

Wolfeboro Zoning Board of Adjustment

Regular Meeting
7 November 2016

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Minutes

Book No. _____ Page No. _____
Catherine P. Walker
WOLFEBORO, N.H. TOWN CLERK

Members Present: Fred Tedeschi, Chairman, Mike Hodder, Vice- Chairman, Chris Franson, Clerk, Hank Why and Suzanne Ryan, Members, and Susan Raser, Alternate

Members Absent (excused): David Senecal and Sarah Silk, Alternates

Staff: John Krebs, Interim Planner, Robin Kingston, Administrative Assistant

Chairman Tedeschi called this meeting to order at 7:00 pm at the Wolfeboro Public Library Meeting Room. A quorum was present.

TM# 146-14

Case # 21-V-16

Applicant: Joanne Moody

Variance

156 Trotting Track Road

Agent: Dan Coons

Public Hearing for a Variance from Section 175-85 A. 1 of the Wolfeboro Planning & Zoning Ordinance to allow the construction of a detached 1 car garage that will encroach into the front setback. This property is located at 156 Trotting Track Road.

Chris Franson read the public and abutter notification. A site visit was held at approximately 4:55 pm and minutes were submitted for the record.

The proposal is to construct an 18' x 24' detached garage with proposed setback of 18' where 30' is required. The approximate total area of encroachment of 198+- sq. ft. Due to the location of the wetlands, and the layout of the existing home (bay window on westerly façade) locating the garage 10'-12' into the front setback reduces wetland impacts and provides adequate vehicle parking in the driveway and off Trotting Track Road, and allows the configuration to the home to remain intact.

Dan Coons reviewed the plans, application and five points required for the variance as submitted.

The Board clarified this proposal is for a detached garage and fill on the side where there is a steeper grade.

Dan Coons explained there would need to be fill on the rear side to level off the grade.

No person spoke in favor or against the application and the Public Hearing was closed.

Deliberations:

The Board reviewed and deliberated the 5 criteria required for the Variance as follows:

1. The variance will not be contrary to the public interest.
The Board agreed this criterion was met.
2. The spirit of the ordinance is observed.
The Board agreed this criterion was met.
3. That substantial justice is done.
The Board agreed this criterion was met.
4. The values of surrounding properties will not be diminished.
The Board agreed this criterion was met.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because: The Special Conditions of this property that distinguish it from other properties.
(B) Owing to special conditions of the property, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.
The Board agreed this criterion was met.

It was moved by Mike Hodder and seconded by Suzanne Ryan to grant the Variance request for ZBA Case # 21-V-16, TM# 146-14 for construction of a detached one car garage encroaching approximately 12' into the front setback with the requirement that a drip edge for the revised location of the garage be indicated on the revised plan per the requirement of the TRC with the following conditions:

1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
2. The application, as submitted to the ZBA, does not satisfy all applicable requirements for a building permit.
3. The applicant shall pay all recording fees.

4. *This Variance shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause.*

TM# 223-3-2

Case # 22-V-16

Applicant: Grosvenor Congrove RVCBL Realty Trust

Variance

60 Point of Pines Road

Public Hearing for a Variance from Section 175-64 of the Wolfeboro Planning & Zoning Ordinance to allow the construction of an 8' x 14' shed that will encroach into the side line setback. This property is located at 60 Point of Pines Road.

Chris Franson read the abutter and public notification. A site visit was held at approximately 4:20 pm. Minutes were submitted for the file.

This proposal is to construct an 8' x 14' shed with proposed setback of 10' where 25' is required. The application incorrectly states the sideline setback is 15' however, the subject parcel has 272.06' of shorefront, requiring a sideline setback of 25' resulting in an encroachment into the side yard setback of 15+- feet. The total area of encroachment is 112'+- sq. ft.

The applicant reviewed the application, plans and requirements for the variance as submitted with the application.

Mike Hodder asked about the location as the plan does not show setbacks.

