

Wolfeboro Zoning Board of Adjustment  
Regular Meeting  
August 6, 2018  
Minutes

**RECEIVED AND RECORDED**  
8/13, 2018 1:00 PM  
Book No.                      Page No.                       
*Sarah P. Wato*  
WOLFEBORO, N.H. TOWN CLERK

Members Present: Sarah Silk, Tim Cronin, Luke Freudenberg, Peter Colcord and David Senecal

Members Absent: Fred Tedeschi

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

Matt Sullivan called this meeting to order at 7:00 pm and requested the Board appoint a temporary chairman for the meeting.

*It was moved by Luke Freudenberg and seconded by Tim Cronin to appoint Sarah Silk as acting Chairman for the meeting. All members voted in favor. The motion passed.*

Election of Officers was postponed until the next meeting due to the absence of Fred Tedeschi.

David Senecal was seated for the three hearings for this meeting

Sarah Silk disclosed that she has worked with the attorney for the first two cases but felt there is no conflict and she can render impartial decisions. The Board had no objection.

TM# 204-27

Case 13-SE-18

Applicant: 50 Center Street Realty LLC

Special Exception

1-3 Grove Street

Tim Cronin read the abutter and public notification for the record. A site visit was conducted prior to the hearing with Sarah Silk, Luke Freudenberg, David Senecal, and Tim Cronin were present.

Public Hearing for a Special Exception Article 175, Section 117 of the Wolfeboro Planning & Zoning Ordinance to operate an educational institution for educating dog owners in dog training and behavior management of their dogs. This property is located at 1-3 Grove Street.

Summary of the Application:

Kurt DeVlyder of 50 Center Street, LLC has filed an application to permit a change of use of 50 Center Street for a canine training business. The property in question is located in the Wolfeboro Falls Limited Business District. This application requires a Special Exception as a proposed "Educational" use. The business will have hours of operation during the day only as indicated in the applicant's narrative letter. The ZBA should confirm that the proposed activity will not produce noise, odor, traffic or other nuisances perceptible at the lot line at a higher level than is usual in a residential neighborhood during the proposed

hours of operation. Particularly, this should be considered in the context of Section 100.5 of the Code of the Town of Wolfeboro. This application has been granted conditional approval by the Technical Review Committee.

Curt DeVylder, owner of 50 Center Street LLC addressed the Board and reviewed the eight points required for the Special Exception as submitted. The unit is 950 sq. ft. Parking is ample and it is based on a multi-family unit with no plan to stack the parking which would be allowed. The use is not a K9 training business rather an K9 owner training business.

Sarah explained people need training to control their K9's in an environment with other people.

The public hearing was opened.

Speaking in Favor:

Maureen MacDonald, 19 Cotton Mountain Road commented she has been taking classes since May and the classes with the owners are important. There is a difference in all the dogs and owners. The noise is kept at a minimum and the class is beneficial.

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

The Board deliberated the eight points required for the Special Exception as follows:

1. 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 this criterion has been met and there is adequate usable space, a handicap ramp and has good site access, the building has been improved and parking is ample.*

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. Typical negative impacts which extend beyond the proposed site include: Excessive trip generation, Noise or vibration, Dust, glare or heat, Smoke, fumes, gas or odors. Inappropriate hours of operation.

*The Board agreed this criterion has been met and there are no windows towards the motel side of the property and this also helps to minimize noise.*

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.

*The Board agreed this criterion has been met for similar reasons stated under criterion #1 as parking is adequate and there should not be any additional traffic nor commercial vehicles.*

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: Sewer, Water, Stormwater drainage, Fire protection, Police protection, Streets, Parks; Schools.

*The Board agreed this criterion has been met.*

5. Appropriateness of site plan. Consideration shall include: Parking scheme; Traffic circulation; Open space; Fencing/screening; Landscaping; Signage; Commercial vehicles; Lighting impact.

*The Board agreed this criterion has been met and there is adequate parking and further no additional traffic.*

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 as there are businesses surrounding this property.

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 the property as a whole has been improved to include siding and landscaping.*

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 the subject is located in a commercial area.*

*It was moved by David Senecal and seconded by Peter Colcord to approve TM# 204-27, Case 13-SE-18, Applicant: 50 Center Street Realty LLC, for a Special Exception from Article 175, Section 117 of the Wolfeboro Planning & Zoning Ordinance to operate an educational institution for educating dog owners in dog training and behavior management of their dogs for property located at 1-3 Grove Street with the six conditions listed in the Planner Review dated 29 July 2018. All members voted in favor. The motion passed.*

Conditions of Approval:

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 submission requirements for a Building Permit.

