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9 April, 2018 M

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WOLFEBORO, N.H. TOWN CLERK

**Wolfeboro Zoning Board of Adjustment
Regular Meeting
2 April 2018
Minutes**

Members Present: Fred Tedeschi, Chairman, Susan Raser, Clerk, Sarah Silk, Member, Hank Why, Member attending by phone and Tim Cronin, Alternate, David Senecal, Alternate and Suzanne Ryan, Alternate.

Members Absent: Mike Hodder, Vice Chairman

Staff: Matt Sullivan, Director of Planning & Development, Corey Ryder, Code Enforcement Officer and Robin Kingston, Administrative Assistant

Chairman Tedeschi called this meeting to order at 7:03 pm in the Great Hall at the Wolfeboro Town Hall. A quorum was present.

Appointments:

Motion for Rehearing

Appeal of Kevin Green

01-AAD-18

5 February 2018

Tim Cronin and was seated for consideration on this motion for rehearing.

Hank Why was asked to indicate under NH RSA 91A the reason he cannot be present in person.

Hank Why explained he is in Nashua for the winter, further he has received the package of the slides and information from the first hearing which he has reviewed and is familiar. His decision has not changed.

Fred Tedeschi stated an issue was raised as to whether Attorney Spector Morgan's input and statements made during the Board's deliberation was inappropriate.

The Board agreed the statements Attorney Morgan Spector made were nothing other than legal advice or how legal advice on how things would be interpreted and further agreed their votes would have all remained the same.

Fred Tedeschi explained the criteria for approving the Motion for Rehearing being new evidence or information received not available at the time of the hearing or a technical error had been made.

Sarah Silk responded she located a document from a training session with the Office of state Planning regarding the Master Plan. The Master plan is a Planning document which serves to guide the overall character, physical form, and development of community and describes how, why, where and when to build or rebuild. It provides guidance to local officials making decisions zoning and subdivision matters and other issues. It is not a legal document it does provide the legal basis for zoning and other land use regulations. The Master plan does state, "Do not issue building permits for development on Class VI Roads". This was her reason for voting no and the Board should have listened to that.

The remainder of the board discussed this and noted it is not a legally binding document but a guidance and if municipality provides zoning ordinances they must adopt a Master Plan. Additionally, the Town Board of Selectmen adopted a Class VI Road and approved the application for the building permit on a Class VI Road.

Sarah Silk stated she does not agree as that is not the intent of the Class VI Road Policy.

It was moved by Fred Tedeschi and seconded by Susan Raser to deny the Motion for Rehearing in the matter of ZBA Case # 01-AAD-18 involving the lot on Stoneham Road be denied. Hank Why, Susan Raser, and Tim Cronin voted in favor of the motion. Sarah Silk voted in opposition. The motion passed with four members in favor and one member against.

Hank Why disconnected from his attendance at the meeting.

Appointments:

1. **TM# 148-12**
Case # 08-V-18
Applicant: Heidi vonGotz
Variance

Suzanne Ryan and Tim Cronin were seated for the hearing.

Public Hearing for a Variance under Article VI, Section 175-44 of the Wolfeboro Planning & Zoning Ordinance to allow for three signs (12 sq. ft.) each mounted in a vertical manner on the property for existing 1810 House Bed & Breakfast. This property is located 458 Center Street.

Susan Raser read the public and abutter notification for the record. A site visit was held at approximately 6:20 pm, prior to the meeting.

Summary of the Application:

This variance request is to exceed the allowable 1 sq. ft. per sign for freestanding/ground signs allowed in the General Residential District.

The proposed signs will be 12 sq. ft. in sign each for the three (3) signs.

As noted in the zoning authority section, one sign is permitted per business. This property has received approval for three (3) independent businesses.

Heid vonGotz addressed the Board, reviewed the application, five points required for the variance and plans for the signs as submitted. Noted specifically is the speed limit coming into town to 40 mph and leaving town it is 55 mph requiring the lettering needing to be large enough to read at those speeds as safety concern.

The Board discussed the “Antiques” lettering on the barn and questioned whether it is considered a sign.

Heidi vonGotz responded the Antiques barn sign is included and it is in the Historic Preservation Easement on the property.

Matt Sullivan responded he would not consider the lettering a sign and felt it is exempt as it is part of the historic barn easement.

The Board discussed the lettering potentially being considered a sign; concern that the lettering is not seen until a drive is at the property giving no time to slow and enter the property safely; and the setback from the road.

Corey Ryder, Code Enforcement Officer commented he has not made a decision on whether the “Antiques” lettering on the barn is a sign but noted he would probably consider it a sign.

