

Wolfeboro Zoning Board of Adjustment
Regular Meeting
September 10, 2018
Minutes

RECEIVED AND RECORDED

9/18, 2018 8:30 AM

Book No. Page No.

WOLFEBORO, N.H. TOWN CLERK

Members Present: Fred Tedeschi, Tim Cronin, Peter Colcord, Sarah Silk, Members and David Senecal, Alternate

Members Absent: Luke Freudenberg, Member

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

Fred Tedeschi called this meeting to order at 7:00 pm and requested the Board to hold elections for a Chairman, Vice Chairman and Clerk prior to the meeting.

It was moved by David Senecal and seconded by Tim Cronin to elect Fred Tedeschi as Chairman, Sarah Silk, Vice-Chairman and Tim Cronin as Clerk. All members voted in favor motion. The motion passed.

Dave Senecal was seated for both of the hearings on the agenda.

TM# 147-3

Case 17-V-18

Applicant: Robert P. Seifert Revocable Trust

Public Hearing for a Variance under Article 174, Section 9E of the Wolfeboro Planning & Zoning Ordinance to allow for a three-lot subdivision. This property is located at 55 Furber Lane.

This application has been officially withdrawn by the applicant as there is no requirement for a variance.

It was moved by Tim Cronin and seconded by Sarah Silk to accept the withdrawal of the application. All members voted in favor. The motion passed.

TM# 149-4

Case # 18-V-18

Applicant: Bryant S. Messner

Sarah Silk stepped down from this application due to a conflict.

Attorney Walker agreed he was comfortable moving forward with four members.

Public Hearing for a Variance under Article 175, Section 64 of the Wolfeboro Planning & Zoning Ordinance to permit the addition of single 141 sq. ft. (11'4" x 12'6") room for a bathroom and closet located within the easterly side setback. This property is located at 33 North Kenney Shore Road. A site visit was held at approximately 6:00 pm prior to the public hearing.

Summary of the Application:

The applicant proposes to construct a 141 sq. ft. (11'4" x 12'6") addition to an existing non-conforming structure within the eastern side setback.

The project is referred to in some materials as meeting the 25% rule for a Special Exception. However, after further discussion, due to additional liner encroachment, this application requires a Variance.

Attorney Walker addressed the Board reviewed the application and plans as submitted. The application had an error and noted that the property was not in the

The overhang is 5.2' and the application mistakenly noted that no portion of the overhang will fall within the setback however it will encroach 1.2' into the setback.

Dave Senecal asked about the bathroom construction as the plans show a door to the exterior.

Attorney Walker agreed the door can be removed.

Three letters have been submitted in favor of the application with the most important one from the easterly abutter who would be the most affected.

Chairman Tedeschi opened the Public Hearing.

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

- a. The variance will not be contrary to the public interest;

This is a modest addition and the door as shown on the plan will be eliminated.

- b. The variance is consistent with the spirit of the ordinance;

There will be no changes in the character and there is a good amount of space around the structure

- c. Substantial justice is done by granting the variance;

The addition will be modest and will appear like it has been there right along.

- d. Granting the variance will not diminish the value of surrounding properties;

There will be no adverse effect to the public interest and it will not negatively affect property values.

- e. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

There is no purpose to deny this application.

It was moved by Tim Cronin and seconded by David Senecal to approve TM# 149-4, Case # 18-V-18

Applicant: Bryant S. Messner for a Variance under Article 175, Section 64 of the Wolfeboro Planning & Zoning Ordinance to permit the addition of single 141 sq. ft. (11'4" x 12'6") room for a bathroom and closet located within the easterly side setback for property located at 33 North Kenney Shore Road with the following conditions:

1. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Shoreland and 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. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.
5. A maximum encroachment of 5.2' from the side setback shall be verified by a licensed land surveyor.
6. 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.
7. The door as shown on the plan is to be eliminated.

All members voted in favor. The motion passed.

TM# 201-81

Case # 19-V-18

Applicant: Joseph I. Melanson III 2002 Trust & Cynthia W. Melanson 2002 Trust

Agent: Randy Walker, Esq.

Public Hearing for a Variance under Article 175, Section 185 & 187 of the Wolfeboro Planning & Zoning Ordinance for a two-lot subdivision. This property is located at 17 Highland Terrace and Maplewood Drive. A site visit was held at approximately 6:40 pm prior to the public hearing.

Summary of the Application

The applicant seeks to subdivide an existing ~4.52 acre parcel of land which abuts Highland Terrace and Maplewood Drive. The proposed parcel does not have adequate road frontage (150 ft.) on

Maplewood Drive as the road is not a Class V road or built to a Class V standard.

