



Community Development Department

Town of Windham, New Hampshire

3 N. Lowell Road, Windham, NH 03087 | (603) 432-3806 Ext. 2 | www.WindhamNH.gov

Zoning Board of Adjustment

Approved Minutes

June 16, 2026, at 6:00 PM

3 North Lowell Road, Windham, NH

(Community Development Department)

Attendance:

Mike Scholz, Chair- present

Michelle Stith, Vice Chair- excused

Mark Brockmeier, Secretary- excused

Jeff Faust, regular member- present

Pam Skinner, regular member- present

Galen Stearns, alternate member- present

Staff:

George Frangomihalos- ZBA Administrator/ Code Enforcement

Anitra Lincicum- minute taker (present via Teams)

Public Hearing

Case13-2026

Parcel 17-H-10

Applicant- Karl Dubay

Owners- 60 Range Rd, LLC

Location- 60 Range Rd- Nault's

Zoning- Gateway Commercial/ WPOD/ WWPD

The application requests a variance from **Sections 601.3, 616.6.4.1, 616.8, 616.8.1, 616.8.3**, to make modifications to an existing motorcycle and recreational vehicle dealer to include impacts and improvements within the WWPD and WPOD buffers.

(Continued from the April 28th, 2026, ZBA meeting)

Mr. Faust read the case into the record. This is a continued case.

Mr. Karl Dubay of Dubay Group addressed the Board. Chairman Scholz stated that there was a site walk on June 2nd. Mr. Dubay stated that there would be an updated set of plans for the Board while at that site walk. Addressing the updated plan, Mr. Dubay stated they are trying to clean up some encroachments in the WWPD and WPOD buffer. The plan no longer has any proposed buildings in the WWPD and WPOD buffer. There would be a storage barn with landscaping and fencing near Bank Road on the site. There will be a 50 ft vegetated buffer along Range Rd in front of the storage area with raised berm, fencing, and evergreens screening the storage area on the site. The fence will wrap around the entire storage area. The accessory area on the site will be smaller. Mr. Dubay explained where the wetlands and stream are on the property and there were 3 wetland scientists that took a look at the wetlands on the site. There would be minimal wetland fill in one area and this was proposed long ago from both the town and the state for Nault's driveway access from Bank Rd which will provide access for their customers, suppliers, and

vendors and be secured with an electronic gate. There are several containers on the site, and all of them will be consolidated into the proposed storage barn. Mr. Dubay explained that the variances are inter-related.

Mr. Dubay stated that their intention is to make an improvement to the area and they are adding storm treatment to the area. Mr. Dubay explained that pavement near a wetland now requires a variance, yet, the original intent of the pavement here on this site was for safety. Chairman Scholz asked several questions about a building on the plan and a gravel area shown on site. Mr. Dubay stated that the gravel is the proposed reduction of impervious area. Mr. Dubay discussed the stockade fence and landscaping on the site. The berm is a buffer to separate the storage area. Mr. Dubay discussed the gate; it is completely out of the traffic flow in the area. There is second gate on the site as well that is existing.

Chairman Scholz asked if these are all the variances the applicant would need. Mr. Dubay stated that it is and they have worked closely with staff to refine these. Chairman Scholz asked about the variance request for 616.8 as it seems overly broad given the variance requests for 616.8.1 and 616.8.3. Mr. Dubay agreed 616.8 it is not needed. Chairman Scholz asked about the implementation plan. Mr. Dubay stated that there would be a phased approach as this is a functioning business and the applicant will also need to go before Planning Board. The first step would be to remove the encroachments and revegetate the impacted areas. Next, they would re-establish the front buffer. The third thing would be the storage and activity areas and driveway. The applicant could then start on getting rid of all the storage containers and begin on building the barn. Mr. Dubay mentioned a restoration bond that is sometimes utilized to ensure completion of a project.