The Board discussed the post set back from the existing street. The applicant noted they are set back 40’ and will be closer to the house than the bridge. At the Stop sign on Trotting Track Road you are beyond where this sign sits on the lawn and have ample site distance.

The Building File does not include a clear approval from the 1810 house.

The Board also discussed the location of the three businesses is unique as there are several businesses surrounding this property and very few residences.

Chairman Tedeschi opened the Public Hearing.

Jerome Holden spoke in favor of the application and feels the sign size is an unreasonable restriction. The speed and sign setback recommends 21" lettering allowing the signs to be seen within the cone of vision while driving. An appropriate sign size for the area would be 36 sq. ft. for each sign. There is only one residential house and there have been no abutter objections.

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

The Board deliberated on the application and decided to address each sign request individually.

Winnepesaukee Winery – 12 sq. ft.

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

The majority of the Board agreed these criteria have been met as this business is allowed to operate legally with the others on the property and this is not out of the ordinary and the size increases safety for drivers.

3. *Substantial justice is done by granting the variance:*

The Board agreed this criterion has been met and will provide for safety for drivers.

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

The Board agreed this criterion has been met and no evidence was presented that this would reduce property values.

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

The Board agreed to re-open the public hearing for a question to Jerome Holden who reported in the speed zone and setback the recommended sign size is 36 sq.ft.

The majority of the Board agreed this criterion has been met as the sign, although larger than allowed is still smaller than the recommended letter size of 21" and overall sign size of 36 sq.ft. to be able to read in the location and posted speed limits.

It was moved by Susan Raser to grant the variance under Section 175-44 of the Wolfeboro Planning & Zoning Ordinance to allow for one sign totaling 12 sq. ft. that states Winnepesaukee Winery mounted in a vertical manner on the property located at 458 Center Street, TM# 148-12 with the four conditions contained in the March 27, 2018 Memorandum by the Director of Planning & Development. Fred Tedeschi seconded the motion. Susan Raser, Tim Cronin and Fred Tedeschi vote in favor. Sarah Silk and Suzanne Ryan voted in opposition. The motion passed with three members in favor and two members against.

1810 House Bed & Breakfast – 12 sq. ft. Sign

The Board agreed the same reasoning to the criteria applies for this sign as previously discussed.

It was moved by Susan Raser to grant the variance under Section 175-44 of the Wolfeboro Planning & Zoning Ordinance to allow for one sign totaling 12 sq. ft. that states 1810 House Bed & Breakfast mounted in a vertical manner to be no closer to the road than 40' on the property located at 458 Center Street, TM# 148-12 with the four conditions contained in the March 27, 2018 Memorandum by the Director of Planning & Development. Fred Tedeschi seconded the motion. Susan Raser, Tim Cronin and Fred Tedeschi vote in favor. Sarah Silk and Suzanne Ryan voted in opposition. The motion passed with three members in favor and two members against.

Susan Raser amended the motion to state that all other signage will be removed and there is to be only one sign per business of the property. Tim Cronin seconded the motion.

All members voted in favor of the amendment and the amended motion. The amendment and amended motion passed unanimously.

Antiques Sign – 12 sq. ft.

The Board agreed the reasoning for the criteria 3 & 4 have been met but criteria #2 & #5 have not.

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

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

The majority of the Board agreed these criteria were not met as the Antiques lettering on the barn is a sign.

It was moved by Suzanne Ryan to deny with prejudice the 3rd sign for the antique barn for a variance from Section 175-44 of the Wolfeboro Planning & Zoning Ordinance. As it does not meet spirit of ordinance criteria and will not create an unnecessary hardship as there is a pre-existing sign for property located at 458 Center Street, TM# 148-12, Case # 08-V-18. Sarah Silk seconded the motion. Sarah Silk, Fred Tedeschi, Tim Cronin and Suzanne Ryan voted in favor of the motion. Susan Raser voted in opposition. The motion passed with four members in favor and one member against.

3 TM# 190-20

Case # 09-SE-18

Pine Hill Road Realty Trust, LLC

Special Exception

Suzanne Ryan and Tim Cronin were seated for the hearing.

Public Hearing for a Special Exception under Article VI, Section 175-43 A.1 of the Wolfeboro Planning & Zoning Ordinance to allow for the addition of a 35' x 96' storage building (3,360 sq. ft.) close to an open portico located on the existing house, add parking/paving and relocate/increase size of detention basin. This property is located at 18 Pine Hill Road.

