the
177 5 criteria. Mr. Dancona stated that they would be saving a 40-year-old maple on the property and preserving the
178 line of site on the corner lot with this proposal. Mr. Dancona stated that he has left many of the trees on his lot
179 except for the front of the property. Mr. Dancona stated that he has an attached 2 car garage currently. Mr.
180 Dancona stated that this will be used as a garage and not as living space.

181
182 The public portion of the hearing was closed and the board entered deliberative session per Chairman Dunn with
183 no opposition from the Board.

184

185 Ms. Stith stated that this a good example of why variances exist. Ms. Stith stated that the odd shaped lot is a
186 hardship and there appears to be plenty of space on the lot. Vice Chair Shea stated that the applicant is trying to
187 accommodate their sons needs and he concurs with Ms. Stith. The plan was labeled Exhibit A by the Chair.
188

189 **A motion was made by Ms. Stith for Case #12-2022 to grant relief as requested from Section(s) 702.2, 703 to**
190 **construct an approximate 672 SF accessory building. The location of the proposed garage is on the front**
191 **yard of the property. The property is located on a corner lot which creates two (2) front yards. The**
192 **Windham Zoning Ordinance states that no detached accessory building shall be located in the front yard of**
193 **a property per plan submitted dated May 10, 2022 and signed by the Chair with the condition that the**
194 **building not be used as living space. Seconded by Vice Chair Shea.**

195
196 **Vote 5-0.**

197 **Motion passes.**

198 **The Chair advised of the 30-day appeal period.**

199

200 **[Case # 13-2022](#) Parcel 9-A-825**

201 **Applicant – Benchmark LLC**

202 **Owner – MLC Realty Partnership**

203 **Location – Land off Kendall Pond Road**

204 **Zoning District – Rural District / WPOD**

205

206 Variance Relief is requested from **Section(s) 601.3, 601.3.9, 601.4.8.4, 601.4.8.4.1, 702, Appendix A-1** to
207 construct a single-family dwelling in an area that is within the one hundred (100') foot setback of the WWPD
208 where no building shall be located in the WWPD, and that does not have any road frontage on a Class V Town
209 road. To allow a longer than necessary proposed driveway to be placed the maximum extent from the wetlands. To
210 allow construction of the utility system for the proposed dwelling that is located within the WWPD. To allow
211 proposed WWPD signage markers to be placed thirty (30') feet from the front and side of the proposed single-
212 family dwelling.
213

214 Ms. Skinner read the case into the record. There was also a letter of authorization. The list of abutters was also in
215 the record. There is no communication from the Conservation Commission regarding this plan.

216

217 Mr. Joseph Maynard of Benchmark LLC addressed the Board and is representing the applicant. Mr. Maynard
218 stated that there is only one small corner of the lot that is not in the WWPD. There is a lot on the corner of
219 Shamrock and Kendall Pond that also came with this piece of land. Mr. Maynard stated that the applicant can
220 access this property from the adjoining lot. Mr. Maynard stated that there is an old stone culvert in the area. Mr.
221 Maynard stated that they needed to go before the Selectmen to ask about crossing the railroad corridor. Mr.
222 Maynard stated that he had discussed this area with the Conservation Commission and has agreed to cross the
223 wetland with a small an area as possible and as a result, they made the driveway a little bit longer. Mr. Maynard
224 stated that some of the odd shaped lots near the railroad are a result of those lots being resold to the railroad after
225 the taking of the land for the corridor. The Board discussed the potential for a site walk in the area and the
226 proximity to this property to the Clark Farm property nearby. Mr. Maynard will be installing a culvert because the
227 old culvert is gone; he will need to size the culvert to accommodate a 50-year storm event.
228

229 Mr. Maynard stated that there is a review for the wildlife and then there needs to be a meeting with the wetlands
230 board and they will let the applicant know what they would like to see on the property. Mr. Maynard stated that the
231 process with the state does take some time.
232