Mr. Curt Grenier, the applicant addressed the Board to discuss lighting and phases of construction along with the current conditions of the property. Chairman Scholz asked about the removal of the current buildings in relation to the construction of the barn. Mr. Grenier stated that the current structures would need to be removed to allow construction.

Chairman Scholz invited public comment.

Mr. Steven Andrews, 48 Woodvue, addressed the Board. Mr. Andrews stated he is generally in favor of what's trying to be accomplished, but he has several concerns. Mr. Andrews believes there should be a landscape buffer in front of the (Range Rd) building instead of the 4 wheel drive vehicles up near the property line which makes it feel like an industrial site. He'd like to see a loading zone on the site plan so that the business will no longer have trucks parking on Range Road to make deliveries. Mr. Andrews would like to make sure there's also enough parking for their business on the site to support the use so that they do not trade a loading zone problem for an employee parking problem so there is not parking on or near Range Road. Mr. Andrews discussed winter boat storage because the site is currently being used as such and he does not believe it is zoned for that. Mr. Andrews stated that the applicant has not voluntarily attempted to comply with the zoning for the past year, and a full compliance performance bond should be required. Mr. Frangomihalos confirmed that the violations have been reported to code enforcement.

Mr. Patrick Nysten, 4 Edgewood Road, addressed the Board. Mr. Nysten stated he has a seasonal view of the property. Mr. Nysten said it seems like an industrial site as there is a lot of tractor trailer traffic for this business on Range Road. Making an access from the rear is going to be an improvement. Mr. Nysten discussed the storage area on the property (where boats are currently being stored near Range Rd); he

90 does not think this is an allowed use on the property because it is an expansion of a non-conforming use
91 onto the new lot that was voluntarily merged with the existing lot. Mr. Nysten discussed Section 400 of
92 the Windham Zoning Ordinance - Continuance of Existing Uses and Structures - no increase in the extent
93 of the non-conforming use..., noting Sections 401 and 406. Mr. Nysten does not think boat storage across
94 from a residential neighborhood is appropriate. Mr. Nysten discussed the lot merger and how that relates
95 to the non-conformance of the uses (Sections 1E and 4C of the Voluntary Lot Merger Regulations). Mr.
96 Nysten also submitted a 2012 letter from Town Counsel opining that the sale of vehicles is not a permitted
97 use in the Gateway District or other districts where retail is a permitted use. Mr. Nysten stated that the
98 variances filed do not address the non-conformance of the use on the new lot that was merged. Chairman
99 Scholz labeled the submission by Mr. Nysten as Exhibits A-1, B-1, K-1. Mr. Nysten then addressed the
100 tributary stream; he would like this shown on the plan and noted the tributary stream was also not shown
101 for a Planning Board case next door. Mr. Nysten stated that the use of the site as a boat yard is not an
102 allowed use and does not meet the spirit of the ordinance. Mr. Nysten pointed to the rear half of the the
103 plan and does think that is an improvement to the site but there are pros and cons to this plan. Mr. Nysten
104 also clarified that he does not see a numerical value of the front buffer on the plan from Range Rd, and
105 that needs to be clarified.