Chairman Tedeschi noted the public notice should have stated the application is to enclose the portico. Staff noted the text is what was stated in the application. The applicant confirmed the application is also to enclose the portico.

Susan Raser read the public and abutter notification for the record. A site visit was held at approximately 6:35 pm, prior to the meeting.

Summary of the Application:

The applicant seeks to construct an additional self-storage building (35'x96' – 3,360 sq. ft.) and expand an existing storage office by 271 sq. ft. for the enclosure of a portico area for a self-storage kiosk. The total non-conforming use expansion is 3,631 sq. ft.

The existing non-conforming self-storage use includes three (3) existing self-storage buildings (4,800, 4,800, and 4,000 sq. ft.), a 264 sq. ft. storage shed (264 sq. ft.), and storage office (780 sq. ft.). The total existing non-conforming use area is 14,644 sq. ft.

The proposed use expansion is compliant with the 25% expansion threshold $[(3,631/14,644) * 100] = 24.79\%$. The proposal is subject to site plan review by the Planning Board.

Chris Pomgratz addressed the Board, plan and eight criteria for the Special Exception as submitted. The plan is to remain open 24 hours a day. The parking will be realigned and 4 parking spaces will be added and parking will be compliant with ADA requirements. There will be three lights added on the west side of the new building only and will be on the same lighting schedule as all other lights.

Chairman Tedeschi opened the public hearing.

Peter Sullivan, 10 Pine Hill Road asked for a clarification as to why is this application is needed and inquired if there was a zoning change.

Matt Sullivan explained there was a zoning change in 2011 not including this lot with this use which he believes was an oversight of the Planning Board.

Pete Sullivan stated he and his wife are both in favor of the application and have not had any issues and the property is well maintained.

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

The Board deliberated on the following criteria:

- 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

It was moved by Suzanne Ryan and seconded by Tim Cronin to re-open the public hearing for a direct question to the applicant. All members votes in favor.

The Board clarified with the applicant there is no water or bathroom facilities to any of the storage units. Further the applicant noted they will try and save or relocate the large tree.

Chairman Tedeschi closed the public hearing.

The Board agreed the above criteria has been met.

It was moved by Suzanne Ryan to approve the plan dated 3.29.2018 as the criteria for a Special Exception for under Article VI, Section 175-43 A.1 of the Wolfeboro Planning & Zoning Ordinance for Pine Hill Road Realty Trust LLC, 18 Pine Hill Road, TM# 190-20, Bay Street Limited Business District to allow for the addition of a 35' x 96' storage building (3,360 sq. ft.), and the expansion of the existing storage office facility by 271 sq. ft. by the enclosure of an open portico area to hold a self-storage kiosk. The total non-conforming use expansion is 3,631 sq. ft. The proposed expansion is complaint with the 25% expansion threshold. Also, conditions 1-6 shall be part of the approval listed in the Planner's Review dated 3.28.2018. All members voted in favor. The motion passed unanimously.

Election of Officers:

Postponed until May Meeting

Consideration of Minutes:

4 March 2018

Page 1:

Staff: Matt Sullivan, Director of Planning & Development, **Corey Ryder, Code Enforcement Officer** and Robin Kingston, Administrative Assistant and

Add – Summary of Application - after the reading of the abutter and public notification - ***this shall be a practice moving forward through all minutes**

Page 2:

Matt Sullivan responded there is a subdivision plan from 1973 and the lot was intended for telecommunications. A subdivision plan was presented. Further~~is~~ **it** was explained there are many factors that go into determining if a lot is buildable, however in this case he sees no reason this lot would not be buildable.

Alan Fredrickson, 50 Martin Hill Road **stated that** he also owns all the other lots in the existing subdivision and receives a tax bill for each lot.

Page 3:

Matt Sullivan **responded** this is a request for setback relief and not lot coverage. Further it is recommended should this application be approved the requirement for an as-built survey.

Sarah Silk asked if the deed said this was an unbuildable lot.

Chairman Tedeschi closed the public hearing.

Page 4:

Randy Walker addressed the Board **and** reviewed the application, plans and five criteria required for a variance.

Page 6:

Matt Sullivan explained in the GR district, one sign is permitted per business. The variance is for the dimension being proposed and, the additional sign size ~~is~~ for 36 sq. ft.

It was moved by Susan Raser and seconded by Sarah Silk to approve the minutes of 3 March 2018 as amended. Fred Tedeschi, Susan Raser, Tim Cronin, and Sarah Silk voted in favor. Suzanne Ryan abstained. The motion passed with four members in favor of the motion and one abstention.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'RK' or 'Robin Kingston'.

Robin Kingston
Administrative Assistant