

**Wolfeboro Zoning Board of Adjustment**  
**Monday, March 7, 2016**  
**7:00 pm**  
**Wolfeboro Public Library Meeting Room**

Call to Order:

**1. Appointments:**

a. **TM# 217-19**

**Case #02-V-16**

**Applicant: Huggins Hospital**

**Variance**

**90 Mill Street**

**Agent: Jim Rines, White Mountain Survey & Engineering, Inc.**

b. **TM# 234-16 - Unit 9**

**Case # 03-SE-16**

**Applicant: Karen Grogin**

**Special Exception**

**1-9 PVL – Unit 9**

**Agent: Rick Eaton**

**2. Rules of Procedure:**

a. **Adoption of Rules of Procedure**

**3. Consideration of Minutes:**

a. Monday, February 1, 2016

b. Wednesday, February 17, 2016

**4. Other Business:**

Posted: 2 March 2016 – Wolfeboro Town Hall and the Wolfeboro Public Library

*\*\*If there is anyone with a disability needing modification and/or auxiliary aid to access this meeting, please notify the Department of Planning & Development at 569-5970 prior to this meeting.\*\**



*Town of  
Wolfeboro*

**AMENDED PUBLIC NOTICE  
ZONING BOARD OF ADJUSTMENT  
WOLFEBORO, NEW HAMPSHIRE**

Notice is hereby given that the Zoning Board of Adjustment will meet on **Monday, 7 March 2016 at 7:00 PM** in the Wolfeboro Public Library Meeting Room to conduct the following business:

**TM# 217-19**

**Case #02-V-16**

**Applicant: Huggins Hospital**

Public Hearing for a Variance from Article XXII, Section 175-105 A (1) of the Wolfeboro Planning & Zoning Ordinance to enhance handicap access/parking through reconfiguration; reduction in setback violation; and reduction in lot coverage. This property is located at 90 Mill Street. A site visit will be held at approximately 4:15 pm prior to the hearing.

**TM# 234-16 - Unit 9**

**Case # 03-SE-16**

**Applicant: Karen Grogin**

Public Hearing for a Special Exception from Section 175-43 A (1) of the Wolfeboro Planning & Zoning Ordinance to remove an existing 5' x 7' deck and stairs and install a new 5' x 27' deck and stairs. *This property is located at 1-9 PVL Lane, Unit 9.* A site visit will be held at approximately 4:45 pm prior to the hearing.

If there is anyone needing modifications and / or auxiliary aid to access this meeting, please notify the Planning Department at least 72 hours prior to this meeting.

Posted: March 3, 2016

Wolfeboro Town Hall & Public Library

Granite State News

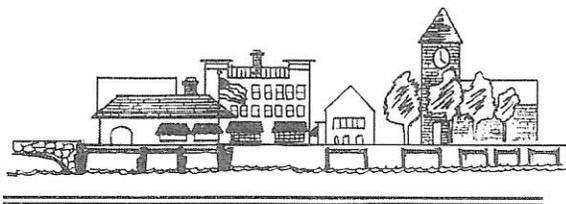


# WINTER SITE VISIT REMINDER

The bus leaves the  
Town Hall Parking Lot  
at **4:10 PM**

a. TM# 217-19  
Case #02-V-16  
Applicant: Huggins Hospital  
Variance  
90 Mill Street  
Agent: Jim Rines, White Mountain Survey & Engineering, Inc.  
**Approximately 4:15 pm**

b. TM# 234-16 - Unit 9  
Case # 03-SE-16  
Applicant: Karen Groggin  
Special Exception  
1-9 PVL – Unit 9  
Agent: Rick Eaton  
**Approximately 4:45 pm**



Town of  
Wolfeboro

Planning and Development

## MEMORANDUM

**Date:** February 22, 2016

**To:** Zoning Board of Adjustment

**From:** Robert T. Houseman, Director of Planning and Development

**Subject:** Variance, request for relief from ARTICLE X, § 175-115 of the Wolfeboro Planning and Zoning Ordinance

**Initiated by:** Huggins Hospital-Back Bay Rehabilitation

**Tax Map:** 217-19

**Case #:** 02-V-16

**Agent:** None

**Planner's Remarks:** The applicant is seeking a Variance to Section 175-105 in order to modify the parking to allow for additional handicapped parking in front of the facility. The proposal creates a new encroachment into the front setback. The applicant has submitted surveyed drawings of the proposal. The request for the Variance is based on the following provision of the Wolfeboro Zoning Ordinance:

Article XVII. Bay Street Limited Business District

§ 175-105. Setback requirements; height requirements; coverage.

A. Setback requirements.

**(1) Front yard: 20 feet.**

(2) Side yard: 15 feet.

(3) Rear yard: 20 feet.

(4) Shore yard: 50 feet.

B. Maximum height permitted: 30 feet, for structures with roofs with a pitch of less than 10/12, and 35 feet if 10/12 or greater. However, the height restrictions shall not apply to appurtenant structures, such as church spires, belfries, cupolas,

domes, chimneys, flagpoles, antennas or similar structures; provided, however, that no such structure shall exceed a maximum footprint of 144 square feet.  
[Amended 3-14-2006 ATM by Art. 2]

C. Percent lot coverage: 60%.

**SETBACK** An open space on the same lot with a building and/or any swimming pool, tennis court or like structure, open and unoccupied.

**SETBACK, FRONT** A setback extending across the full width of a lot between the front lot line and the foremost point of any swimming pool, tennis court or like structure, and the foremost building excluding steps.

**STRUCTURE** That which is built or constructed with a fixed location on the ground or attached to something having a fixed location on the ground. **Structures include but are not limited to a** building, swimming pool, billboard, pier, septic system, **parking space/parking lot** and deck. It shall not include a minor installation such as a fence under six feet high, a mailbox or a flagpole.

#### **Proposed encroachment**

Front yard - approx. 15 ft. 5 ft. new encroachment since the existing parking lot encroaches 10 feet into the front setback (5 feet from the property line).

The proposed footprint within the setback area triggers the variance.

If the Board, after its deliberations on the case, considers approving this application, Staff would recommend that the ZBA consider the following conditions of approval:

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 Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.
3. 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.

I hope this information provides you with some assistance. Please call me if you have any questions or need additional information.



*Town of  
Wolfeboro*

**ABUTTER PUBLIC NOTICE  
ZONING BOARD OF ADJUSTMENT  
WOLFEBORO, NEW HAMPSHIRE**

Notice is hereby given that the Zoning Board of Adjustment will meet on **Monday, 7 March 2016 at 7:00 PM** in the Wolfeboro Public Library Meeting Room to conduct the following business:

**TM# 217-19**

**Case #02-V-16**

**Applicant: Huggins Hospital**

Public Hearing for an Variance from Article XXII, Section 175-105 A (1) of the Wolfeboro Planning & Zoning Ordinance to enhance handicap access/parking through reconfiguration; reduction in setback violation and reduction in lot coverage. This property is located at 90 Mill Street. A site visit will be held at approximately 4:15 pm prior to the hearing.

Copies to:

- Town Manager
  - Codes Officer
  - Police Chief
  - Fire Chief
  - Conservation Commission
  - Assessor
  - Public Works Department
  - Municipal Electric
  - Department of Water & Sewer
  - Planning Department
  - File
- Huggins Hospital
  - White Mountain Survey & Eng. Inc.
  - Casual Dog Revocable Trust
  - Sutherland
  - First Christian Church of Wolfeboro
  - Frederick R. Gagne Revocable Trust
  - Bay Supply Company, Inc.
  - Maratos
  - Wentworth Realty Trust



## V. PUBLIC HEARING

The conduct of the public hearing shall be governed by the following rules:

- A. The Chair shall call the hearing in session.
- B. The Clerk shall read the notice and report on how public notice and personal notice was given and if a site visit was held the clerk will report such.
- C. Members of the Board may ask questions at any time during testimony.
- D. Each person who appears shall be required to state her/his name and address, and indicate whether he/she is a party to the case or an agent or counsel of a party to the case.
- E. Any member of the Board, through the Chair, may request any party to the case to speak a second time.
- F. Any party to the case, who wants to ask a question of another party of the case, must do so through the Chair, but only at the discretion of the Chair.
- G. The applicant shall be called to present her or his appeal and those appearing in favor of the appeal shall be allowed to speak.
- H. Those in opposition to the appeal shall be allowed to speak.
- I. The applicant and those in favor of the appeal shall be allowed to speak in rebuttal.
- J. Those in opposition to the appeal shall be allowed to speak in rebuttal.
- K. When the public portion of the hearing is declared closed, no further testimony will normally be received from the applicant or any other party or interested person. However, to avoid the appearance of injustice, the Chair shall have the authority on a majority vote of the board to reopen the hearing to allow such limited additional testimony as may in the Chair's judgment be thought necessary to clarify one or more questions that may have arisen during the board's deliberations, provided that the applicant(s) and all interested parties are still present and in attendance. The board may continue the public hearing to a subsequent meeting if all interested parties are not still present and in attendance Notice shall be given of the continuance.

The Board has the authority to reopen the hearing at the next board meeting if the board feels that reopening the hearing is necessary because the applicant and/or any interested party has departed. Notice shall be required and the cost of said notice shall be the responsibility of the applicant.

## VI. DECISIONS

The Board will endeavor to decide all cases immediately after the public hearing. The Board may approve with conditions, deny the application, or defer its final decision. The Board's Notice of Decision will be made available within 5 business days as required by RSA 676:3, and will be sent in a timely manner to the applicant and other appropriate parties in interest. If the application is denied, the notice shall include the reasons for the denial.



ZONING BOARD OF ADJUSTMENT

*Town of  
Wolfeboro*

17 February 2016

Dear Applicant;

The Wolfeboro Zoning Board of Adjustment has scheduled a meeting on Monday, March 7, 2016 at 7 pm in the Wolfeboro Public Library Meeting Room relative to your submitted application(s). A site visit has been scheduled at approximately 4:15 pm the day of the meeting. It is advisable that either your or a representative be present at the time of the site visit to answer questions the Board may have. As a site visit is not a public hearing and no additional comments will be accepted,

If you have any questions, please feel free to contact me at 603-569-5970.