4. All conditions of site plan review by the Technical Review Committee as part of Case#2018-13 are incorporated as part of this approval.
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# 191-42

Case # 14-SE-18

Applicant: Kevin C. & Mary A. Haggerty

Special Exception

6 Shady Lane

Tim Cronin read the abutter and public for the record. A site visit was conducted prior to the hearing with Sarah Silk, Luke Freudenberg, David Senecal, and Tim Cronin were present.

Public Hearing for a Special Exception under Article 175, Section 43 of the Wolfeboro Planning & Zoning Ordinance to permit the addition of a shed dormer to the northwesterly side of the existing residence to match the shed dormer on the southwesterly side of said residence and to permit the replacement of the existing porch, deck and stairs with a new, more modest screened porch and stairs with a pervious patio and walkway. This property is located at 6 Shady Lane.

#### Summary of the Application

The applicant seeks to construct a dormer on the second floor of an existing non-conforming structure (side setback encroachment). Details regarding the addition are discussed in the applicant's special exception criteria review.

Please note that many of the items in the narrative letter reference special use permitting and do not apply specifically to this application. The dormer expansion is the activity subject to the special exception as this is the non-conforming portion of the building.

The proposed expansion is compliant with the 25% non-conforming structure expansion threshold.

Attorney Walker addressed the Board and gave an overview, reviewed the eight points required for the Special Exception, plans and photos as submitted. A Special Use permit will be needed.

The public hearing was opened.

Terrane Connelly, 22 Holden Shore Road spoke in favor and supports the application who also submitted a letter in favor. Additionally, four other letters from abutters were also received with the application.

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

The Board deliberated on the eight points required for the Special Exception as follows:

1. 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 this criterion has been met as there is a reduced area of screened porch.*

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. Typical negative impacts which extend beyond the proposed site include: Excessive trip generation, Noise or vibration, Dust, glare or heat, Smoke, fumes, gas or odors. Inappropriate hours of operation.

*The Board agreed this criterion has been met as there is no immediate impact as the modification is small.*

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.

*The Board agreed this criterion has been met and there is no impact as there is no change to the use.*

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: Sewer, Water, Stormwater drainage, Fire protection, Police protection, Streets, Parks; Schools.

*The Board agreed this criterion has been met as all services currently exist and are addressed.*

5. Appropriateness of site plan. Consideration shall include: Parking scheme; Traffic circulation; Open space; Fencing/screening; Landscaping; Signage; Commercial vehicles; Lighting impact.

*The Board agreed this criterion has been met and a Special Use permit will need to be obtained.*

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 as the impact of the non-conforming structure is being made more conforming and additional landscaping with impervious surfaces will be added.*

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 there will be no negative impact on the 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.*

It was moved by David Senecal and seconded by Tim Cronin to approve TM# 191-42 Case # 14-SE-18, Applicant: Kevin C. & Mary A. Haggerty for a Special Exception under Article 175, Section 43 of the Wolfeboro Planning & Zoning Ordinance to permit the addition of a shed dormer to the northwesterly side of the existing residence to match the shed dormer on the southwesterly side of said residence and to permit the replacement of the existing porch, deck and stairs with a new, more modest screened porch and stairs with a pervious patio and walkway for property located at 6 Shady Lane with the six conditions listed in the Planners Memorandum dated 29 July 2018.

Conditions of Approval:

1. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Building Permit, Special Use Permit, and Shoreland 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 submission requirements for a Building Permit.
4. All conditions of special use permitting for wetlands buffer impacts are incorporated as part of this approval.
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# 176-20

Case # 15-V-18

Applicant: Norris B. Harriman Jr.

Use Variance and a Sign Variance

55 Pine Hill Road

Public Hearing under Article 175, Section 187 of the Wolfeboro Planning & Zoning Ordinance for: A Use Variance to permit the expansion of an existing autobody use by constructing a 40' x 80' one story four bay garage for an auto body repair facility and automobile service facility (with no sale of gasoline or lubricants); A Dimensional Variance to construct said building within the 25' side setback on the Wolfeboro Public Works Highway Garage side of the property; and a Sign Variance to permit a second 2' x 2' sign on the existing post. This property is located at 55 Pine Hill Road. A site visit was held at approximately 6:15 pm prior to the public hearing and attended by

David Senecal disclosed he serves as a Selectmen with Mr. Harriman and feels he can be fair and impartial. The Board agreed and noted if he did step down a full Board could not be seated.