233 Ms. Gogumalla asked about the abutting property on the other side. Mr. Maynard stated that the triangular lot is a
234 separate property. Mr. Maynard stated that it was necessary to get a DOT curb cut for the lot as well.
235
236 Chairman Dunn stated that she remembers a part of this going on the ballot. Mr. Maynard reviewed the process of
237 getting a portion of this project on the ballot. There are 2 different easements for the property: one on the adjoining
238 lot and one on the wetland. Mr. Maynard reviewed the Greenway Trail in the area as well. The Board and Mr.
239 Maynard clarified that the question on the ballot gave one lot access.
240
241 Mr. Maynard reviewed the 5 criteria contained in the public packet. Mr. Maynard stated that this is a 3-acre lot of
242 record in a residential neighborhood with no other viable options other than to build a home on the lot.
243
244 Chairman Dunn invited public input
245
246 Mr. Roger Wheeler of 26 Kendall Pond Road addressed the Board. Mr. Wheeler stated that that there is a house lot
247 at 30 Kendall Pond Road and this lot is under water much of the time. Mr. Wheeler stated that there is also water at
248 32 Kendall Pond Road. Mr. Wheeler stated that he has water coming back to his back-car port and he stated that
249 they will not put a bigger drain on the road. Mr. Wheeler stated that he currently has water in his basement and he
250 is concerned that this may get worse over time with more construction. Mr. Wheeler stated that a whole bunch of
251 water is being forced onto his land. Mr. Wheeler is concerned that the water will go through the 8 or 9-inch culvert
252 and the culvert cannot accommodate that much water, never mind what might be added to the lot.
253
254 Joe Pulaski, 30 Kendall Pond Road addressed the Board. Mr. Pulaski stated that he takes his dogs down to
255 Anderson Road . Mr. Pulaski stated that all of the trees on Clark Farm North got cut down 6 months ago and that
256 has made the situation significantly worse. Me. Pulaski stated that he is trying to install a rock wall to try to divert
257 the water. Mr. Pulaski is concerned about drainage and he is also concerned about wildlife in the area since so
258 many of the trees in the area has disappeared.
259
260 Mr. Maynard stated that his wetlands analysis was done after the trees were taken down. Mr. Maynard stated that
261 the Town took over the old railroad corridor from the state of New Hampshire. Mr. Maynard does not know
262 anything about the property going to a neighbor. Mr. Maynard stated that there is a chance that a larger culvert
263 could help the situation but there might also be a recommendation for detention pond. Mr. Maynard stated that he
264 decided to notify anybody that was directly impacted about this meeting, not just the direct abutters. Mr. Maynard
265 stated that he may need to notify abutters all the way up Kendall Pond Road moving forward for the next step.
266
267 Mr. Maynard stated that the state just wants to make sure in a 50-year storm event, the water does not pile up on
268 the road somehow. Mr. Maynard stated that he can approach the wetland board to discuss the drainage in the area
269 and that he would like to somehow retain more drainage on their site. Mr. Maynard and the Board discussed when
270 the calculation of the lot would be complete after being analyzed by the state. Mr. Maynard stated that the surface
271 may change and the infiltration rate on the property will change and there needs to be a flow calculation done on
272 the property.
273
274 Mr. Wheeler stated that the culvert is way over near 29 Kendall Pond Road. Mr. Wheeler stated that when there is
275 snow, the water is being forced onto several properties in the area and state told him they would not install a
276 culvert in the area.
277
278 Mr. Pulaski stated that he is not sure how quickly the water can be tested since the trees were cut own 6 months
279 ago. The proposed house is pretty much in his back yard and he will see someone's house here instead of woods
280 and trees.
281

282 **A motion was made by Ms. Stith to continue Case #13-2022 to a site walk at 5pm on May 17th, 2022 and then**
283 **continued to the next ZBA meeting on May 24th at 7pm. Seconded by Ms. Skinner. Vote 5-0. Motion passes.**
284

285 Ms. Gogumalla asked if Mr. Maynard could get the comments from the Conservation Commission for the next
286 meeting.
287

288
289 **Other Business**

290 Mr. Mello discussed the improvements to the room. The Board discussed the air quality in the meeting room as
291 well and he fact that it has been sub-par for quite some time.
292

293 Mr. Mello stated that the law requires that all meetings have a posted location and a quorum at that location.
294 There is a password and a meeting link on the meeting notice for the Planning Board. Mr. Scholz stated that a
295 Board can vote to allow a Board member to participate remotely.
296

297 A Board is in favor of making the making a remote option available.
298

299 The Board discussed that Mr. Dubay's case would be first on the agenda on May 24th.
300

301 **Meeting Minutes to Review and Approve: [02/22/22](#), [03/22/22](#), [03/29/22](#), [4/12/22](#), [4/26/22](#)**
302

303 These were edited earlier in the meeting with staff. The Board discussed the use of One Drive for the purpose of
304 streamlining the editing process.
305

306 **A motion was made by Ms. Stith to adjourn at 9:35pm. Seconded by Ms. Skinner. Vote 5-0. Motion passes.**
307

308 Respectfully submitted by Anitra Lincicum