Mr. Grosvenor the stated he showed the location on the plan and one corner is 10' and the other corner is 10 ½ ".

Chris Franson asked about the recommendation for denial.

John Krebs noted after viewing the site it does not make sense to relocate the shed from the proposed location and if the abutter has no issue with the side setback encroachment.

Public Comments:

A letter in favor was received from Tracy Sandford Whitehead, Valerie Clough Sandford, Lucinda Sandford Landreth, Catherine Sandford Morgan and Sarah Sandford-Miller owners of 74, 76, 86 & 90 Point of Pines Road and surrounding parcels.

Linda Murray owner with her relatives of parcels 12-5-54, 12-5-20, 12-5-21 and 12-5-22 and abutters to the subject property, spoke in opposition to the shed in the proposed location. A plan was displayed showing alternative locations to the proposed location where the applicant can meet all the setback and the shed would not interfere with their view. The Board was encouraged to deny the application. There are no special conditions to this property. The property can be used and the proposed shed can be constructed without cutting trees. This will be contrary to the public interest. The parcel she and her relatives own is used all summer to access the water. The shed can be located in at least two other places as the proposed location negatively impacts the beach lot. A letter in opposition has been submitted for the file.

The Board asked about the existing shed and asked what the difference would be between the current and proposed.

Linda Murray responded it is ok because it already exists.

Mr. Grosvenor responded and stated they value the space they have and given a noise relief. The suggestion the shed could be located further towards the road is not feasible as the trees do not allow it to go much further. The only parking they have is in the driveway and they need both sides to get out. The circle is the only other parking area they have and it is a hardship to the property if this were to be eliminated and they are trying to preserve the buffer. Looking from the Murray property there is no real obstruction from the front of the porch to the water except for possibly a slight impact from the corner of the porch. They are concerned with the values of the surrounding property values.

Linda Murray responded she is not opposed to having a shed just in the location proposed and the shed will be in their view line. This is about property rights and not being in compliance with the zoning. The setback is 25' and not 15'. Unless there is a hardship there is no reason to grant a variance as this was the intent of the voters of Wolfeboro who passed the ordinance and required setbacks.

The Board discussed the driveway configuration being changed to accommodate the shed to be in compliance with zoning, the lack of a scaled plan with accurate setbacks as well as making sure all permissions of the condominium owners has been submitted. A withdrawal of the application was discussed.

Mr. Grosvenor requested a withdrawal of the variance application.

It was moved by Suzanne Ryan to motion to withdraw the plan. No second was made.

The Board discussed the applicants request to withdraw the application.

Mr. Grosvenor requested the plan and application be withdrawn to resubmit proper plans and relook at the property for relocation a possibility.

It was moved by Suzanne Ryan that the Board consent to the applicant withdrawing his plan and resubmitting with more accurate information with an eye towards not obstructing the view of the abutters. No second was received.

It was moved by Mike Hodder and seconded by Chris Franson to grant the applicant's decision to withdrawn the application. Mike Hodder, Chris Franson, Fred Tedeschi and Hank Why voted in favor. Suzanne Ryan voted in opposition. The motion passed.

Linda Murray stated the decision is out of order as the applicant has the chance to put in the same application.

The Board discussed the applicant submitting the same application versus denying the application.

Roger Murray stated you are giving him two tries to submit the same application and the decision is out of order.

Case # 23-V-16

TM# 242-8

Applicant: Robert & Helen Conrad

Agent: Shannon Alther, TMS Architects

Variance

165 Clark Road

Public Hearing for a Variance from Section 175-64 of the Wolfeboro Planning & Zoning Ordinance to allow the replacement of an existing dwelling on the existing footprint and relocation of existing garage to be attached to the dwelling 8' x 14' shed that will encroach into the side line setback. This property is located at 165 Clark Road (corrected address).