106
107 Ms. Vanessa Nysten addressed the Board. Ms. Nysten stated that the tributary stream, which is on the
108 property, is still not shown on the plan. When a stream is on a plan, her understanding is that the level of
109 storm water management increases so it's important for the stream to be shown on the plan. Ms. Nysten
110 stated the WPOD buffer is finally being shown on the updated plan, but that the WPOD buffer should be
111 shown on every page of the plan. Chairman Scholz stated that he can see it on the plan but Ms. Nysten
112 clarified the WPOD buffer is not shown on the Existing Conditions Plan. She stated that the tributary
113 stream is not shown on the plan, but was identified by 2 wetland scientists according to Ms. Nysten,
114 including the recent email from the Town's certified wetland scientist, Mr. Seekamp, as well as other
115 documentation. Ms. Nysten believes the applicant did not indicate the correct date on the summary plan
116 related to the expired variances as the applicant labeled that plan as approved 2012 instead of 2013. Ms.
117 Nysten spoke to the voluntary merger regulations and non-conformity of the lot and that that cannot be
118 increased. Ms. Nysten stated that she would like to submit paperwork to the Board: testimony about the
119 tributary stream from a transcript of a 2022 PB meeting for a court
120 case regarding a property next door (labeled as Exhibit C1 by Chairman Scholz), testimony about what
121 happens if you drop a dye tablet at the top of the wetland (from a transcript of a 2022 PB meeting for a
122 court case regarding a property next door) (labeled Exhibit D1 by the Vice Chair), information about
123 Cobbetts Pond and Canobie Lake water quality (labeled Exhibits E-1 and F-1 by the Chair), 2025 Assessor
124 Card showing the 2021 voluntary lot merger and use code for the property (labeled exhibit G-1), addition
125 of Canobie to the watershed ordinance from 2012 Town Meeting (labeled exhibit H-1). She believes that a
126 WPOD variance should have been applied for in 2013. Next, the Gateway ordinance (labeled exhibit I-1).
127 She believes there's non-conformance of use based on the allowed uses in the ordinance.

128
129 Ms. Betty Dunn addressed the Board and she appreciates the improvements that have been made since
130 the last meeting. Ms. Dunn asked if a pontoon boat would be considered impervious based on how large
131 the surface area is. Ms. Dunn also asked about lighting in the area.

132
133 Mr. Nysten addressed the Board again and asked about the portion labeled storage and stated that the
134 use of the lot needs to be something that is conforming with the ordinance.

136 Mr. Dubay addressed the Board and the public for rebuttal.

137

138 Mr. Dubay stated the applicant would be happy to put signage prohibiting loading and unloading and no
139 parking. The applicant agrees and also agrees there needs to be a parking plan. Mr. Dubay mentioned a
140 performance bond that the applicant would be willing to comply with. Mr. Dubay stated that retail is
141 allowed by right in accordance with 16.8.21 and 16.8.28. Mr. Dubay and the Board then discussed how
142 the voluntary merger might impact zoning. Mr. Dubay stated that the act of merging 2 lots does not make
143 them non-conforming. Mr. Dubay discussed the 100-foot setback to wetlands. Mr. Dubay stated the
144 applicant can show the 100-foot setback from the edge of wetlands. Mr. Dubay stated that he is not
145 contesting the setback from the wetland and the plan has been reviewed by the Conservation
146 Commission, yet, the setback may not need to be from the pipe, just the wetland. The WWPD have been
147 labeled; Mr. Dubay will add the WPOD label to the plan.

148

149 Mr. Dubay stated he will check on the tax card and he and the applicant will work to resolve the tax card
150 question. A pontoon boat is not affixed within the surface of the ground so it is probably not impervious;
151 this was in response to Ms. Dunn's question. The lighting package will be dark sky friendly and the sight
152 will not need large spotlights. Mr. Dubay stated just because 2 lots were merged, it does not mean that
153 there is non-compliance on the second lot. Mr. Dubay would like to do more research with the applicant's
154 attorney on the front display area of the lot. Mr. Dubay stated that the storage is accessory to the retail
155 use; this is not exclusively a boat storage yard according to Mr. Dubay. Chairman Scholz asked if all the
156 the boats on the lot are for sale. Mr. Grenier stated that boats are housed there while waiting for the repair
157 order to be filled.

158

159 Chairman Scholz listed some of the items that the Board and the public would like to see updated on the
160 plan:

161

- 162 -performance compliance bond details for the ZBA record (Planning Board)
- 163 -marking of outlet and tributary stream
- 164 -adding WPOD label
- 165 -date of prior plan
- 166 -updating the lighting in the front of the site
- 167 - history on the existing front area display (which the applicant said they would look into)
- 168 -fence/berm/trees and the height of this feature

169

170 The Chair opened discussion for limited rebuttal.

171

172 Ms. Vanessa Nysten asked if the list can include: no loading on Range Road, no parking on Range Road
173 and be sure the applicant details adequate loading and parking on the lot. Ms. Nysten stated that there
174 were not any WPOD buffers on the plan provided for the previous meeting and she had asked the
175 applicant, staff, and the Board several times that these buffers be shown. Also, she stated that the WPOD
176 and the WWPD are different; they are not the same as they are two different ordinances with two different
177 criteria. Ms. Nysten stated that the WPOD is a much higher standard. Ms. Nysten cited the standard in the
178 WPOD. Ms. Nysten summarized differences between the WPOD and the WWPD.

