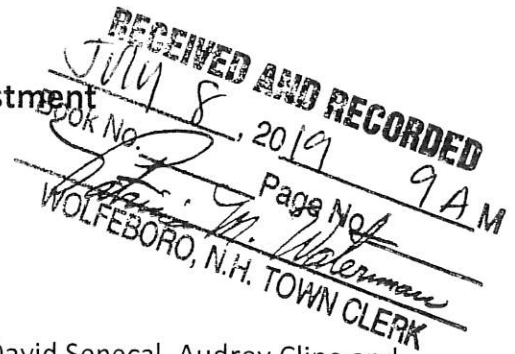


**Wolfeboro Zoning Board of Adjustment
Regular Meeting
1 July 2019
Minutes**



Members Present: Tim Cronin, Clerk, Peter Colcord, Member, David Senecal, Audrey Cline and Suzanne Ryan, Alternates

Members Absent: Fred Tedeschi, Chairman, (excused) and Sarah Silk, Vice-Chairman (excused), Luke Freudenberg

Staff Present: Matt Sullivan, Director of Planning & Development and Robin Kingston, Administrative Assistant

The Meeting was called to order at 7:00 pm.

MOTION by Dave Senecal; 2nd Suzanne Ryan to appoint Tim Cronin as acting Chairman for the meeting. All in favor. *Motion passed.*

David Senecal, Audrey Cline and Suzanne Ryan were seated for the meeting.

Public Hearings:

TM# 202-47

Case # 08-V-19

Applicant: Louis Esoldo

Variance

Agent: Brian Stanley

Public Hearing for a Variance under Article 175, Section 80A(2) of the Wolfeboro Planning & Zoning Ordinance to permit the construction of a 14'x24' deck and a 22'x24' carport in which the carport will encroach into the sideline setback. This property is located at 16 Old Lakeview Terrace.

Tim Cronin read the public and abutter notification for the record and noted a site visit was held at approximately 6:15 pm.

Application Summary:

The applicant proposes to construct a 14' x 24' (336 sq. ft.) deck and 22' x 24' (528 sq. ft.) carport within the side setback of this property within the Residential (R) District.

The applicant has provided a hand drawn plan that does not display property lines and does not appear to be to scale. A tax map has been provided for reference. It is unclear what the proposed dimensional encroachment into the setback will be from the attached plans. The applicant should clarify dimensional encroachment. The applicant has not provided any elevation information that would facilitate the Board's analysis of abutter impact based on the height of the structure. Lots in the Residential District are permitted a maximum impervious lot coverage of 30%. In this case, the carport, single-family dwelling unit, deck, and driveway all qualify as impervious coverage. Without square footage measurements and a properly scaled drawing, it is difficult to ascertain the total lot coverage. Should impervious coverage exceed 30%, an additional variance from Section 175-80(D) would also be necessary. Typically, surveyed plans are required for proposed construction within setback areas. In 2005 a minimum of a 10' setback was required according to the Driveway Permit.

Brian Stanley reviewed the application and five points required for the variance.

The neighborhood consists of a mix of one and two car garages. Matt Sullivan clarified the NH Septic Design shows an intended garage however the actual Building Permit Application does not show the garage rendered.

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

MOTION by Suzanne Ryan; 2nd Dave Senecal (for discussion) to deny the application with-out prejudice until such time as proper plans are submitted for approval.

The Board discussed the motion.

MOTION AMENDMENT by Suzanne Ryan that a to scale to drawing be submitted to the Planning Department to bring back to the Board on 5 August 2019. No 2nd

Dave Senecal withdrew his 2nd and Suzanne Ryan withdrew the Motion.

The Board discussed the five criteria required for the variance.

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

Concern was raised over increasing density, the time the development was created the 10' setback was allowed.

- (3) Substantial justice is done.

(4) The values of surrounding properties are not diminished

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

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, 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.

Special Conditions may be the garage was on the original plan showing initial intent; the lot is constricted and the area is limited in where a garage can be placed.

MOTION by Suzanne Ryan; 2nd Dave Senecal to continue TM# 244-18, Case # 09-SE-19 to 5 August 2019, 7 pm, Town Hall Great Room and the applicant is to bring back scaled drawings outlining all setbacks. All in favor. *Motion passed.*

TM# 244-18

Case # 09-SE-19

Applicant: Joshua A. Siegel 2003 Revocable Trust

Agent: Joann Carpenter

Suzanne Ryan stepped down from this application.

Public Hearing for a Special Exception under Article 175, Section 43 of the Wolfeboro Planning & Zoning Ordinance to permit the expansion of an existing nonconforming structure by no more than 25% of its existing nonconforming area. This property is located at 7 Stephenson Lane. A site visit was held at approximately 6:35 pm prior to the public hearing.

Application Summary

The applicant seeks to raze an existing 2-bedroom single family dwelling unit and construct a 3-bedroom single family dwelling unit. The applicant is reconfiguring the home in a way that is more conforming in the context of the zoning ordinance, though a Special Exception is still necessary due to the nature of the expansion. No further encroachment is proposed into the 50' shoreline setback. The existing dwelling has 1,008 sq. ft. of habitable area within the 50' shoreland setback, with a maximum encroachment of 10.3' of the screen porch and 19'6" to the habitable portion of the

structure. The proposed dwelling has 823 sq. ft. of habitable area within the 50' shoreland setback, with a maximum encroachment of 19'6" to the habitable portion of the structure. Both the existing and proposed building locations should be verified by a Licensed Land Surveyor should the Special Exception be granted by the Board. The proposed dwelling will be fully conforming with the 30' structural wetlands setback in contrast with the existing dwelling which encroaches in the this natural resource setback area. A State of NH Shoreland Protection Permit has been received for this project.

The application, plans and eight points required for the Special Exception were reviewed.

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

Matt Sullivan noted the Town has not granted its shoreland permit as it is subject to the ZBA hearing findings.

The Board reviewed the eight points required for the Special Exception.

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.).

The Board agreed these criteria have been met.

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.

The Board agreed these criteria have been met.

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.

The Board agreed this criteria has been met and a new septic will be installed much further away from the lake.

- 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.

The Board agreed these criteria have been met.

MOTION by David Senecal; 2nd Audrey Cline to approve TM# 244-18, Case # 09-SE-19, Applicant: Joshua A. Siegel 2003 Revocable Trust for a Special Exception as requested and include the Planners recommendations in the Planner Review dated 25 June 2019. All in favor. *Motion passed.*

Conditions:

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.*
2. *All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Building Permit and Shoreland 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 or Shoreland Permit*
5. *Existing and proposed building locations should be verified by a Licensed Land Surveyor in accordance with the approved plan set.*

6. *The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.*
7. *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.*

MOTION to adjourn 7:53 pm. All in favor. *Motion passed.*

Robin Kingston
Administrative Assistant