

Wolfeboro Zoning Board of Adjustment

Regular Meeting

October 2, 2017

Minutes

RECEIVED AND RECORDED

10/27, 2017 8:00 AM

Book No.

Page No.

WOLFEBORO, N.H. TOWN CLERK

Members Present: Fred Tedeschi, Chairman, Mike Hodder, Vice- Chairman, Susan Raser, Clerk, Hank Why and Sarah Silk, Members, David Senecal and Tim Cronin, Alternates

Members Absent: Sarah Silk, Alternate

Staff: Matt Sullivan, Director of Planning & Development. Robin Kingston, Administrative Assistant (Absent).

Chairman Tedeschi called this meeting to order at 7:00 pm in the Great Hall at the Wolfeboro Town Hall. A quorum was present.

Appointments:

TM# 268-41

Case # 11-V-17

Applicant: William Ortisi

Variance

Public Hearing for a Variance under XII, Section 175-80 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a 180 sq. ft. addition (12'x15') to enlarge an existing bedroom on the first-floor front southwest corner. This property is located at 70 Middleton Road. A site visit was held at approximately 6:15 pm prior to the meeting.

William Ortisi addressed the Board and reviewed the application, plans and 5 criteria required for the Variance as submitted in the application

No person spoke in favor or against the application.

Sarah Silk commented the applicant had clearly marked on the ground where the addition was proposed and thanked for applicant for the delineation as this assisted the Board during the site visit.

Matt Sullivan noted that parts of the application noted an 11' encroachment and other portions noted a 12' encroachment and wanted to clarify a maximum encroachment.

William Ortisi clarified that the maximum encroachment would be 12'.

Fred Tedeschi closed the public hearing.

The Board reviewed the five criteria as follows.

(1) The variance will not be contrary to the public interest;

(2) The spirit of the ordinance is observed;

The Board agreed these criteria have been met. Approving the variance will not deform the purpose of the residential Zoning Ordinance or materially alter the essential character of the neighborhood as it will not alter its goal of medium density development. It will not negatively impact the health, safety, or welfare by the construction of the modest addition of a bedroom. Also noted there is no impact on the septic system as it is not adding an additional bedroom.

(3) Substantial justice is done;

The Board agreed this criterion has been met. There is no gain to the Town by denying this variance. This is extending the existing footprint without encroaching any further towards the road.

(4) The values of surrounding properties are not diminished;

The Board agreed this criterion has been met. There has been no information this will diminish property values.

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

The Board agreed this criterion has been met. The placement of this dwelling on the non-conforming lot creates a special condition and does not allow for the extension in any other logical or human sense. Enlarging a bedroom and not adding a bedroom is not an unreasonable request.

It was moved by Mike Hodder to approve TM# 268-41, Case # 11-V-17, Applicant: William Ortisi for a Variance under XII, Section 175-80 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a 180 sq. ft. addition to enlarge an existing bedroom on the first-floor front southwest corner with an intrusion into the setback 12' with conditions 1-5 as outlined in the Planner Review and site plan reference. Hany Why seconded the motion. All members voted in favor. The motion was approved.

TM# 217-35

Case # 12-V-17

Applicant: 15 North Main Street LLC

Variance

Agent: Jim Rines, PE

Public Hearing for a Variance under XIII, Section 175-145 of the Wolfeboro Planning & Zoning Ordinance to allow for the conversion of five commercial office units on the second floor to three residential units. This property is located at 15 North Main Street. A site visit was held at approximately 6:30 pm prior to the meeting.

Jim Rines addressed the Board and reviewed the application, plans and five criteria as submitted with the application.

Sarah Silk asked how many commercial units will remain if the 2nd floor is converted to residential units and what type of rental units will they be; daily, monthly, yearly?

Jim Rines responded he did not have the number as the building had received Site Plan Review Approval and what was calculated was the reduction in total units. The rental units would be yearly rentals.

Sarah Silk questioned the parking spaces as the application notes five spaces are required for the residential parking and the parking requirement for the 5 commercial units that will be converted is 19 spaced. ON the ground there are only 11 spaces. How many of those 11 are going to be need for the remaining commercial units and seems there are not enough spaces regardless.

Matt Sullivan responded the parking requirements C1-CBD District are flexible as it offers a three-pronged approach; 1; on-site, parking 2: payment in lieu of parking or, 3: identify on street parking within 500' of the site. This location takes advantage of on street parking within the 500'. The owner of the LLC in discussion is willing to identify on-site parking the ordinance does not allow off-site parking for residential units in this district. The ZBA could explore a condition of approval would be a designation of on-site parking.

Sarah Silk noted she was concerned where the parking would be identified.

Matt Sullivan noted the application actually reduces the need for parking spaces.

Sarah Silk stated she disagreed.

Jim Rines stated the demand is reduced and there are actually 9 spaces on the ground and the fact the CBD does not require the parking spaces to be on site and by reducing the demand for off-site parking. There are no on-site parking spaces required for commercial use and only five are needed on site and there are currently 9 on site so the actual requirement is reduced.

The Board discussed the total number of commercial spaces on the first floor and determined there are seven.