179

180 Mr. Nysten suggested the Board discuss the motor vehicle issue with their attorney for clarity. He stated
181 that, back in 2012, the applicant tried to spin it as retail. You can merge two lots, but you can't expand a
182 non-conforming use onto a new lot without a variance . Mr. Nysten stated that the Board might consider
183 having their attorney present at the next meeting to speak to the motor vehicle question.

Mr. Andrews mentioned that, regarding winter storage of the boats, to say boats need to be stored for six months to install a fish finder in the spring is non-sensical. In addition, the area displaying the merchandise right by the street was not always used as a display area.

Mr. Grenier stated that wrapping a boat is a paid service, the boat is then wrapped and stored high so the boat can be worked on from underneath. There are 2 employees that work on the boats all winter and that is their work for the winter.

Mr. Dubay stated that he and his firm will be sure to update the plans as requested by the Board and the abutters/residents. Mr. Dubay stated that they are sure to comply with the standards of WPOD. Mr. Dubay reiterated they will show the no parking and loading areas. The applicant only requires 1 stormceptor and that is shown on the plan as proposed and meets the requirements. The stormceptor is at an access point on the site. This is separated from the septic system. Mr. Dubay would like to get legal clarification from the town's attorney and town staff along with the property owner's attorney regarding definition and uses.

Mr. Faust made a motion to continue Case 13-2026 to July 28th at 7 pm. Seconded by Mr. Stearns. Vote 4-0. Motion passes.

Case 16-2026 **Parcel 17-C-101C**
Applicant- SFC Engineering C/O Carole M. Martin
Owner- Carole M. Martin
Location- 2 Cross St
Zoning- Residential District A/ WPOD

The application requests a variance from **Sections 405.2, 405.3, and 702/ Appendix-1**, to raze and replace an existing single-family dwelling, with a new single-family dwelling, on a pre-existing, non-conforming lot of record.

(The applicant requests a continuance to the July 14th, 2026 ZBA meeting for which The Board shall Consider)

Mr. Faust read the case into the record.

Mr. Stearns made a motion to continue Case 16-2026 to July 14th, 2026. Seconded by Mr. Faust. Vote 4-0. Motion passes.

Case 21-2026 **Parcel 7-A-903**
Applicant- George Zalaket
Owner- Same
Location- 5 County Rd
Zoning District- Rural District

The application requests a variance from Section 401, to permit the addition of a second story on a non-conforming garage that received a variance on August 2nd, 1976, to be approximately 23' from the side property line.

230 Mr. George Zalaket, the applicant, addressed the Board. Mr. Zalaket explained that there was a variance
231 granted in 1976 on the property. Mr. Zalaket reviewed the 5 criteria contained in the public packet. The
232 applicant is looking to make use of his property.

233
234 The Board entered deliberative session without opposition.

235
236 Chairman Scholz stated that the location of the garage does make this proposal unique and he does think
237 this is a reasonable request. The surrounding properties do have garages so it does fit with the use of
238 surrounding properties.

239
240 **Mr. Faust made a motion to grant the variance request for Case #21-2026 as presented. Seconded by**
241 **Mr. Stearns. Vote 4-0. Motion passes.**

242
243 Findings of Fact:

244
245 Criteria 1 & 2:

- 246 • There is no threat to public health or safety, and the proposal is consistent with others in the
247 neighborhood.

248 Criteria 3:

- 249 • There is no articulated public interest which would defeat the applicant's interest in this instance.

