

Wolfeboro Zoning Board of Adjustment

7 October 2019

7:00 pm

The Great Hall at Wolfeboro Town Hall

Meeting Minutes

RECEIVED AND RECORDED

10/17, 2019 5:00 PM

Book No. _____ Page No. _____

WOLFEBORO, N.H. TOWN CLERK

Members Present: Fred Tedeschi, Chairman, Sarah Silk, Vice Chairman, Tim Cronin, Clerk, Peter Colcord, Member, Luke Freudenberg, Member, Peter Colcord, Member and Audrey Cline, Alternate

Staff Present: Matthew Sullivan, Director of Planning & Zoning, Robin Kingston, Administrative Assistant

Call to Order:

This meeting was called to order at 7:05 pm. A quorum was present.

Appointments:

TM# 147-6

Case # 13-V-19

Applicant: Wright Museum

Variance

Public Hearing for a Variance under Article 1XIII, Section 175-86 of the Wolfeboro Planning & Zoning Ordinance to allow the use of the existing structures to store and maintain the Museums privately owned vehicles. This is not for public use. This property is located at 65 Trotting Track Road.

Tim Cronin read the abutter and public notification for the record. A site visit was held at approximately 4:15 pm prior to the public hearing.

Application Summary:

Per the narrative letter provided by the applicant, the Variance requests the conversion of the existing Everett S. Albee site into a maintenance facility for privately owned vehicles, associated with the Wright Museum, and storage of those vehicles on site while awaiting maintenance. The underlying use is storage and maintenance of privately owned vehicles. This request is for

the full property and is not constrained to a particular area, but is subject to the constraints of site plan review by the Wolfeboro Planning Board.

During the May Technical Review Committee meeting it was expressed by the applicant's agent that the facility will not be open to the public. The users will be Museum staff and volunteers ONLY.

A property history has been provided by the applicant. There no other filed approvals on the site other than the referenced subdivision application in 1991.

An objection to the Notice was submitted by Roger Murray, Esq. representing Single Rose Enterprise LLC and the Lake Wentworth Association. The objection states there is failure to provide adequate notice. The museum is requesting storing and maintaining of anyone's vehicles as long as they are privately owned and they are not specifically limited to The Wright Museum. There is no limitation as to the use if this property sells in the future.

Jim Rines, the applicants agent rebutted it is for not public use and strictly for privately owned vehicles. The applicant would be willing to give Single Rose LLC and Lake Wentworth Association could have the right of first refusal if the property becomes available for sale in the future.

Fred Tedeschi stated the nature of the variance if granted is not strictly for a future purchasers.

Jim Rines disagreed.

Matt Sullivan agreed with Mr. Murray's interpretation and agrees restrictions could be put in place however the Board first needs to decide that the notice is adequate.

The Board discussed the noticing issue and concurs the application should be re-noticed.

Jim Rines asked for clarity on what the noticing requirements would be.

The Board recommended that the Wright Museum application be withdrawn with as long as there is clarity on the notice requirements.

Jim Rines requested the application be withdrawn with the caveat the applicant and Planning Staff work together on the proper notice requirements.

The Board accepted the withdrawal request.

TM# 204-8

Case # 14-SE-19

Applicant: Celebrate BBV LLC

Special Exception

Public Hearing for a Variance under Article 175, Section 43 of the Wolfeboro Planning & Zoning Ordinance to allow a change in the front façade of the building to square off the top section and increase the center section height by 4' for a total height of 22'. This property is located at 8 Elm Street. A site visit was held at approximately 4:35 pm prior to the public hearing.

Tim Cronin read the abutter and public notification for the record. A site visit was held at approximately 4:35 pm prior to the public hearing.

Application Summary:

The applicant proposes to increase the height of a non-conforming structure. The structure is non-conforming due to its encroachment into the side and rear setback. The proposed façade modification will increase the height of the structure from 18' to 22' and will modify the appearance of the façade by squaring the building front. Increase the height of other roof areas. The approval should be made by incorporating the rendering set included with the application package.

The application and plans were reviewed as submitted.

No person spoke in favor or against the application and the public hearing was closed.

Deliberations:

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

The Board agreed this criterion has been met as the use has been the same for years.

2. Immediate neighborhood impact: that the proposal is not detrimental, injurious, obnoxious or offensive to abutting properties in particular and to the neighborhood in general. The Board agreed this criterion has been met. The use and plan fits well within the neighborhood.

3. 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.

The Board agreed this criterion has been met and there will be no change in the traffic pattern.

4. 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:

The Board agreed this criterion has been met as all public services are available.

5. Appropriateness of site plan. Consideration shall include:

The Board agreed this criterion has been met and the only change is to the façade.

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

The Board agreed this criterion has been met and this is for the same use and is reasonable.

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

The Board agreed this criterion has been met and an improvement to the building should have a positive impact on property values

8. That the proposed use or structure is consistent with the spirit of Part 1 and the intent of the Master Plan.

The Board agreed this criterion has been met and there is no change and have no impact.

MOTION by Fred Tedeschi; 2nd Sarah Silk to approve the Special Exception from Article 175, Section 43 of the Wolfeboro Planning & Zoning Ordinance to allow a change in the front façade of the building to square off the top section and increase the center section height by 4' for a total height of 22' along with the Planners 6 recommended conditions. All voted in favor.
Motion Passed.