Sincerely,



Robin Kingston  
Administrative Assistant

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*South Main Street Post Office Box 629 Wolfeboro, New Hampshire 03894*

*(603) 569-5970*



**TOWN OF WOLFEBORO**  

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**ZONING BOARD OF ADJUSTMENT**

**VARIANCE**

Section II -- (To be prepared by Applicant)

Date: 2-9-16

NOTE: Additional information may be supplied on separate sheet if the space provided is not inadequate.

TO: Zoning Board of Adjustment  
Town of Wolfeboro  
P.O. Box 629  
Wolfeboro, New Hampshire 03894-0629

1. Having been denied a permit by the Wolfeboro Building Official for the reason specified in Section I: NOTICE OF ZONING DECISION (Copy Attached). I hereby appeal the decision and request the Board of Adjustment to schedule a public hearing to consider this appeal.
2. I realize that providing the complete information requested below is the responsibility of the undersigned applicant and must be provided before a public hearing can be scheduled by the Board. I understand that it is my responsibility to present this appeal to the Board.

- a. Type of Appeal: Variance X
- b. Basis for Appeal is Article XVII, Section 175-105 of the Wolfeboro Planning and Zoning Ordinance A(1)
- c. Location of property in question: 90 MILL STREET
- d. Tax Map number: 217 Lot Number: 19 Sub Lot: \_\_\_\_\_  
BAY STREET LTD. BUS. DIST.
- e. Zoning District: RESIDENTIAL DIST.
- f. Name of Applicant: HUGGINS HOSPITAL
- g. Mailing Address of Applicant: % WHITE MTN. SURVEY & ENG'G, INC.

**TOWN OF WOLFEBORO**

**ZONING BOARD OF ADJUSTMENT**

PO BOX 440; OSSIPEE, NH 03864-0440

h. Phone Number of Applicant: 539-4118

i. E-mail Address: jrines@whitemountainsurvey.com

j. Name of Company (if applicable): \_\_\_\_\_

k. Legal Owner of the Property: HUGGINS HOSPITAL

l. Mailing Address of Property Owner: 240 SOUTH MAIN ST.  
WOLFEBORO, NH 03894

m. Proposed use of property or modification of existing use: TO ENHANCE HANDICAP ACCESS/PARKING THROUGH PARKING RECONFIGURATION; REDUCTION IN SETBACK VIOLATION AND REDUCTION IN LOT COVERAGE.

n. Directions to the property from the Wolfeboro Town Hall: HEAD NORTH ON MAIN ST TO MILL ST. TAKE A RIGHT ON MILL ST AND THE PROPERTY WILL BE ON YOUR LEFT JUST BEYOND LIBBY ST.

o. Are there any current Zoning Violations on the property other than those that may be listed on this Application? (If Yes, please fully describe below).

NOT TO MY KNOWLEDGE

I understand that I must appear in person at the public hearing scheduled by the Board of Adjustment to present this appeal. If I cannot appear in person, I will notify the Board in writing of the name of the individual I designate to represent me at the hearing. I also understand that it is my sole responsibility, as the applicant, to provide ALL of the information required to the Secretary of the Board of Adjustment before a hearing can be scheduled.

AGENT by: WMS&E, INC.  
James J. Junc 2-9-16  
Applicant's Signature Date

**TOWN OF WOLFEBORO**  
**ZONING BOARD OF ADJUSTMENT**

**VARIANCE REQUEST:**

The undersigned hereby requests a Variance from Article XVII Section 175-105A(1): and asks that said terms of the Zoning Ordinance be waived to permit RECONFIGURATION OF AN EXISTING NON-CONFORMING PARKING LOT THAT WILL VIOLATE THE FRONT SETBACK, BUT REDUCE TOTAL FRONT & SIDE SETBACK ENCROACHMENTS AND OVERALL LOT COVERAGE, IN ORDER TO INCREASE HANDICAP PARKING SPACE/ACCESS.

The undersigned alleges that the following circumstances exist to support this variance request.

**1. The variance will not be contrary to the public interest because:**

(SEE ATTACHED SHEET)

**2. The spirit of the ordinance is observed because:**

(SEE ATTACHED SHEET)

**3. Substantial justice is done because:**

(SEE ATTACHED SHEET)

**4. The values of surrounding properties will not be diminished because:**

(SEE ATTACHED SHEET)

**TOWN OF WOLFEBORO**  
**ZONING BOARD OF ADJUSTMENT**

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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 in the area are as follows:

\_\_\_\_\_  
(SEE ATTACHED SHEET)  
\_\_\_\_\_  
\_\_\_\_\_

**USE (A) or (B):**

**(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:**

**(i) No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:**

\_\_\_\_\_  
(SEE ATTACHED SHEET)  
\_\_\_\_\_  
\_\_\_\_\_

**(ii) The proposed use is a reasonable one because:**

\_\_\_\_\_  
(SEE ATTACHED SHEET)  
\_\_\_\_\_  
\_\_\_\_\_

**OR, if the criteria in subparagraph (A) are NOT established, an unnecessary hardship will be deemed to exist, if and only if:**

**(B) Owing to the special conditions, 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 because:**

\_\_\_\_\_  
N/A  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TOWN OF WOLFEBORO**

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**ZONING BOARD OF ADJUSTMENT**

The undersigned acknowledge that to the best of their knowledge all the above information is true and correct. I understand that I must appear in person at the public hearing scheduled by the Board of Adjustment to present this appeal. If I cannot appear in person, I will notify the Board in writing of the name of the individual I designate to represent me at the hearing. I also understand that it is my sole responsibility, as the applicant, to provide the information required to the Secretary of the Board of Adjustment before a hearing can be scheduled.

WMS & E, INC.

Applicant's by: James F. [Signature]  
AGENT

Date: 2-9-16

The undersigned alleges that the following circumstances exist to support this variance request.

**1. The variance will not be contrary to the public interest because:**

*The Board of Adjustment In New Hampshire - A Handbook for Local Officials* dated November 2014 states that:

**"(f)or the variance to be contrary to the public interest, it must unduly and to a marked degree violate the basic zoning objectives of the zoning ordinance. To determine this, does the variance alter the essential character of the neighborhood or threaten the health, safety, or general welfare of the public?"**

To begin with, the purpose of this project is to increase the number of handicap parking spaces at a medical facility, which is in business for the public interest and welfare.

The property was developed when the setback requirements were less stringent than the current setbacks in this district. The proposal will reduce the existing non-conforming setback violation along the front and side of this property, but create a new, yet smaller violation in the front. Overall, the lot coverage will also be reduced by 696 SF.

Therefore, it is our position that since we are reducing the current violation and reducing the total lot coverage, this request will not be contrary to the public interest.

**2. The spirit of the ordinance is observed because:**

*The Board of Adjustment In New Hampshire - A Handbook for Local Officials* dated November 2014 states this in regard to public interest and spirit of the ordinance:

**"As held in *Farrar v. Keene*, 158 N.H. 68 [2009], the two elements are related. For a variance to be contrary to the public interest and inconsistent with the spirit of the ordinance, its grant must violate the ordinance's basic zoning objectives. There are two methods to answer this question:**

- 1. Examine whether granting the variance would alter the essential character of the neighborhood; or**
- 2. Examine whether granting the variance would threaten the public health, safety or welfare.**

As demonstrated above, it is clear that this variance request would not alter the essential character of the locality by granting the requested variance. It is also clear that this variance would not threaten the public health, safety, or welfare of the citizens of Wolfeboro; in fact by making the site more handicap friendly at this medical facility, it will likely enhance it.

**3. Substantial justice is done because:**

The Board of Adjustment In New Hampshire - A Handbook for Local Officials dated November 2014 states that:

**Any loss to the individual which is not outweighed by a gain to the general public is an injustice.**

By that standard, it is clear that granting of the variance would do substantial justice.

**4. The values of surrounding properties will not be diminished because:**

The uses the properties along Mill Street abutting and across the street from this property are commercial in nature or vacant land. By reducing the amount of impervious coverage we will reduce the stormwater runoff, albeit nominally, and we will reduce the total setback violation, making the lot more conforming. Therefore, the requested relief will not diminish the surrounding property values and may even enhance them.

**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 in the area are as follows:** This parcel was developed when this area was less stringent than the present regulations. This caused, or at least allowed, the building to be placed in the present location creating a fixed position and slab elevation that must be retained. It is this "special condition", coupled with the fact that the facility typically serves an abnormally high percentage of individuals requiring handicap access, that distinguishes this property from other properties in the area.

**USE (A) or (B):**

**(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:**

- (i) **No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property because:**

We are reducing the present setback violation and reducing the lot coverage making the lot more nearly conforming with the current zoning requirements and therefore, it would not seem fair or reasonable to deny the requested relief.

- (ii) **The proposed use is a reasonable one because:**

The proposed changes do not alter the existing use. Since this current use is a lawfully existing use, by definition, it is a reasonable one.

**OR, if the criteria in subparagraph (A) are NOT established, an unnecessary hardship will be deemed to exist, if and only if:**

- (B) **Owing to the special conditions, 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 because:**

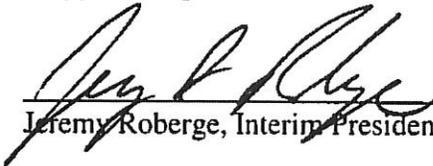
This section is not applicable to this request.

**APPOINTMENT OF AGENT**

I, Jeremy Roberge, Interim President and CEO of Huggins Hospital, authorize White Mountain Survey & Engineering, Inc., to represent Huggins Hospital before such boards and agencies in the Town of Wolfeboro and State of New Hampshire as may be necessary to complete applications on our behalf in connection with seeking approvals. White Mountain Survey & Engineering, Inc. is further authorized to sign applications as may be required to complete such representations on Huggins Hospital's behalf.