The applicant has provided a lengthy narrative letter rebutting several opinions of the Planning Department. I maintain that this lot does not have adequate frontage as defined by the ordinance.

As a note, the Planning Department worked with the applicant/owner to recover the history of Maplewood Drive as described on pages 1-3 but disagrees that the Town laid out the entirety of the road due to the ambiguity described as part of the December 23rd, 1987 vote of the Board of Selectmen.

The only conclusion that can be derived as that the status of the road is unclear, therefore it cannot be certified that the proposed lot has adequate frontage as required by the Zoning Ordinance and Subdivision Regulations. The proposed lot would have 194 ft. of frontage on Maplewood Drive.

The project is subject to subdivision review by the Planning Board.

Attorney Walker addressed the Board reviewed the application and plans as submitted.

David Senecal noted there was no official denial from the Codes Officer. Matt Sullivan responded this application was a result of his decision. The question over the status of this portion of Maplewood Drive being a private or town road has no clear answer. The applicant has appeared before the Planning Board and the Planning Board requested the applicant come before the Zoning Board.

The lot has plenty of frontage and would meet private road specifications. The town signed off on this in 1974 and 1987 – Signed off and built to town specs except for the turn-around. In 1974, 1978 and 2003 the Planning Board approved lots.

Board Questions:

The Board discussed the turn-around and in 1974 when lots 52-58 were approved was the class of the road defined?

Matt Sullivan explained with the exception required for a turn-around and all other items met Town Standards. The turn-around is an easement over the property per the 1978 plan.

The Board discussed the town allowed the subdivision without the turn around to exist, subdivisions today would require today's standards.

The Board discussed the turnaround not being constructed however sometimes town plows do town around at the end but does not maintain this portion. Matt Sullivan is of the opinion this is a private road.

Reopened the public hearing for clarification.

Chris Reeves stated the road is not maintained by the town and each lot owner pays for a contractor to plow it. Further he noted concern if lots were created and homes built, would this affect his water pressure as his water flow is low at his residence currently.

The Board discussed that on 12.23.1987 the Selectmen accepted Maplewood Drive as a town road.

A letter from Tim Melanson in objection to the application was read and is part of the file.

Randy Walker objected to the letter from Tim Melanson

Chairman Tedeschi closed the public hearing. The Board deliberated on the following criteria:

- a. The variance will not be contrary to the public interest;
- b. The variance is consistent with the spirit of the ordinance;

The Board agreed the first two criteria have been met.

- c. Substantial justice is done by granting the variance;

The lots will have greater frontage than required. Town water will continue to the lots and the owner will responsible for the water hookup.

- d. Granting the variance will not diminish the value of surrounding properties;

There will be no diminution to property values

- e. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

This lot has sufficient frontage and access to the road and past history shows a subdivision of lots across the street. Past history shows subdivision of the lot across the street and around it. This is a large enough parcel to subdivide into two lots.

Sarah Silk noted concern for a new buyer having a legal problem. The road does not continue past the Berrywood Drive intersection and she suggested seeking clarification from Board of Selectmen relative to the access as a public road.

It was moved by Dave Senecal and seconded by Tim Cronin to grant a Variance under Article 175, Section 185 & 187 of the Wolfeboro Planning & Zoning Ordinance TM# 201-81, Case # 19-V-18 Applicant: Joseph I. Melanson III 2002 Trust & Cynthia W. Melanson 2002 Trust for a two-lot subdivision for property located at 17 Highland Terrace and Maplewood Drive with the following conditions:

1. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Subdivision and 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 Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.
4. This Variance shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the zoning board of adjustment for good cause.
5. The proposed lot on Maplewood Drive shall use all frontage available for the existing lot 201-081 on Maplewood Drive as certified by a Licensed Land Surveyor

Randy Walker asked for a condition that they do not want to upgrade the road.

The Board did not agree with the request and the application can now move forward to the Planning Board for subdivision approval.

All members voted in favor of the motion. The motion passed.

Consideration of Minutes:

6 August 2018

Page 7 – 7th paragraph down – Sarah Silk asked how they will no be selling fluids (gasoline and lubricants) as they are being used and sold as part of the auto business.

It was moved by David Senecal and seconded by Sarah Silk to approve the minutes of 6 August 2018 as amended. Dave Senecal, Sarah Silk, Tim Cronin and Peter Colcord voted in favor. Fred Tedeschi abstained due to his absence from the meeting. The motion passed.

There being no further business this meeting was adjourned at 8:34 pm.

Respectfully Submitted,



Robin Kingston
Administrative Assistant