250 Criteria 4: No evidence has been presented which, in the experience, knowledge, and understanding of the board
251 members, would decrease surrounding property values.

252 Criteria 5:

- 253 • Custom to the property.
254 • Location of Existing structure and its unique setting since last variance in 1976

255
256 **Mr. Stearns made a motion to approve the Findings of Fact for Case #21-2026 as presented.**
257 **Seconded by Mr. Faust. Vote 4-0. Motion passes.**

258
259 **Case 27-2026 Parcel 19-B-507**
260 **Applicant- Cally Weymouth**
261 **Owners- Cally & Lawrence Weymouth, III**
262 **Location- 63 Mammoth Rd**
263 **Zoning- Rural District/ WWPD**

264 The application requests an amendment to a previously approved variance that was granted relief
265 at the January 14, 2025, Zoning Board of Adjustment meeting. The Board placed conditions on the
266 property, and the condition the applicant is requesting to remove is listed as "Condition 3"; "No
267 commercial operations out of the garage and no living space in the garage".

268 **(Continued from June 9th, 2026, per the applicant's request)**

269
270 Mr. Faust read the case into the record.

271
272 Ms. Cally Weymouth addressed the Board; she is the applicant. Ms. Weymouth stated she is looking for a
273 variance to support mothers who recently had children. Ms. Weymouth does have a studio near Nault's
274 but that space will not work for the proposed use of the barn on her property and she would like to use this
275 space in a different way than her studio.

276
277 Mr. Frangomihalos stated that the applicant has not paid for the variance but they have paid for
278 notification of abutters and the notice. The Board and Mr. Frangomihalos discussed the best way to
279 proceed based on what was noticed, what was paid for and what application was before the Board.
280
281 Mr. Shayne Gendron of Edward N. Herbert and Associates addressed the Board. Mr. Gendron submitted a
282 letter of authorization to the Chair and is representing the applicant. Mr. Gendron stated he walked the
283 site with the applicant a month ago and is familiar with the septic system that was installed on the site in
284 2022. The septic system can accommodate both the 4-bedroom home and the proposed use of the barn.
285 The building is existing and has been on site since the 1960's but the structure is not viewable from the
286 street. Mr. Gendron cited Section 602.6.1. The driveway is existing. The Board also discussed the use of
287 the building; it would not be for living space.
288
289 Mr. Gendron asked if there was a restriction on installing a small bathroom in the barn based on use.
290 There would not be.
291
292 The Board and Mr. Gendron discussed the use of the barn prior to this request; it had been used for
293 different small businesses in the past.
294
295 The Chair invited public comment.
296
297 Mr. Rodney Layman, 57 Mammoth Road, addressed the Board. Mr. Layman is in opposition to the request.
298 Mr. Layman stated that all interested parties were aware of Condition #3. Mr. Layman would like to know
299 that circumstances have changed since the condition was placed. Further, Mr. Layman stated that his
300 property would lose approximately 7% of the value were the variance granted based on a recent appraisal.
301 Mr. Layman is in opposition to the request. Mr. Layman submitted the appraisal and it was labeled Exhibit
302 A by Chairman Scholz.
303
304 Richard Crawford, 55 Mammoth Road, addressed the Board. Mr. Crawford does not believe there should
305 be a commercial service on the property. Mr. Crawford stated they already have an issue with an abutting
306 business. Mr. Crawford thinks the business is better suited for a commercial property instead of on the
307 applicant's property.
308
309 Chairman Scholz asked Mr. Gendron if there was a plan to put a replacement structure on the property.
310 Mr. Gendron stated there was a plan approved in 2022 that went before the Planning Board which did not
311 go before ZBA at that time. Mr. Gendron submitted that plan and Chairman Scholz labeled it Exhibit B.
312
313 Mr. Gendron read a letter of support from Erin and Matt Russell, Mammoth Road, a direct abutter, in
314 support of the business.
315
316 Mr. Steven Roberts, 59 Mammoth Road, addressed the Board also wrote a letter in support of the variance
317 request.
318
319 Mr. Gendron stated that this is not a commercial use; this is an in-home business.
320
321 Chairman Scholz addressed Mr. Layman about his letter from the appraiser. The appraisal was written
322 about a different local business.
323