1. All plans included as part of this application are hereby incorporated as part of this approval, as amended to the date of this approval include the building rendering as presented within the application package.
2. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Building Permit and Sign Permit approval.
3. 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.
4. The application, as submitted to the ZBA, does not satisfy the submission requirements for a Building Permit.
5. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.
6. 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.

TM# 17-19

Case # 15-V-19

Applicant: Mark Wheaton

Variance

Public Hearing for a Variance under Article 175-80, Section 80 A:2 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a garage adjacent to the existing structure. This property is located at 102 Old Keewaydin Point Road.

Tim Cronin read the abutter and public notification for the record. A site visit was held at approximately 4:50 pm prior to the public hearing.

Application Summary:

The applicant proposes to construct a 38'6" x 26'2" (528 sq. ft.) carport/garage within the side setback of this property within the Residential (R) District. The Zoning Board should confirm that this includes the overhang as indicated on the plan. The total garage area is 1,009 sq. ft. with a total encroaching square footage of 555 sq. ft.

The applicant has provided a Zoning Board Application Plan prepared by Jennifer Stockman of Stockman Builders, and dated 09/05/2019. Based on a 20' side setback, the maximum linear encroachment is 16'8" with a proximity to the property line of 8'4". However, this measurement appears to be from the building wall. The applicant should confirm the maximum encroachment and distance to property line of the overhang.

Amy Stockman addressed the Board and reviewed the application as submitted with the 5 points required for the variance.

Matt Sullivan stated the setback in the zoning district is 20' and not 25' and this should be clarified in any approval given.

The total encroachment is 11'8" which is 8'4" from the side yard setback property line. A 10th condition should be added requiring correction of the plan to reflect the appropriate setback and appropriate encroachment into the setbacks.

Deliberations:

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

The Board agreed this criterion has been met and the proposal conforms to the neighborhood.

2. The spirit of the ordinance is observed.

The Board agreed this criterion has been met and does not draw on public resources and allows the owners to erect a garage and the breezeway will remain open.

3. Substantial justice is done.

The Board agreed this criterion has been met and will have no adverse impact to neighbors and the adjoining lot is unbuildable.

4. The values of surrounding properties are not diminished.

The Board agreed this criterion has been met and there was no testimony values would diminish; overall this will be an improvement to the neighborhood.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

The Board agreed this criterion has been met with the odd configuration of the lot being a special condition as it restricts the location to place the garage. There will no infringement on adjacent lot owners.

MOTION by Fred Tedeschi; 2nd Sarah Silk to approve the variance request to allow for the construction of a garage adjacent to the existing structure including conditions 1-9 in the Planners Review and adding a 10th condition the plan is to updated to reflect the appropriate setback and encroachments into the setbacks. All in favor. *Motion passed.*

1. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Building Permit approval.
2. 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.
3. The application, as submitted to the ZBA, does not satisfy the submittal requirements for a Building Permit.
4. Construction shall be completed in accordance with the dimensions shown on the "Wheaton Garage Plan", Prepared by Jennifer Stockman of Stockman Builders, and dated 09/05/2019, as amended to the date of this approval. This shall include a maximum side setback encroachment of X' (X' to the property line) as measured to the roof overhang.
5. The linear encroachment of the overhang shall be added to the Zoning Board of Application Plan and incorporated as part of this approval.
6. The roof overhang encroachment shall be certified by a Licensed Land Surveyor, in accordance with the dimensions approved by the Board during this hearing prior to issuance of a Certificate of Occupancy.
7. The foundation location shall be certified by a Licensed Land Surveyor, in accordance with the dimensions approved by the Board during this hearing, prior to the issuance of a building permit in addition to a certified plot plan to be provided to the Planning Department.
8. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall be responsible for the payment of all recording fees.
9. 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.
10. The plan is to updated to reflect the appropriate setback and encroachments into the setbacks.

Consideration of Minutes:

Page 1:

Call to Order:

This meeting was called to order at 7:00 pm. A quorum was present. David Senecal and Audrey Clines were seated for the meeting due to the absence of Peter Colcord and Luke Freudenberg.

Page 2:

The applicant's narrative letter states 10'x16' as the addition dimension while the plan shows 16'x15'. ~~This should be clarified for the record.~~

10' ~~close~~ closest to building and the wall 15' and 16'.

Page 3:

Sarah Silk stated she disagrees if a roof is placed over the stairs **as it is part of the expansion because of the roof over the ADA ramp entrance and the second floor exit are totally enclosed.** She is concerned with the measurements advertised and feels the stairs will exceed the 16'. There is also concern with the apartment parking.

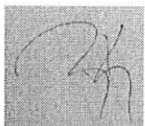
Page 4:

Sarah Silk stated the steps coming off are an ~~and~~ additional encroachment and maybe they can take place within the 15' x 16' expansion of 240 sq. ft.

Sarah Silk voted in ~~opposition~~ abstained.

MOTION by Fred Tedeschi; 2nd Tim Cronin to approve the minutes of 9 September, 2019 as amended. All in favor. *Motion passed.*

Respectfully Submitted,



Robin Kingston
Administrative Assistant