Chris Franson read the abutter and public notice. A site visit was held at approximately 4:00 pm. Minutes were submitted for the file.

The proposal is to raze the existing dwelling and two car garage and construct a new home with an attached two-car garage located almost entirely within the front and side setbacks.

Shannon Alther reviewed concept, plans and five points required for the variance as submitted with the application. The application as submitted with the five criteria as submitted was reviewed. The site conditions are being worked with. A letter from the abutter in favor of the application was noted.

The Board discussed type and certainty of pervious material long range.

John Krebs explained there are different pervious materials and his concerns would be over what is chosen and maintenance long term.

Shannon Alther explained there is pervious pavement which requires maintenance and vacuuming and a permible paver which is aqua block in which the applicant is looking to use. The pavers currently existing are sitting on the ledge. With the permeable paver, they would work with the existing ledge condition. The septic system would be relocated and moved further from the water. There will be no encroachment over the property lines and lot lines and setbacks will be verified

The Board discussed they are focusing the movement of the garage location and attaching it to house as well as the overhang and drip edge encroachment. The applicant could tear the house down and rebuild it as is. Also noted was the actual driveway would be longer. Also discussed were accurate, scaled plans and more accurate data needed.

Shannon Alther requested a continuance of the application to enable the concerns noted by the Board and discussed to be addressed.

Hank Why has been recused from this application and Susan Raser was seated.

It was moved by Suzanne Ryan to continue the application Case # 23-V-2016, Conrad, to the ZBA Meeting on December 5, 2016 at 7 pm, Wolfboro Public Library Meeting Room. Mike Hodder seconded the motion. All members voted in favor.

TM# 148-17

Case # 24-V-16

Applicant: Garrison Grubisa

Variance

591 Center Street

Agent: Scott Aim, Owner of Peerless Motor Company

Public Hearing for a Variance from Section 175-88.4 of the Wolfeboro Planning & Zoning Ordinance to allow for the change of use from storage space to a workshop for the installation of custom motorcycle parts. This property is located 591 Center Street. A site visit was held at approximately 4:40 pm.

Chris Franson read the public and abutter notification. A site visit was held at approximately 4:40 pm and minutes were submitted for the record.

The proposal is to convert the basement storage space under the retail unit on the right side of All About Kitchens to a motorcycle repair facility.

Scott Aim addressed the Board, reviewed the plan and 5 points required for the variance as submitted for the record. They will be installing custom aftermarket motorcycle parts including wheels and tires, painted sets and some performance work. There is no intention off fabrication work and altering exhaust to make it louder as NH State Law and the EPA has a decibel level requirement.

The Board asked about test rides, gatherings, fuel and chemical storage and engines running in the shop.

Garrison Grubisa responded they are looking into a water based degreaser and the amount of chemicals they would be using are minimal and equated if a spill happened it would be a coffee cans amount at most and would be contained. The plan is to take good working parts of a bike and installing new ones. They are not fixing broken motorcycles like an auto repair shop. They plan to be an inspection station and will have to meet the requirements.

Public Comments:

Opposition to application:

Carl Crossley, 5 North Kenny Shore stated this proposal does not fit in the Rural Residential Zone. There are some properties that are commercial and there are residential properties on Allen Street and behind the property is a cluster of residences on Kenny Shores. They are concerned with automotive products and are concerned with exposing the wetlands and Lake Wentworth. There is no hardship to this property.

Karen Kurie, Trustee of the Karen Kurie RVCBL Trust spoke in opposition. The application is made based on this not being a residential area which she disagrees with. She is concerned with the applicant when starting a business based on customization of motorcycles, it is necessary that they take on other business and who is going to police that. It would be hard for anyone to supervise what they are doing. If they are going to test drive motorcycles or in the

parking lot or behind the building this will have an impact on her and other residents in this residential area.