Huggins Hospital

Date: 2/9/15

By:  \_\_\_\_\_  
Jeremy Roberge, Interim President/CEO



**WHITE MOUNTAIN SURVEY & ENGINEERING, INC.**

1270 ROUTE 16, POST OFFICE BOX 440

OSSIPEE, NH 03864-0440

TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912

WEB ADDRESS: www.whitemountainsurvey.com

02-V-118

February 9, 2016

Michael Hodder, Chairman  
Zoning Board of Adjustment  
Town of Wolfeboro  
PO Box 629  
Wolfeboro, NH 03894-0629

**RECEIVED**

FEB 10 2016

ZONING  
BOARD OF ADJUSTMENT

Re: Huggins Hospital - Back Bay Rehab  
Variance Application  
90 Mill Street – Wolfeboro, New Hampshire  
Tax Map 217, Lot 19

Dear Chairman Hodder and Members of the Board:

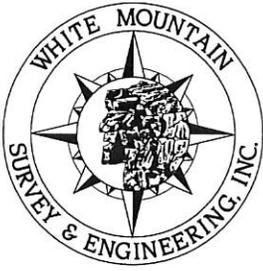
Enclosed please find what we believe to be a completed application package for a Variance application for relief from the front setback requirements for the Bay Street Limited Business District.

Huggins Hospital's Back Bay Rehab facility wants to increase the number of handicap parking spaces available for their patrons in order to create easier access to the facility. Because this property was originally developed before the present zoning restrictions and for a different use, the building elevation, parking and circulation present a challenge to meet the desired goal.

After some creative thinking, the decision was to close off the northerly entrance and create one-way circulation. This along with some minor grading changes will allow the Huggins the ability to increase the number of handicap parking spaces and their proximity to the existing handicap ramp.

As a result of these modifications, we will actually reduce the total lot coverage by 696 square feet and we will reduce the present encroachment within the front and side setbacks. We will however, add some new encroachment into the front setback in an area where none presently exists, and that is the reason for the Variance application.

It is our hope that once the Zoning Board reviews this application and the supporting documentation that you will agree that the request is both reasonable and something you can support.



Michael Hodder, Chairman  
Huggins Hospital - Back Bay Rehab  
February 9, 2016  
Page 2 of 2

I look forward to presenting this application at your earliest convenience and remain

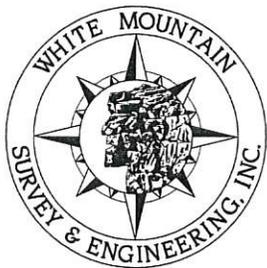
Sincerely,  
White Mountain Survey & Engineering, Inc.

A handwritten signature in cursive script that reads "James F. Rines".

James F. Rines, P.E., L.L.S., C.P.E.S.C.  
President

**Abutters List**  
**Huggins Hospital - Back Bay Rehab**  
**February 9, 2016**

<i>T</i>	<u>Tax Map/Lot</u>	<i>A</i>	<u>Owner of Record</u>
✓	217-19 (Subject Parcel)	✓	Huggins Hospital PO Box 912 Wolfeboro, NH 03894
✓	217-7	✓	Casual Dog Revocable Trust Gregory A. Turpin, Trustee PO Box 431 Wolfeboro, NH 03894-0431
<i>New owner →</i>	217-8	✓	Craig R. and Lori Sutherland 117 Audubon Blvd. Naples, FL 03110
<i>Tax Exempt</i>	217-9 217-18	✓	First Christian Church of Wolfeboro PO Box 681 Wolfeboro, NH 03894-0681
✓	217-20	✓	Frederick R. Gagne Revocable Trust Frederick R. Gagne, Trustee PO Box 2295 Wolfeboro, NH 03894-2295
✓	203-75	✓	Bay Supply Company, Inc. PO Box 1755 Wolfeboro, NH 03894-1755
✓	203-76	✓	Connie M. Maratos 104 Mill Street Wolfeboro, NH 03894
✓	203-79	✓	Wentworth Realty Trust Peter and Patricia Cooke, Trustees PO Box 1393 Wolfeboro, NH 03894-1393
	Agent		White Mountain Survey & Engineering, Inc. PO Box 440 Ossipee, NH 03864-0440



**WHITE MOUNTAIN SURVEY & ENGINEERING, INC.**

1270 ROUTE 16, POST OFFICE BOX 440  
OSSISPEE, NH 03864-0440  
TELEPHONE (603) 539-4118 FACSIMILE (603) 539-7912  
WEB ADDRESS: www.whitemountainsurvey.com

**RECEIVED**

**FEB 10 2016**

**Via Hand Delivery**

To: Town of Wolfeboro  
Zoning Board

**ZONING  
BOARD OF ADJUSTMENT**

Date: February 9, 2016

Re: Huggins Hospital - Back Bay Rehab Variance Application  
90 Mill Street - Tax Map 217, Lot 19

Enclosed, please find the following:

No. of Copies	Date	Description of Item
1	02/09/2016	Check #61491 for \$150.00 (application fees)
1	02/09/2016	Cover Letter
1	02/09/2016	Variance Application
1	02/09/2016	Appointment of Agent Form
1	02/09/2016	Abutters List
1 set		Envelope Addressed to Each Abutter, Certified Slips Prepared and Affixed, Postage Affixed
1	Rev 01/07/16	Variance Application Plan (full size)
15	Rev 01/17/16	Variance Application Plan (11" x 17" copies)

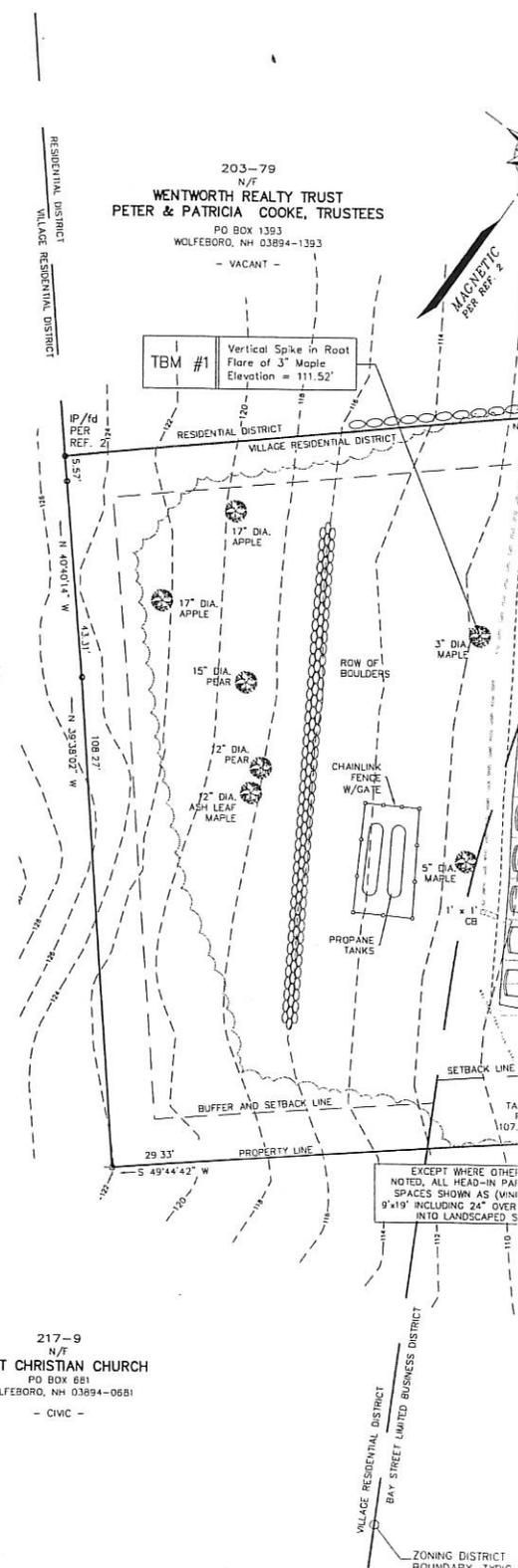
The above application has been submitted for your review and approval.

Sincerely,  
White Mountain Survey & Engineering, Inc.

  
Xann Horn  
Administrative Assistant



THIS DRAWING AND THE SPECIFICATIONS AND OTHER DOCUMENTS PREPARED BY WHITE MOUNTAIN SURVEY & ENGINEERING, INC. FOR THIS PROJECT ARE INSTRUMENTS OF SERVICE FOR USE SOLELY WITH RESPECT TO THIS PROJECT AND, UNLESS OTHERWISE SPECIFICALLY PROVIDED, WHITE MOUNTAIN SURVEY & ENGINEERING, INC. SHALL BE HELD THE AUTHOR OF THESE DOCUMENTS, RESERVING ALL COMMON LAW, STATUTORY AND OTHER RIGHTS, INCLUDING THE COPYRIGHT.



217-7  
N/F  
CASUAL DOG REALTY TRUST  
GREGORY A. TURPIN, TRUSTEE  
PO BOX 431  
WOLFEBORO, NH 03894-0431  
- RESIDENTIAL -

217-8  
N/F  
CRAIG R. & LORI  
SUTHERLAND  
PO BOX 2013  
WOLFEBORO, NH 03894  
- RESIDENTIAL -

217-9  
N/F  
FIRST CHRISTIAN CHURCH  
PO BOX 681  
WOLFEBORO, NH 03894-0681  
- CIVIC -

203-79  
N/F  
WENTWORTH REALTY TRUST  
PETER & PATRICIA COOKE, TRUSTEES  
PO BOX 1393  
WOLFEBORO, NH 03894-1393  
- VACANT -

TBM #1  
Vertical Spike in Root  
Flare of 3" Maple  
Elevation = 111.52'

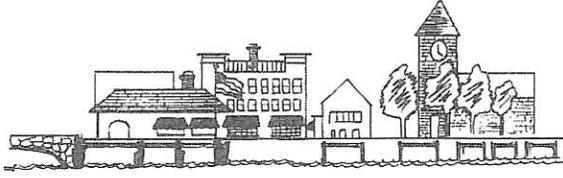
EXCEPT WHERE OTHER NOTED, ALL HEAD-IN PAIR SPACES SHOWN AS (MINI 9"x19" INCLUDING 2" OVER INTO LANDSCAPED S

DATE	REVISION
01/07/16	ADD AREAS 1 and 3" SIDELINE ENCROACHMENTS ELIMINATED

LEGEND
PROPOSED TRAFFIC FLOW DIRECTION
PROPOSED SPOT GRADE
EXISTING SPOT GRADE

REFERENCES
1. Carroll County Registry of Deeds (CCRD back/page). Dates given are dates of execution.
2. "Site Plan" prepared for Huggins Hospital Cardiac Care, revised 3/25/03, by White Mountain Survey Co., Inc.