324 Ms. Weymouth addressed the Board and stated that her business across town is not suitable for young
325 moms and her property will allow her to provide a service to young expectant moms. Ms. Weymouth
326 stated that having it at home will allow her to provide a service for young moms. Providing a service for
327 expectant moms means she will need a bathroom and a septic system.
328
329 Mr. Crawford mentioned a recently approved business for dogs which also required a variance.
330
331 The Board entered deliberative session without opposition.
332
333 Chairman Scholz stated that the condition placed on the barn was a concern around using it as a
334 dwelling. He does not think there is a change in ordinance. Chairman Scholz does not think removing a
335 condition is in the best interest of the Board and he does not think it meets the 5 criteria.
336
337 Mr. Stearns stated there was rationale when the condition was placed. Chairman Scholz does not see a
338 change in circumstance or ordinance. Chairman Scholz recalls the barn was not going to be used as living
339 space or commercial space.
340
341 Mr. Faust stated he is looking for the distinction between a commercial space and a home occupation
342 use. Also, what would have changed to make the property unique now.
343
344 Mr. Stearns stated that the applicant in 2022 was going to use the garage as storage, not for anything else.
345 Home occupation is arguably a quasi-commercial use according to Chairman Scholz. Mr. Stearns further
346 stated there was a lot that went into the use of the garage during the 2022 hearing.
347
348 **Mr. Stearns made a motion to deny Case #27-2026. Seconded by Ms. Skinner. Vote 3-1. Mr. Faust**
349 **opposed. The Chair advised of the 30-day appeal period.**
350
351 **Findings of Fact:** N/A See NOTE
352
353 Criteria 1 & 2:
354 • There is no threat to public health or safety, and the proposal is consistent with others in the
355 neighborhood.
356
357 Criteria 3:
358 • There is no articulated public interest which would defeat the applicant's interest in this instance.
359
360 Criteria 4: No evidence has been presented which, in the experience, knowledge, and understanding of the board
361 members, would decrease surrounding property values.
362 Criteria 5:
363 • Custom to the property.
364
365 Note: This was a hearing to remove existing condition. Board voted 3-1 to Deny as there was no ordinance
366 relief sought to modify. Findings of fact N/A for this case.
367
368 **Mr. Stearns made a motion to approve the Finding of Fact for Case 27-2026 as presented. Seconded**
369 **by Ms. Skinner. Vote 4-0. Motion passes.**

368 [Case 33-2026](#) Parcel 3-B-265-17.46
369 Applicant- Eric Lavoie

370 **Owners- Eric and Elizabeth Lavoie**
371 **Location- 46 Hadleigh Rd**
372 **Zoning- Rural District/WWPD**
373 The application requests a variance from **Section 610.7.1.4** to permit the construction of an 8' x
374 8' deck that would encroach within the required 35' horizontal separation between buildings.
375
376 Mr. Eric Lavoie addressed the Board; he is the applicant. The packet submitted was labeled Exhibit A by
377 the Chair. Mr. Lavoie reviewed the 5 criteria. The applicant submitted pictures of his existing deck.
378
379 Discussion between the applicant and the Board and the best way to proceed and the applicant was
380 continued to August 11th
381
382 **Mr. Faust made a motion to continue Case #22-2026 at 7 pm to the first case on August 11th, 2026.**
383 **Seconded by Mr. Stearns Vote 4-0. Motion passes.**
384
385 Chairman Scholz explained the process moving forward and staff would try to get information from fire
386 regarding the setback.
387
388 **Mr. Faust made a motion to adjourn at 8:47 pm. Seconded by Mr. Stearns. Vote 4-0. Motion passes.**
389
390 Respectfully submitted by Ms. Anitra Lincicum