Rebuttal to opposition:

Garrison Grubisa stated there is no chance of harming the wetlands. They are willing to propose placing a 2" containment lip within the garage door. This is located within the RR Zone however this property is surrounded by other businesses and the zone was changed after the fact. Within the 100' abutter zone there are no residential properties. This business is a 9 am – 5 pm business, is not a hangout, and is not a bar. Changing engines is not repairing a broken car like Auto Care plus. This is a very clean situation. Motorcycles have sealed batteries and there will be limited fuel handling.

In Favor:

Chris McLean stated behind this property he owns two acres of undeveloped land as well as the Kingswood Youth Center and then the right-of-way by the State before you reach MR. Crossley's zone. It is at least 3/10th of a mile and is similar to the distance Bradley's Power Equipment is. The abutting lot to his was just purchased and this lot is also in the RR zone and is being taxed at a commercial rate. There are no residential neighbors on Route 28 in the RR zone which makes it flawed from the concept of it. It was commercial before it was residential.

Chris Franson explained the purpose is to protect and establish neighborhood. The Planning Board was trying to look to the future.

Chris McLean stated the purpose of zoning is to protect and established neighborhood and if the established neighborhood was truly residential the zoning is flawed.

Roger Murray Esq. commented the area had been residential in prior years and certain areas were commercial.

The Board discussed DMV Approval.

Garrison Grubisa stated they will be conducting inspections and part of the inspection requirements is to test decibels and verifying all motorcycle parts are street legal.

The Board discussed many factors to consider and giving a fair in understanding of activities that will be taking place.

The Public Hearing was closed.

The Board reviewed and deliberated the 5 criteria required for the Variance as follows:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The Board agreed these criteria have been met.

3. That substantial justice is done.

The majority of the Board agreed this criterion has been met. The change of use is a continuation of status quo. This is one commercial use expanding to another. The initial variance was granted and substantial justice is being done by the initial granting of the variance. A change of use from one kind of use to another continues the finding of the initial variance committee where substantial justice was done.

4. The values of surrounding properties will not be diminished.

The majority of the Board agreed this criterion has been met. There has been no testimony towards the diminution of property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because: The Special Conditions of this property that distinguish it from other properties.

(B) Owing to special conditions of the property, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The majority of the Board found this criterion has been met. The surrounding properties are commercial and it is unlikely to be used for the purposes the Zoning Ordinance permits for purposes of a residential in the middle of the commercial properties. No matter how it is zoned there are existing commercial uses surrounding this property.

It was moved by Fred Tedeschi to grant the variance requested for TM # 148-17, Case # 24-V-16, applicant: Garrison Grubisa for a variance from Section 175-88.4 of the Wolfeboro Planning & Zoning Ordinance to allow for a change of use from storage space to a workshop for the installation of custom motorcycle parts with the following conditions:

1. *All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.*
2. *The application, as submitted to the ZBA, does not satisfy all applicable requirements for a building permit.*
3. *The applicant shall pay all recording fees.*
4. *This Variance shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause.*

Hank Why seconded the motion. Fred Tedeschi, Chris Franson and Hank Why voted in favor of the motion; no member voted in opposition; Mike Hodder and Suzanne Ryan abstained from the vote. The motion passed.

Consideration of Minutes:

12 September 2016

Amendments:

Page 1 – 5th line change Chairman Tedeschi to Vice-Chairman Hodder

Page 5 – 10th line down change “by” to “but”

It was moved by Mike Hodder and seconded by Susan Raser to approve the Minutes of 12 September 2016 as amended. Mike Hodder, Hank Why, Suzanne Ryan and Susan Raser voted in favor. Fred Tedeschi abstained due to his absence. The motion passed.

Other Business:

FIT Lawsuit

No additional information has been received at this time.

Town Planner

The Board would like to schedule a meeting with the new planner one evening if possible. Staff will try and schedule a meeting and inform the Board.

There being no further business, this meeting was adjourned at 9:16 pm.

Respectfully Submitted,



Robin Kingston
Administrative Assistant