VARIANCE
Hug Back 90 Mill Street T



Planning and Development

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*Town of  
Wolfboro*

**MEMORANDUM**

**DATE:** 2 March, 2016

**TO:** Zoning Board of Adjustment  
**FROM:** Robert Houseman, Director of Planning and Development

**SUBJECT:** Special Exception

**INITIATED BY:** Karen Grogin

**TM #:** 234 – 16 (cottage #9)

**Case #:** 03-SE-16

**Agent:** Richard Eaton

**DESCRIPTION:** The applicant is has shareholder in Pleasant Valley Lodges, a nine unit cottage colony on a single lot of record, and is the owner of cottage #9 on the property. All the cottages are considered lawfully existing nonconforming uses since the property contains multiple seasonal dwelling units. The applicant is seeking a Special Exception to allow the expansion of a nonconforming use by 25%. The existing building is -770 sq. ft. and the proposed addition is 193 sq. ft. (a 25% expansion).

Staff is working with the application to provide adequate documentation regarding ownership authorization for the proposed addition.

Below please find applicable section of the Wolfboro Zoning Ordinance:

§ 175-43. Nonconforming uses.  
A. Expansion.

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Grogin PVL Special Exception 03/02/16



(1) A nonconforming building or structure may be maintained or rebuilt as it existed at the time of the passage of this section and may, by special exception, be expanded by no more than 25% of its existing area at that time.

(2) A nonconforming use occupying a portion of a parcel of land or a portion of a building may, by special exception, be expanded by no more than 25% of the portion of the parcel of land or building dedicated to the nonconforming use at the time of passage of this section; provided, however, that nonconforming signs may not be expanded.

B. Abandonment. Any nonconforming use that is discontinued or abandoned for a period of one year or more cannot be resumed.

C. The following are allowed:

[Added 3-10-2015 ATM by Art. 3]

(1) Routine maintenance.

(2) Completion of projects under construction which subsequently become not permitted by a zoning amendment.

(3) Change of a nonconforming use to another, less conforming use, subject to site plan approval if the use is nonresidential

Below please find the Special Exception standards:

### **ARTICLE XXI, Special Exception Criteria**

§ 175-127. Review of conditions for grant of permit.

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, such as but not limited to site plan review by the Planning Board, control of outside display of merchandise, hours of operation, and duration of use, grant permits for the following uses as special exceptions in the respective districts set forth. Before reaching a decision under this article, three members of the Board shall have viewed jointly the subject area. Said viewing shall be noted in their records. The Board shall also notify abutters in accordance with NH RSA 676:7. The Board, in acting on the application for a special exception, shall take into consideration the following conditions:

A. Site suitability: that the specific site is an appropriate location for the proposed use or structure. This includes:

(1) Adequate usable space.

(2) Adequate access.

(3) Absence of environmental constraints (floodplain, steep slope, etc.).

B. Immediate neighborhood impact: that the proposal is not detrimental, injurious, obnoxious or offensive to abutting properties in particular and to the neighborhood in general. Typical negative impacts which extend beyond the proposed site include:

(1) Excessive trip generation.

- (2) Noise or vibration.
  - (3) Dust, glare or heat.
  - (4) Smoke, fumes, gas or odors.
  - (5) Inappropriate hours of operation.
- C. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of accessways and off-street parking.
- D. Availability of public services and facilities: that the following services and facilities are available and adequate to serve the needs of the use as designed and proposed:
- (1) Sewer.
  - (2) Water.
  - (3) Stormwater drainage.
  - (4) Fire protection.
  - (5) Police protection.
  - (6) Streets.
  - (7) Parks.
  - (8) Schools.
- E. Appropriateness of site plan. Consideration shall include:
- (1) Parking scheme.
  - (2) Traffic circulation.
  - (3) Open space.
  - (4) Fencing/screening.
  - (5) Landscaping.
  - (6) Signage.
  - (7) Commercial vehicles.
  - (8) Lighting impact.
- F. Immediate neighborhood integrity: that the historical uses and established use patterns be weighed with recent change in trends in the neighborhood.
- G. Impact on property values: that the proposed use will not cause or contribute to a decline in property values of adjacent properties.
- H. That the proposed use or structure is consistent with the spirit of Part 1 and the intent of the Master Plan.

If the Board, after its deliberations on the case, considers approving this application Staff would recommend that the ZBA consider the following conditions of approval:

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 or Shoreland Permit.
3. The applicant shall pay all recording fees.
4. This Special Exception 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.

I hope this information provides you with some assistance. Please call me if you have any questions or need additional information.



*Town of  
Wolfeboro*

**AMENDED ABUTTER NOTICE  
ZONING BOARD OF ADJUSTMENT  
WOLFEBORO, NEW HAMPSHIRE**

Notice is hereby given that the Zoning Board of Adjustment will meet on **Monday, 7 March 2016 at 7:00 PM** in the Wolfeboro Public Library Meeting Room to conduct the following business:

**TM# 234-16-Unit 9**

**Case # 03-SE-16**

**Applicant: Karen Grogin**

Public Hearing for a Special Exception from Section 175-43 A (1) of the Wolfeboro Planning & Zoning Ordinance to remove an existing 5' x 7' deck and stairs and install a new 5' x 27' deck and stairs. *This property is located at 1-9 PVL Lane, Unit 9.* A site visit will be held at approximately 4:45 pm prior to the hearing.

Copies to:

- Town Manager
- Codes Officer
- Police Chief
- Fire Chief
- Conservation Commission
- Assessor
- Public Works Department
- Municipal Electric
- Department of Water & Sewer
- Planning Department
- File

Grogin  
Eaton  
Pleasant Valley Lodges Corp.  
Carpenter/Warner  
Heath Shore Trust 1996  
Pleasant Valley Lodge Corp.



## V. PUBLIC HEARING

The conduct of the public hearing shall be governed by the following rules:

- A. The Chair shall call the hearing in session.
- B. The Clerk shall read the notice and report on how public notice and personal notice was given and if a site visit was held the clerk will report such.
- C. Members of the Board may ask questions at any time during testimony.
- D. Each person who appears shall be required to state her/his name and address, and indicate whether he/she is a party to the case or an agent or counsel of a party to the case.
- E. Any member of the Board, through the Chair, may request any party to the case to speak a second time.
- F. Any party to the case, who wants to ask a question of another party of the case, must do so through the Chair, but only at the discretion of the Chair.
- G. The applicant shall be called to present her or his appeal and those appearing in favor of the appeal shall be allowed to speak.
- H. Those in opposition to the appeal shall be allowed to speak.
- I. The applicant and those in favor of the appeal shall be allowed to speak in rebuttal.
- J. Those in opposition to the appeal shall be allowed to speak in rebuttal.
- K. When the public portion of the hearing is declared closed, no further testimony will normally be received from the applicant or any other party or interested person. However, to avoid the appearance of injustice, the Chair shall have the authority on a majority vote of the board to reopen the hearing to allow such limited additional testimony as may in the Chair's judgment be thought necessary to clarify one or more questions that may have arisen during the board's deliberations, provided that the applicant(s) and all interested parties are still present and in attendance. The board may continue the public hearing to a subsequent meeting if all interested parties are not still present and in attendance Notice shall be given of the continuance.

The Board has the authority to reopen the hearing at the next board meeting if the board feels that reopening the hearing is necessary because the applicant and/or any interested party has departed. Notice shall be required and the cost of said notice shall be the responsibility of the applicant.

## VI. DECISIONS

The Board will endeavor to decide all cases immediately after the public hearing. The Board may approve with conditions, deny the application, or defer its final decision. The Board's Notice of Decision will be made available within 5 business days as required by RSA 676:3, and will be sent in a timely manner to the applicant and other appropriate parties in interest. If the application is denied, the notice shall include the reasons for the denial.



ZONING BOARD OF ADJUSTMENT

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*Town of  
Wolfeboro*

17 February 2016

Dear Applicant;

The Wolfeboro Zoning Board of Adjustment has scheduled a meeting on Monday, March 7, 2016 at 7 pm in the Wolfeboro Public Library Meeting Room relative to your submitted application(s). A site visit has been scheduled at approximately 4:45 pm the day of the meeting. It is advisable that either you or a representative be present at the time of the site visit to answer questions the Board may have. As a site visit is not a public hearing and no additional comments will be accepted,

If you have any questions, please feel free to contact me at 603-569-5970.

Sincerely,

Robin Kingston  
Administrative Assistant

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*South Main Street Post Office Box 629 Wolfeboro, New Hampshire 03894*

*(603) 569-5970*



**TOWN OF WOLFEBORO**  
**ZONING BOARD OF ADJUSTMENT**

**RECEIVED**

**NOTICE OF ZONING DECISION OF CODES OFFICER**

FEB 8 2016

Section I -- (To be prepared by the Wolfeboro Building Official)

ZONING  
BOARD OF ADJUSTMENT

To: Name: Karin Grogin

Address: 6 Oak Ridge Road White Plains, NY 10607

Your request for a permit to (specify use): replace existing  
stairs Deck 4ft x 8ft to 5ft x 24ft Deck + stairs

on property located at: 338 Pleasant Valley Lane

is DENIED for the following reason: Increasing the  
square footage of existing deck and stairs

You have the right to appeal this decision under Article 175.187 of the Wolfeboro Planning and Zoning Ordinance after completing the Section II of this form.

Cory Ruhl  
Building Official

10/15/15  
Date

**TOWN OF WOLFEBORO**  
**ZONING BOARD OF ADJUSTMENT**

**RECEIVED**

FEB 8 2016

**SPECIAL EXCEPTION**

Section II -- (To be prepared by Applicant)

ZONING  
BOARD OF ADJUSTMENT

Date: 10/27/2015

NOTE: Additional information may be supplied on separate sheet if the space provided is not inadequate.

