

**Town of Windham, ME  
Board of Appeals  
Minutes  
August 3, 2017**

**Call to Order: Quorum met**

**Roll Call and Declaration of Quorum: Present Board members, Marge Govoni, Chair Person, Fred Panico and Chuck Fleck Jr.**

**Absent members; Jim Cobb, Assistant Chairperson, and Joanne Mattiace...  
Staff member present Steve LeBrun, Code Enforcement Officer**

**Minutes: May 4, 2017:**

**In Favor: 1- 2 abstained - Fred Panico and Chuck Fleck abstained.**

**Public Hearings**

**05-17 MB Properties.** – Requesting an amendment to the Conditional Use (previously Special Exception approval) storage of hazardous material as an accessory use to the Heavy Industrial that exists. Zone is I (Industrial Zone) Map 5 Lot 9, for 35 Cherry Ln.

Dustin Roma presented the project to ZBA on behalf of MB properties.

Discussion of the project by the ZBA Board Members.

Board members discussed Conditional Use questions and answers.

**Fred Panico made a motion to approve application as amended w/conditions:**

**Conditions:**

1. Required to notify Fire Department of relocation
2. Required to comply with all State and Federal regulations.
3. Approval goes with the property.
4. This approval is based upon any plans, sketches, drawings or other supporting materials presented by the applicant and all representations made by the applicant at the Board of Appeals hearing on the application, as well as any conditions placed by the Board on the approval. No change shall be made from the application, supporting materials, representations or conditions of approval without the prior approval by the Board of Appeals of an amendment to this approval or a new approval.

**Seconded by Chuck Fleck - All in Favor 3-0**

**06-17 AA Properties LLC** – Requesting a Conditional Use permit of Automobile sales. Zone is C-1 (Commercial 1 Zone) Map 21 Lot 2A-4, 970 Roosevelt Tr.

Dustin Roma presented the project to ZBA on behalf of AA Properties LLC.

Discuss of project by the ZBA Board Members.

Parking, signs, lighting and future expansion were discussed.

Board Members discussed Conditional Use questions and answers.

**Fred Panico made a motion to approve application - seconded by: Chuck Fleck**

Fred Panico rescinded the motion: until conditional use questions were discussed. Chuck Fleck seconded motion.

**All Conditional Use questions have been read and voted on by Board Members.**

**Public participation, there was none. Public Participation was closed.**

**Conditions:**

1. **Required to submit a 20' landscaped buffer strip plan to Code Enforcement for approval.**
2. **The State of Maine Motor Vehicle rules have to be met.**
3. **Car display area only; no structures.**
4. **Approval goes with the applicant.**
5. **This approval is based upon any plans, sketches, drawings or other supporting materials presented by the applicant and all representations made by the applicant at the Board of Appeals hearing on the application, as well as any conditions placed by the Board on the approval. No change shall be made from the application, supporting materials, representations or conditions of approval without the prior approval by the Board of Appeals of an amendment to this approval or a new approval.**

**Fred Panico made a motion again to approve w/conditions  
Seconded by Chuck Fleck –  
All in Favor 3-0**

**07-17 Gary Lytle** – Requesting a variance from the 50' ROW as shown on the approved subdivision plan as 10' (feet). Zone is F (Farm) Map 6 Lot 63-1, 15 Swett Rd.

Gary Lytle presented the submission himself explaining the request for the variance. Setback on the approved subdivision plan shows the building envelope on the 50 ROW side (as being 10') (ten feet).

Submission was discussed by the Board Members.

Letter of denial for an accessory apartment from Code Enforcement was read into the record.

Letter for request of a 10' variance from the applicant was read into the record.

Marge Govoni read requirements for dimensional standards in Section 1109 of the Land Use Ordinance.

Marge Govoni suggested that the submission be tabled.

Wooded buffer area was discussed.

Marge Govoni continued reading dimensional questions.

1. The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood; **All Agree**
2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties; **All Agree**
3. The practical difficulty is not the result of action taken by the petitioner or a prior owner; **All Agree**
4. No other feasible alternative to a variance is available to the petitioner; **Waiting For an answer**
5. The granting of a variance will not unreasonably adversely affect the natural environment; and **All Agree**
6. The property is not located in whole or in part within Shoreland areas as described in 30 M.R.S.A. § 435. **All Agree**
7. The dimensional standard for which the variance is granted is limited to ordinance provisions relating to lot area, lot coverage, frontage or setback requirements. **All Agree**

**Chuck Fleck made a motion to table application for further information**

1. Requesting an as built survey
2. Impact cost estimate on different locations
3. Provide information that there is no other feasible location for accessory apartment on the property.
4. Tabled until August 17<sup>th</sup> @ 7:00 PM

**Seconded by Fred Panico – All in favor 3-0**

Adjournment:

**Chuck Fleck made a motion to adjourn**

**Seconded by Fred Panico  
All in Favor 3-0 (9:09 PM)**

Cordially,

Mabel J. Darby - Morey  
Administrative Assistant  
Code Enforcement Office