### Summary of the Application

The applicant seeks to construct an additional 4-bay, 40'x80', garage building on the Accidents Happen property. The proposed addition is to be located 10' from the side setback where a 25' setback is required. The use is not permitted in the General Residential (GR) zone and therefore requires a use variance for expansion.

This property was granted a variance for this use in 2014 for the existing autobody/repair use. Details regarding the addition and sign are discussed in the applicant's special exception criteria review. Please note that no proposed sign design has been submitted by the applicant, but the request is for a 2'x2' additional sign where a 2'x2' currently exists. Currently, only 1 sq. ft. freestanding signs are permitted. The applicant should clarify if this sign is for an existing or new business. The project is subject to site plan review by the Planning Board.

Attorney Walker reviewed the application, plans and five points required for the variances requested.

Matt Sullivan asked if the proposed sign is for an existing business or a new business.

Attorney Walker explained the second sign would be for a second user for an auto service repair facility. Given the area and size of signs are both north and south of the property they are asking for a 2'x2' sign versus a 1'x1' sign.

Matt Sullivan noted the variance if granted and two bays were leased to a second user they would not be required to come in for a separate variance.

Sarah Silk asked how they will not be selling fluids (gasoline and lubricants).

Attorney Walker responded they do not sell them for retail however use them. Top Care and Sal's Auto Care does not sell fuel but use lubricants in this type of service.

Matt Sullivan read the definition for the use and noted there is no retail sale of gas and lubricants – This is an autobody and auto repair use specifically and clarified retail sales are prohibited,

Brad Harriman explained his prior use in 2014 as a contractor's yard. This use is replaced with the autobody shop and no the contractor's yard is no longer a permitted use.

The sign will be used by a lessee occupying two bays.

The public hearing was opened.

Letters in favor were submitted from: 15 Pine Hill Road, 33 Pine Hill Road, 46 Pine Hill Road, 60 Pine Hill Road, and Knight Security.

No persons spoke against this application and the public hearing was closed.



The Board deliberated on the five points required for the Variance as follows:

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

*The Board agreed this criterion has been met as the area in town is mixed use. This property has been a commercial property since 1964 and abuts the Town of Wolfeboro Public Works commercial buildings. Additionally, the third structure that was on the property line is no longer there.*

3. Substantial justice is done by granting the variance.

*The Board agreed this criterion has been met and this is a win for Wolfeboro as the business is growing which is good for economic development.*

4. Granting the variance will not diminish the value of surrounding properties.

*The Board agreed this criterion has been met and is mixed use the subject property has been a pre-existing non-conforming use for years.*

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

*The Board agreed this criterion has been met and the history is for commercial use.*

Matt Sullivan recommended an 8<sup>th</sup> condition that the retail sale of gasoline is prohibited.

The Board commented the allowed 1' x 1' sign size is not adequate for the area and should be addressed in the ordinance.

*It was moved by David Senecal and seconded by Luke Freudenberg to approve the variance for Article 175, Section 187 of the Wolfeboro Planning & Zoning Ordinance for: A Use Variance to permit the expansion of an existing autobody use by constructing a 40' x 80' one story one bay garage for an auto body repair facility and automobile service facility (with no sale of gasoline or lubricants); A Dimensional Variance to construct said building within the 25' side setback on the Wolfeboro Public Works Highway Garage side of the property; and a Sign Variance to permit a second 2' x 2' sign on the existing post for property located at 55 Pine Hill Road along with the seven conditions listed in the Planners Memorandum dated 29 July 2018 as well as there being no retail sales of gasoline.*

1. The plans as submitted are incorporated as part of this approval.
2. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Site Plan Review and Building 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 submittal requirements for a Building Permit.
5. Certification of building footings prior to construction to ensure setback encroachment in accordance with this application
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 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.
8. Retail sales of gasoline are prohibited.

Consideration of Minutes:

4 June 2018

It was moved by Luke Freudenberg and seconded by Peter Colcord to approve the minutes of 4 June 2018 as submitted. Luke Freudenberg, Peter Colcord and Tim Cronin voted in favor. Sarah Silk and David Senecal abstained due to their absence from the meeting. The motion passed.

It was moved by David Senecal and seconded by Peter Colcord there being no further business this meeting be adjourned at 8:21 pm. All members voted in favor. The motion passed.

Respectfully Submitted,



Robin Kingston  
Administrative Assistant