TO: Zoning Board of Adjustment  
Town of Wolfeboro  
P.O. Box 629  
Wolfeboro, New Hampshire 03894-0629

1. Having been denied a permit by the Wolfeboro Building Official for the reason specified in Section I: NOTICE OF ZONING DECISION (Copy Attached). I hereby appeal the decision and request the Board of Adjustment to schedule a public hearing to consider this appeal.
2. I realize that providing the complete information requested below is the responsibility of the undersigned applicant and must be provided before a public hearing can be scheduled by the Board. I understand that it is my responsibility to present this appeal to the Board.

- a. Type of Appeal: Special Exception X
- b. Basis for Appeal is Article 175, Section 43A (i) of the Wolfeboro Planning and Zoning Ordinance
- c. Location of property in question: 338 Pleasant Valley Lane
- d. Tax Map number: 234 Lot Number: 16 Sub Lot: UNIT #9
- e. Zoning District: SFR
- f. Name of Applicant: KAREN GROGIN (owner)  
RICHARD EATON (Representative)

**TOWN OF WOLFEBORO**

**ZONING BOARD OF ADJUSTMENT**

- g. Mailing Address of Applicant: 6 OAK Ridge Rd. (owner)  
White Plains, N.Y. 10607  
49 Turtle Island Rd. Wolfboro, N.H. 03894 (Representative)
- h. Phone Number of Applicant: 603-670-5476
- i. E-mail Address: eatonbros@yahoo.com
- j. Name of Company (if applicable): EATON BROS. CONSTRUCTION
- k. Legal Owner of the Property: Pleasant Valley Lodges Corp.
- l. Mailing Address of Property Owner: 6 OAK Ridge Rd.  
White Plains, N.Y. 10607

m. Proposed use of property or modification of existing use: \_\_\_\_\_  
Remove existing 5 FT. X 7 FT. Deck + STAIRS  
INSTALL new 5 FT. X 27 FT. Deck + STAIRS

n. Directions to the property from the Wolfboro Town Hall: \_\_\_\_\_  
Proceed south on S. MAIN ST.  
TURN left on Pleasant Valley Rd.  
TURN left on PVL Lane.  
LAST COTTAGE before Lake.

I understand that I must appear in person at the public hearing scheduled by the Board of Adjustment to present this appeal. If I cannot appear in person, I will notify the Board in writing of the name of the individual I designate to represent me at the hearing. I also understand that it is my sole responsibility, as the applicant, to provide ALL of the information required to the Secretary of the Board of Adjustment before a hearing can be scheduled.

Riley W. Eaton | 10/27/2015  
Applicant's Signature Date

**TOWN OF WOLFEBORO**  
**ZONING BOARD OF ADJUSTMENT**

**EIGHT POINT SPECIAL EXCEPTION REQUEST:**

A SPECIAL EXCEPTION is requested as provided in Article 175, Section 43A(1) of the Zoning Ordinance to permit: \_\_\_\_\_

Expansion of Non Conforming Deck up to 25%

**FACTS SUPPORTING THIS REQUEST:**

**1. Site Suitability:** That the specific site is an appropriate location for the proposed use or structure:

**This includes:**

- a). Adequate usable space
- b). Adequate access.
- c). Absence of environmental constraints (floodplain, steep slopes, etc.)

Site is suitable Deck Already  
Exists. Deck expansion is to  
Provide better access for stairs

**2. Immediate Neighborhood Impact:** That the proposal is not detrimental injurious, obnoxious or offensive to the abutting properties in particular and to the neighborhood in general. Typical impacts, which extend beyond the proposed site include:

- a. Excessive trip generation
- b. Noise or vibration
- c. Dust, glare of heat
- d. Smoke, fumes, gas or odors
- e. Inappropriate hours of operation

No Impact to Neighborhood

**TOWN OF WOLFEBORO**

**ZONING BOARD OF ADJUSTMENT**

**3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking:**

NO NUISANCE

**4. Availability of public services and facilities:** That the following services and facilities are available and adequate to serve the needs of the use designed and proposed:

- a. Sewer
- b. Water
- c. Stormwater Drainage
- d. Fire Protection
- e. Streets
- f. Parks
- g. Schools

All services Available

**5. Appropriateness of Site Plan:** Consideration shall be given to the following:

- a. Parking Scheme
- b. Traffic Circulation
- c. Open Space
- d. Fencing/Screening
- e. Landscaping
- f. Signage
- g. Commercial Vehicles
- h. Lighting Impact

No Impact

**TOWN OF WOLFEBORO**  
**ZONING BOARD OF ADJUSTMENT**

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**6. Immediate neighborhood integrity:** That the uses and established use patterns be weighed with recent change trends in the neighborhood.

No change

**7. Impact on property values:** That the proposed use will not cause or contribute to decline in property values of adjacent properties.

None

**8. The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan.**

Consistent with spirit & intent

Applicant: Richard W. Eaton

Date: 1-31-2016

# Karen Johnson Grogin



6 Oak Ridge Road  
White Plains, NY 10607  
Karen.johnson@havasmedia.com

To Whom It May Concern,

I am authorizing Rick Eaton from Eaton Bros. Construction to act as my agent to represent us at the hearing before the Board of Adjustment.

Thank you,

Karen Johnson Grogin



NUMBER  
**10**



SHARES  
one (1)

INCORPORATED UNDER THE LAWS OF THE STATE OF NEW HAMPSHIRE

# PLEASANT VALLEY LODGES CORPORATION

The Corporation is authorized to issue 9 Common Shares Without Par Value.

*This Certifies that* Karen Grogin  
one (1)

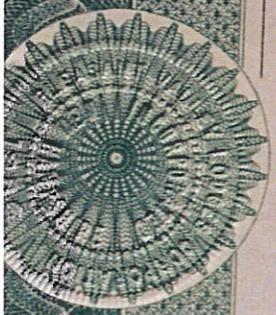
*is the owner of*  
*fully paid and*

*non-assessable Shares of the above Corporation transferred only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.*

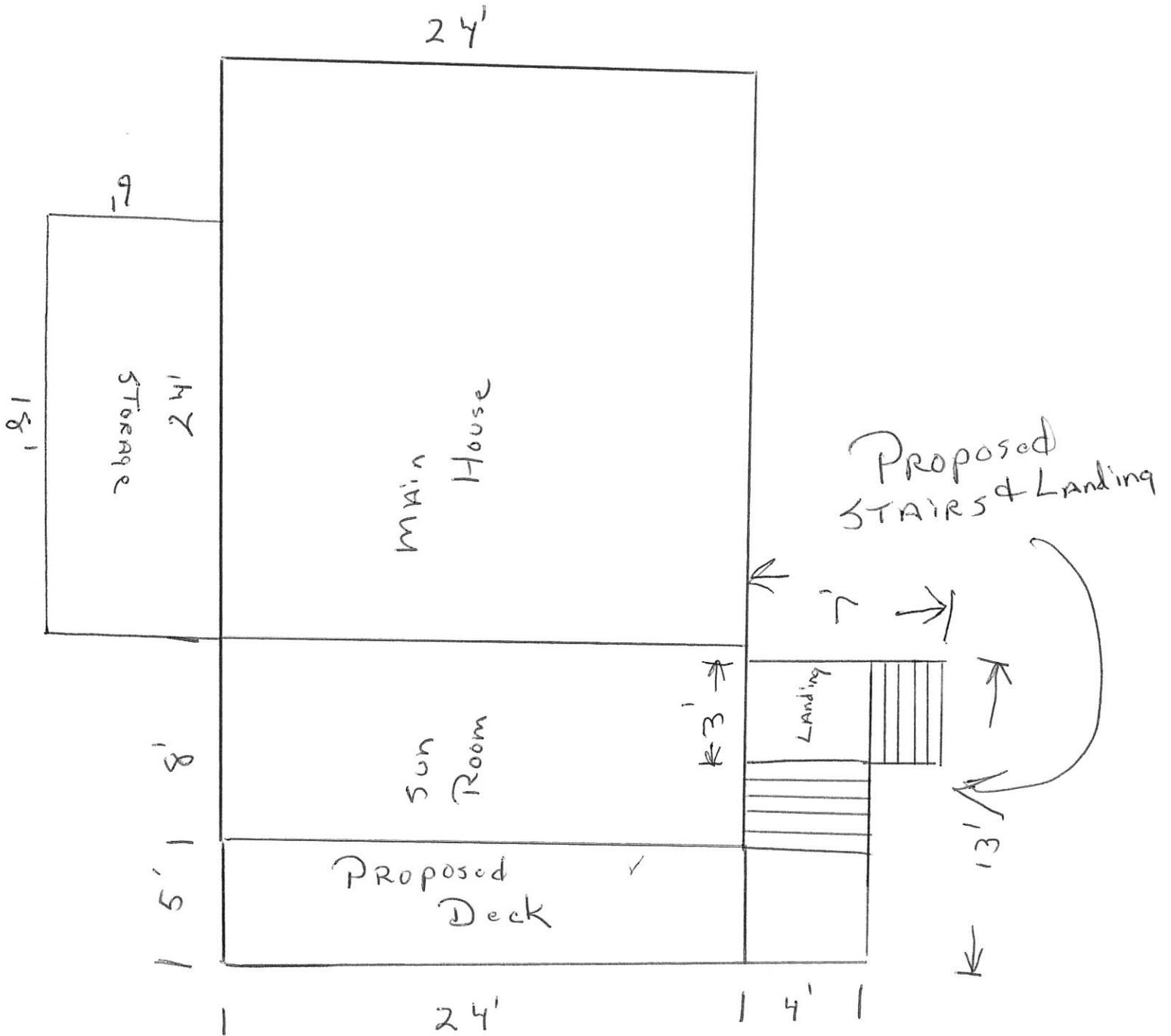
*In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.*  
Dated August 5, 1992

*[Signature]*  
SECRETARY-TREASURER

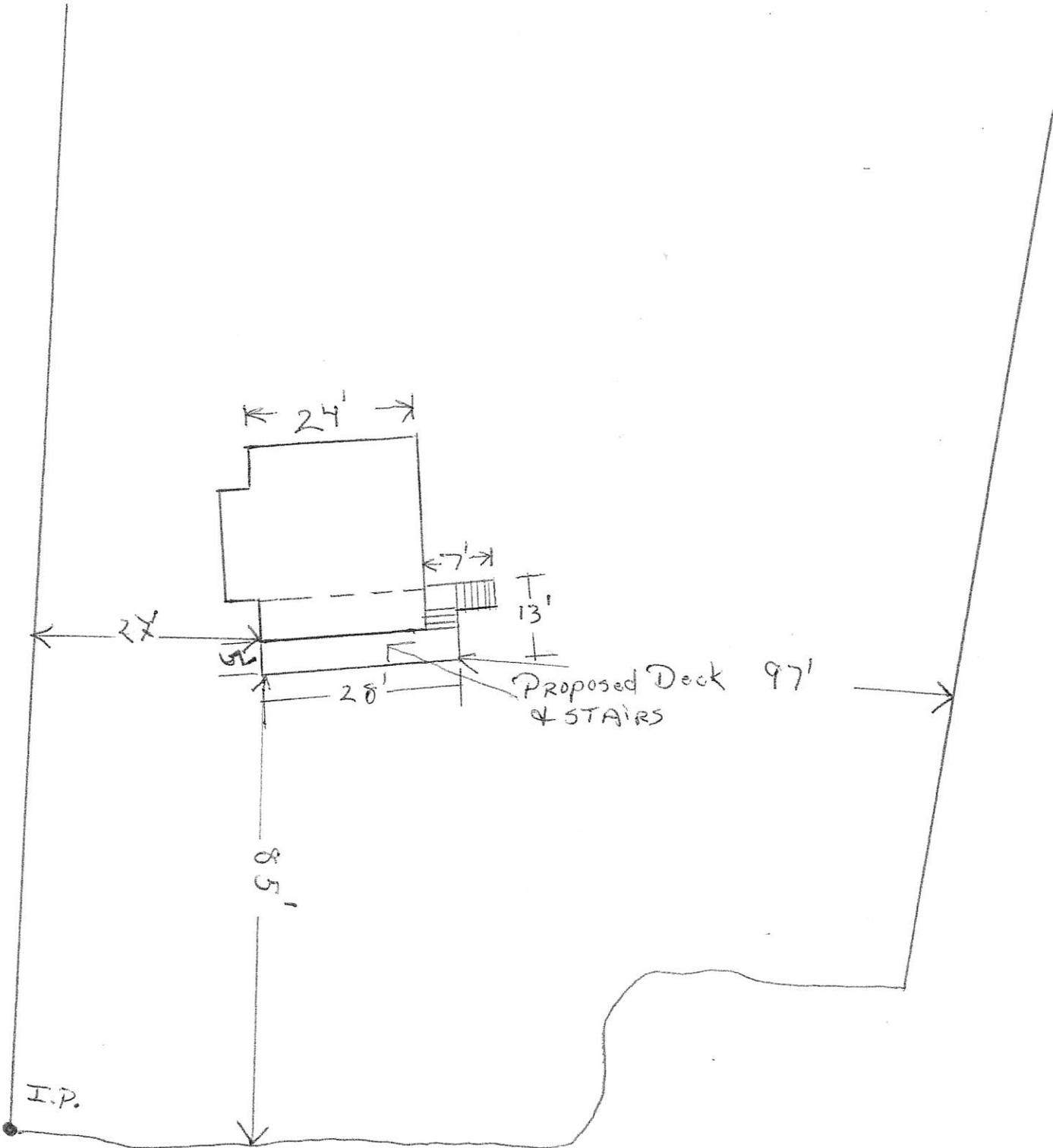
*[Signature]*  
PRESIDENT



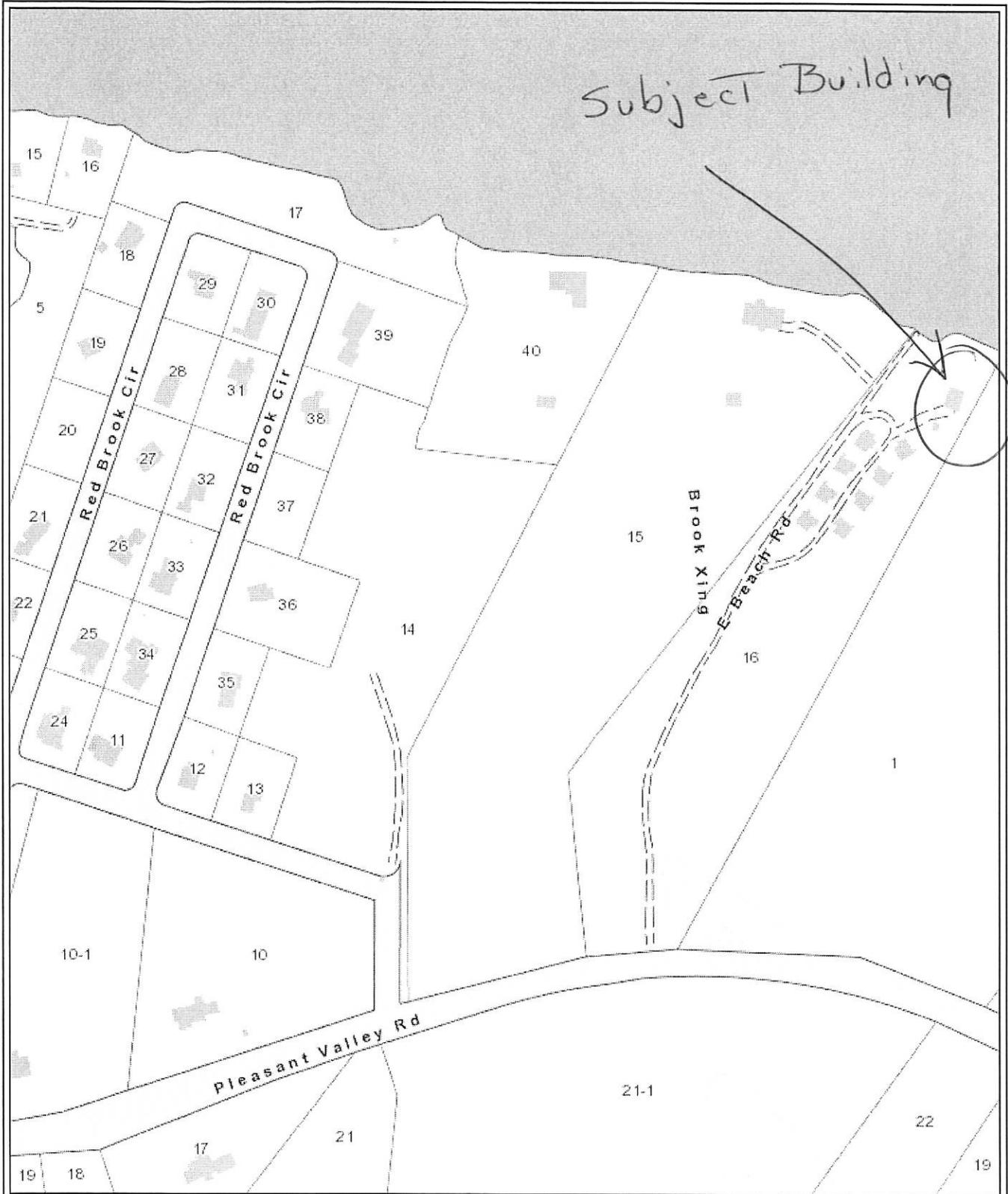
\* NOT TO SCALE



\* NOT TO SCALE



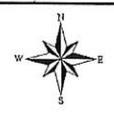
LAKE WENTWORTH



Subject Building



Wolfeboro, NH  
 1 Inch = 220 Feet  
 October 28, 2015



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

www.cai-tech.com



RECEIVED

FEB 16 2016

**OWNER:**

Karen Grogin  
6 Oak Ridge Rd.  
White Plains, N.Y. 10607  
Parcel No. 234-016-000

WOLFEBORO  
BUILDING DEPT.

**AGENT:**

Richard Eaton  
49 Turtle Island Rd.  
Wolfeboro, N.H. 03894

**ABUTTERS:**

Anne & Philip Holberton  
P.O. Box 877  
Wolfeboro, N.H. 03894  
Parcel No. 234-015-000

Andrew Carpenter & Paula Warner  
P.O. Box 453  
Wolfeboro Falls, N.H. 03896  
Parcel No. 234-021-001

Francis M. Blodget III  
P.O. Box 667  
Wolfeboro Falls, N.H. 03896  
Parcel No. 235-001-000



# 100 foot Abutters List Report

Wolfeboro, NH  
February 19, 2016

## Subject Property:

Parcel Number: 234-016-000  
CAMA Number: 234-016-000  
Property Address: 1-9 PVL LANE

Mailing Address: PLEASANT VALLEY LODGES CORP  
JOHNSON MITCHELL  
14 BIRCHWOOD LANE  
HARTSDALE, NY 10530

## Abutters:

Parcel Number: 234-015-000  
CAMA Number: 234-015-000  
Property Address: 11 BROOK CROSSING

Mailing Address: HOLBERTON, ANNE B. HOLBERTON,  
PHILIP V.  
PO BOX 877  
WOLFEBORO, NH 03894

Parcel Number: 234-021-001  
CAMA Number: 234-021-001  
Property Address: 325 PLEASANT VALLEY ROAD

Mailing Address: CARPENTER ANDREW R WARNER  
PAULA M  
PO BOX 453  
WOLFEBORO FALLS, NH 03896

Parcel Number: 235-001-000  
CAMA Number: 235-001-000  
Property Address: PLEASANT VALLEY ROAD

Mailing Address: HEATH SHORE TRUST 1996 BLODGET  
FRANCIS M III TRT  
PO BOX 667  
WOLFEBORO FALLS, NH 03896

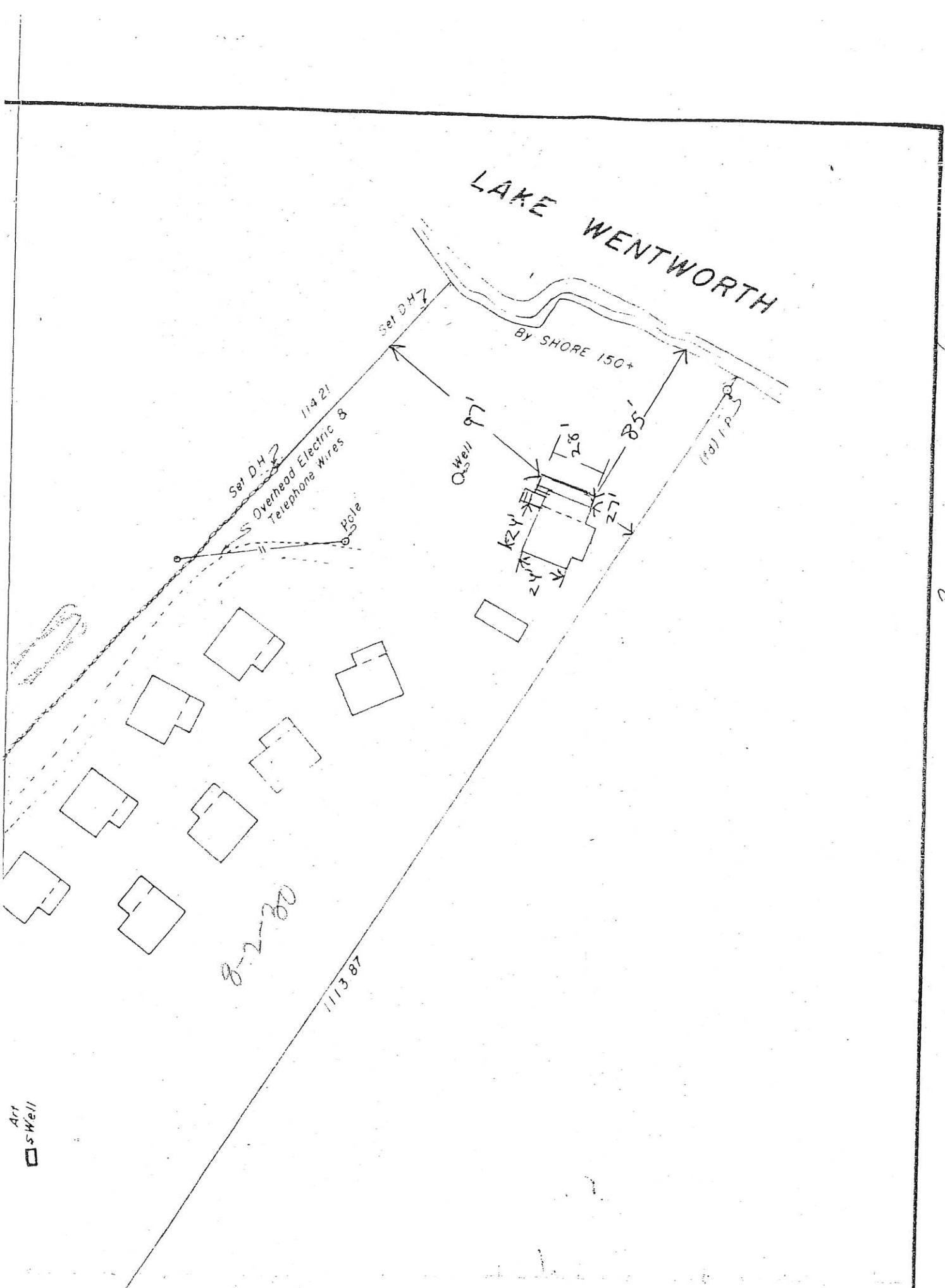


www.cai-tech.com

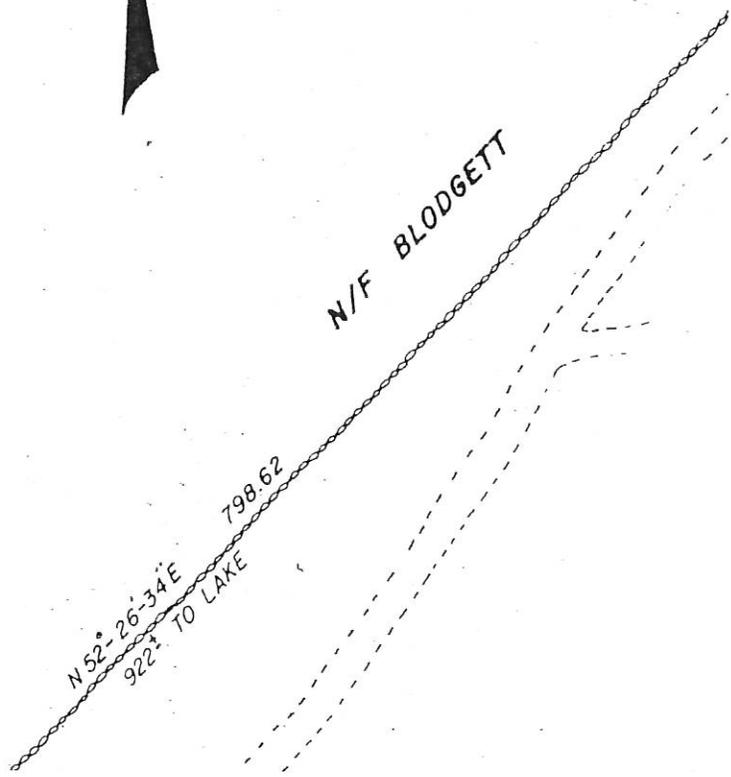
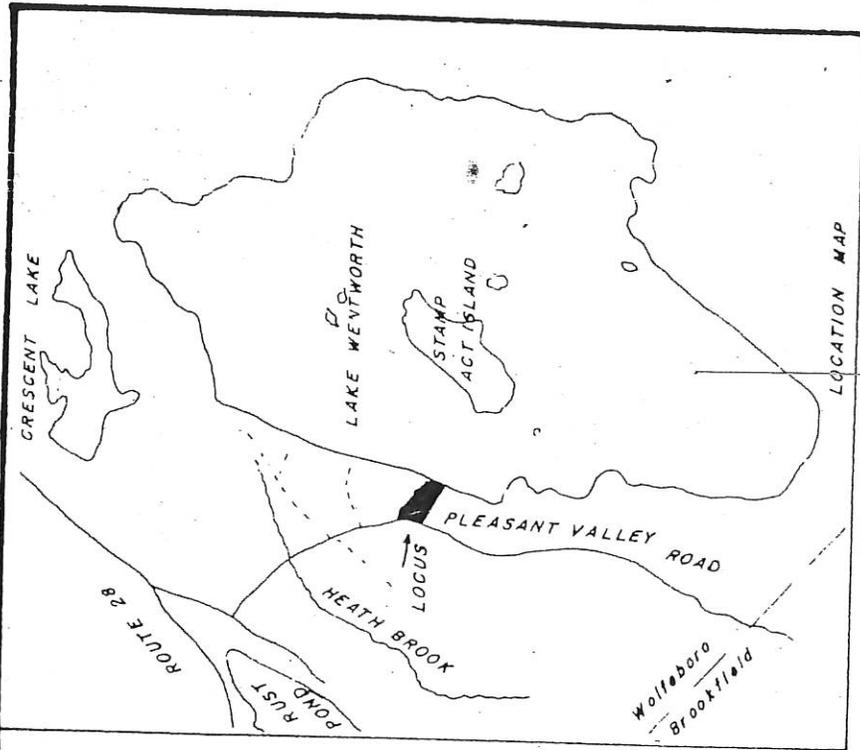
2/19/2016

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

Page 1 of 1



LISA - RETURN TO MA JOHNSON  
 14 BIRCHWOOD LANE



**RECEIVED AND RECORDED**  
Wolfeboro Zoning Board of Adjustment  
February 1, 2016 2/8 2016 2:45 M  
Work Session Book No. \_\_\_\_\_ Page No. \_\_\_\_\_  
Minutes *[Signature]*  
WOLFEBORO, N.H. TOWN CLERK

**Members Present:** Mike Hodder, Chairman, Fred Tedeschi, Vice-Chairman, Alan Harding, Clerk, Hank Why and Suzanne Ryan, Members, Chris Franson and Sarah Silk, Alternates

**Members Absent:** Dave Senecal, Alternate (Excused) and Susan Raser, Alternate (Excused)

**Staff:** Rob Houseman, Director of Planning & Development and Robin Kingston, Administrative Assistant

**Consideration of Minutes:**

4 January 2016

**Corrections:**

Page 4- 3<sup>rd</sup> paragraph from the bottom removed the work "with" and insert the words "arises from"

Page 6 – 1<sup>st</sup> sentence change "read" to "rear"

Last paragraph – last sentence change after the word after distributed "the" to "to all"

*It was moved by Hank Why and seconded by Sarah Silk to approve the minutes of 4 January 2016 as amended. All members voted in favor. The motion passed.*

**Rules of Procedure:**

The Board was presented with two different draft versions of Rules of Procedure; the Hodder Draft and the Ryan Draft.

The Board reviewed, discussed the differences, inaccuracies in some areas, the attorney's opinion on both drafts and three proposed amendments that would be required.

*It was moved by Alan Harding and seconded by Hank Why to adopt the Hodder proposal of the Rules of Procedure as presented.*

**Discussion**

The Board discussed the procedure for the adoption of amended Rules of Procedure and the requirements. The Board decided to table the vote on the motion and vote on each of the amendments. This would constitute the first reading of the Rules of Procedure as called for in

**RECEIVED AND RECORDED**  
Wolfeboro Zoning Board of Adjustment  
February 1, 2016 2/8 2016 2:45 M  
Work Session Book No. \_\_\_\_\_ Page No. \_\_\_\_\_  
Minutes [Signature]  
WOLFEBORO, N.H. TOWN CLERK

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RECEIVED AND RECORDED

2/22/2016 3:15 P

Wolfeboro Zoning Board of Adjustment

February 17, 2016

Public Meeting

Minutes

BOOK NO. PAGE NO.  
*[Signature]*  
WOLFEBORO, N.H. TOWN CLERK

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

**Members Absent:** Dave Senecal, Alternate (Excused) Sarah Silk, Alternate (Excused) and Susan Raser, Alternate (Excused)

**Staff:** Robin Kingston, Administrative Assistant

Chairman Hodder opened the Public Meeting at 7:00 pm in the Wolfeboro Public Library Meeting Room. A quorum was present.

**Consideration of Motion for Rehearing**

**TM # 204-13**

**Case # 01-V-16**

**94 Center Street, LLC**

**Variance Granted: January 4, 2016**

**Submitted by: Don Ruthier**

Mike Hodder explained the material Board is going to consider is the application for the rehearing, the originating application for the variance, and the case record. To grant the application for the rehearing the Board must find that it has made a technical error or an error of law, or there is new evidence presented not available at the time of the originating application which has been found and is compelling enough to require the Board to reverse itself.

Suzanne Ryan commented the availability to the Board for rehearing are; 677.2 - The Board may grant such rehearing if in its opinion good reason is stated in the motion; 677.3- Motion states grounds and claims are unlawful or unreasonable; and Fisher vs. Boscawen – The Board has the first opportunity pass upon its errors which it might have made in the first hearing. Also the court may have the benefit of its judgement in a rehearing; and then Laughlin – as a general rule grant only if the petition demonstrates the Board committed a technical error need not be so that we would not come to the same decision or a new decision. Technical is procedural; it's the Boards decision was improperly made based on misapplication of law and we can correct or

if we said new evidence unavailable at the time of the hearing or it might be evidence that was unobtainable because of absence of key people or other valid reasons.

Suzanne Ryan further stated the 94 Center Street application review process was based on the erroneous premise was that the applicant was mandated to install the porch deck and stairs per fire / building code. This was technically an incorrect assumption. No evidence was produced to substantiate that, in fact Mike Hodder did not report there was anything of that nature. There was nothing that mandated the stairs / deck.

Fred Tedeschi commented the in application, Page 6 at the top, "the construction of secondary means of egress (decks and stairs) brings the building up to current code". It is pretty clear in the application that what was represented was the construction of the decks and stairs was required as a secondary means of egress. What was attached to the application for rehearing was a copy of the life safety code handbook which makes it clear that was not the case and the applicant was mistaken and probably received bad information from someone. A secondary means of egress can be a sprinkler system in which case you have met the requirements with a stairwell that has the fire code doors. Therefore the construction of the decks and stairs was not necessary as a secondary means of egress. He further stated that he thinks the Board should rehear the application and give the applicant an opportunity to present different grounds for his request for a variance.

Chris Franson commented the copy of the Life Safety Code submitted is dated 2003 and she is not able to certify this is accurate.

Mike Hodder stated he disagrees with both Suzanne Ryan and Fred Tedeschi because if you read the variance application the applicant does not state he has been told by the Fire Department he has to put a secondary means of egress in or he will not be allowed a Certificate of Occupancy in the building. The request for the variance is to construct a second means of egress - decks and stairs. He does not say "because the Fire Department told me I have to do this"; he does not say "the Life and Safety Code says it is vital that I do this"; he states that he wants to put in a second means of egress in the back - a deck and stairs. Mike Hodder further commented during deliberations of the original application he made a particular point of stating publically that the variance request that Mr. Ianazzi submitted did not hang on any Life and Safety Code requirement. It hung on a request for a second means of egress from the back of the building. He does not state anywhere in the application the Fire Department told me I have to do this. He does say that he thinks it will bring it up to code. He is not applying for a variance to satisfy the Fire Department Code requirements because he would not need a variance. How he wants to build them is part of the variance request, not why he wants to do it. When the ZBA looks at a variance request, we are not asking ourselves why does this person want to do what he wants to do. That is not the ZBA's job. The ZBA's job is to see if what the person wants to do qualifies under the five criteria and if it does we grant the variance and if it

does not then it is denied. There is no need for a rehearing; the ZBA made a correct decision based upon the evidence; there are findings of fact which support the decision, the ZBA came to the decision by a majority vote; no new evidence has been offered by the applicant for the rehearing that he could not have obtained prior to the original hearing by going to the Fire Department and asking the Chief or Deputy Chief what the Fire Code states and presenting his case at the original hearing. Granting this application for a rehearing based upon "new evidence" basically excuses the applicant for the rehearing for not having done his homework prior to the original request by the original applicant.

Hank Why commented the original application was for stairs in a tight backyard and the impact on the neighbor.

Mike Hodder agreed. The Board has a lot of power but it does not have the power to decide if what an applicant wants to do is a good idea or not. It can only decide if what the applicant wants to do fit the five criteria. The Board does not have the right to say "we do not think it is a good idea or you need to get Fire Department approval".

Alan Harding commented he strongly believes no technical errors were made. The Board listened to the applicant and the abutter. It was clear to him and the majority of the ZBA the applicant made his case. There is no new evidence presented that would have a bearing on the decision made. In sum no mistakes were made, no technical errors made and no new evidence has been presented.

Suzanne Ryan read from page 2 of the 1/4/2016 minutes as follows:

*The applicant stated they are rehabbing the building and bringing the entire building up to today's code with full fire alarm and sprinkler systems. In reviewing the renovation plans with the building inspector and fire department, they asked for a second means of egress, which is a life safety issue.*

And further from page 3:

*Suzanne Ryan asked if the fire department mandated this be done.*

*The applicant responded that only if he wants to use the upper two floors.*

Suzanne Ryan further commented that 75% of the conversation that night was about the Fire Departments Building Code, suppression and all that sort of thing. Further she commented that under the second prong of hardship: *Other Reasonably Feasible Methods: A factor for an Area Variance application must show that there are no other reasonably feasible alternative methods available to implement the proposed use without a variance. The analysis includes consideration of whether an Area Variance is required to avoid an unfair financial burden on the applicant which includes examination of relative expense or alternative methods. The court*

*further explained these requirements as follows: if the proposed project could be constructed such that an Area Variance would not be required the burden is on the applicant to show that the alternatives are cost prohibitive. Under this factor the ZBA may consider the feasibility of a scaled down version of the proposed use but must be sure to also consider whether the scaled down version would impose a financial burden on the land owner.*

She commented she feels a fire escape is a less financial burden on the landowner than what he proposed to build.

Mike Hodder responded he is doing something in addition that the town is going to benefit from.

Alan Harding stated the ZBA is technically rehearing the case with this current discussion.

Suzanne Ryan stated she is arguing the reasons the Board should reconsider.

Mike Hodder commented if you go through the applicants reasons for requesting a rehearing and his notes, the ZBA notes them as being moot. The Board has already posed and disposed of each of the arguments. Alan Harding's point is correct.

Fred Tedeschi commented the applicants exact words in the application are "the construction of a second means of egress/decks and stairs. The design of the egress structure, deck and stairs are at a minimum size to meet code".

Page 3 of the 1/4/2016 minutes were referenced as follows:

*Fred Tedeschi asked if the applicant also needs a variance for the porch.*

*The applicant explained you need a platform to step out to and the size is to meet code. This has been a voluntary upgrade to bring the building into conformance and they want to meet all aspects of today's code.*

It seems clear to him the basis of the application was a requirement imposed under the Fire Code to have a secondary means of egress and that is not the case. What the applicant for the request for the rehearing has done is provide a copy of the Code which the ZBA asked for. In fact Suzanne Ryan asked for a continuance until the Board could get a copy of the Code and that was denied. To him if this goes to court, which is likely, the court is going to say the basis of the application was the Code and the ZBA made a mistake in not granting a rehearing. He has no problem giving the owner an opportunity to come in and say we want to put on a deck and

stairs because it will enhance the value of the property and not have any reference to the fact this is necessary for a secondary mean of egress.

*It was moved by Fred Tedeschi to grant the application for rehearing and ask the applicant to resubmit the application. Suzanne Ryan seconded the motion.*

Discussion:

Mike Hodder commented 2 members felt the case hung on a Fire Department Code requirement, which was not presented in evidence only in testimony by the applicant. The other 3 members did not feel the same way. He stated during the hearing that he did not feel the Fire Code was the hook on which the application hung. It should be treated simply as an application for a variance and the reasons for the applicants' desire to put stairs on the back were not the important part of the question, the question was did the application meet the five criteria. Three members felt it did and two members felt it did not.

Suzanne Ryan stated this could have been avoided if the hearing was continued; it would have been only for a week and would not have stopped the developer because it is an exterior thing and the ZBA would have had the information as to what was being said by the applicant and by the abutter. The ZBA would have factual information before them. Here we are probably ending up going to court and a waste of time and money had they only continued the meeting for a week. That is not fair to the applicant, not fair to the abutter and not fair to the Board. This is her personal feeling and comment.

Alan Harding commented there was no motion to continue the hearing in January; it was a general consensus by the Board not to.

Hank Why stated he felt the addition of the second egress was the right thing to do for the building although he was not aware the code would allow for a second means of egress by adding a sprinkler.

Mike Hodder stated the applicant is doing both.

Suzanne Ryan responded he could not get access to the third floor if he did not put in sprinklers. It had nothing to do with stairs and decks. The town was not going to allow him access to the third floor if he did not put in sprinklers and therefore he did not need the rear access for which he will look out on the lovely Back Bay.

Mike Hodder called for a vote on the motion.

Fred Tedeschi and Suzanne Ryan voted in favor. Alan Harding, Hank Why and Mike Hodder voted in opposition to the motion. The motion failed.

It was moved by Mike Hodder to deny the application for rehearing. Alan Harding seconded the motion. Alan Harding, Hank Why and Mike Hodder voted in favor of the motion. Suzanne Ryan and Fred Tedeschi voted in opposition. The motion passed.

Other Business:

Rules of Procedure

Mike Hodder stated this is the second reading of the Rules of Procedure

Suzanne Ryan disagreed and stated that it is not on the agenda and she brought no material relative to this and was not forewarned. She stated she needs to be excused.

Mike Hodder stated if she leaves she will have an unexcused absence.

Suzanne Ryan stated she is not absent she is only absent from the 2<sup>nd</sup> half of the meeting and left the meeting.

Mike Hodder explained he had a handout from Suzanne Ryan however as she left the meeting it cannot be discussed.

Next Regular Meeting - March

Mike Hodder notified the Board he will not be in attendance at the March meeting. Fred Tedeschi, Vice-Chairman will Chair the meeting.

It was moved by Fred Tedeschi and seconded by Alan Harding as there is no further business this meeting be adjourned at 7:27 pm. All members voted in favor. The motion passed.

Respectfully Submitted,

  
Robin Kingston  
Administrative Assistant