Fred Tedeschi asked if any survey was done for the effect of loss of commercial units in the downtown area and demand for commercial space.

Jim Rines noted it does reduce the commercial space in the area but if the demand for commercial space is not there hence the reason the reason for the conversion and one of the criteria of the CBD is to create mixes on the property so they are advancing the purpose.

Sarah Silk stated concern on reducing the commercial units and businesses start to creep out Route 28 and more and more businesses are moving into a light mixed use commercial area.

Jim Rines also noted that if the demand changed back to commercial, these units could be converted back.

Time Cronin asked of the 5 required parking spaces would be marked as designated spaces.

Jim Rines responded if that were required then yes,

Mike Hodder clarified the variance is for density only as there is no requirement of a variance for the conversion to residential. Additionally, he asked for clarification as to the type of rentals, number of bedrooms, etc.

Jim Rines responded that two residential units are allowed and the applicant is requesting three. Presumably you are reducing the renters are working and out during the day so the parking spaces are available and most of the businesses are 9-5.

Mike Hodder asked if units are defined in the ordinance. Does this assume a unit could be residential versus commercial?

Matt Sullivan concurred.

Jim Rines noted his reference to shared parking recognizes the differences to the times of peak and did not infer this would be applied to this application.

Matt Sullivan responded that in his opinion there is no requirement for on-site parking being required for either commercial or residential. The reason he is recommending designated on-site parking is specifically to remove the vehicles from main street during the winter.

Jim Rines noted the applicant would be willing to designate the five on-site parking spaces for the residential units. Also noted was the large size of this property that sets it apart from the other parcels and buildings in the district.

Public Comments:

Douglas Phillips, President of the Wolfeboro Bay Manor Association and they are a model for the same scenario as the applicant. Each of the 8 residential units are owner occupied and each has an assigned parking space. Parking is an issue behind Main Street however in the winter the population is reduced and hence the parking need is reduced. There was no single objection from any of the unit owners in the condominium association for the applicant's request. Designated parking should be required for on-site and the call. As for the Wolfeboro Market Place is deeded parking space and this has little to do with designated for the store. The Board of the Wolfeboro Bay Manor asks that strong consideration be given to a minimum of 4 spaces designated and one swing space to be dedicated within a reasonable distance of their door.

Tim Cronin asked if this were converted to only 2 units how many would be required.

Matt Sullivan stated that there would be 4 spaces for 3 units however there is a conflict within the ordinance. Also, a 2 unit would require 3 spaces.

Fred Tedeschi closed the public hearing.

The Board deliberated on the application. Discussion occurred as to the Special Conditions of this property versus others in the area. Noted were that most other parcels have no on-site parking at all. This property does offer some on-site parking which makes this unique and parking can be designated on-site the reduction of the required spaces for commercial units.

The Board reviewed the five criteria as follows.

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

The majority of the Board agreed these criteria have been met.

3. Substantial justice is done;

The majority of the Board agreed this criterion has been met.

4. The values of surrounding properties are not diminished;

The majority of the Board agreed this criterion has been met.

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

The majority of the Board agreed this criterion has been met.

It was moved by Mike Hodder and seconded by Hank Why to grant the Variance for TM# 217-35 Case # 12-V-17, Applicant: 15 North Main Street LLC for a Variance under XIII, Section 175-145 of the Wolfeboro Planning & Zoning Ordinance to allow for the conversion of five commercial office units on the second floor to three residential units with the five conditions referenced in the Planners Review and a 6th condition parking spaces be dedicated to the residential units per the current Wolfeboro Town Code that would be applied at the time of permitting. Fred Tedeschi, Mike Hodder, Susan Raser and Hank Why voted in favor of the motion. Sarah Silk abstained from the vote. The motion passed.

Consideration of Minutes:

18 September 2017

Page 1.

Members Absent: Tim Cronin and Suzanne Ryan, Alternates add: **(Both Members Excused)**

Page 2:

Add under deliberations regarding a steep slope and placement of septic system are constraints to the property on this small lot.

Page 3:

Mike Hodder asked (add: if the) roof over laundry room will not be higher than the roof of the actual house or will it be lower than the existing roof and the existing roof cover will simply be raised. He also raised concern over additional runoff velocity and asked how this will be dealt with.

Page 4:

Add a note prior to the beginning of Case # 10-SE-17 that earlier in the meeting add a note that Matt Sullivan produced page 2 for both the Norway Plains and the Sheehen/Phinney letters the Board was missing and the Board reviewed prior to the Board hearing the next case.

Page 5

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

Via the documentation submitted by Anna Barbara Hantz, Esq. ~~or~~ of Sheehan and Phinney, the applicant has certified that the previously existing lots (058,059,and 060), and reconfigured lots (058 and 060), have a deeded right of access to the lot.

The access easement approved as part of the Planning Board's lot r configuration plan is currently under review by Town counsel **and** in addition ~~to~~ a driveway maintenance **agreement is currently under review.**

Also the Board noted the following—Add colon:

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Hank ~~why~~ Why

It was moved by Sarah Silk and seconded by Mike Hodder to approve the minutes of 18 September 2017 as amended. All members voted in favor. The motion passed.

It was moved by David Senecal and seconded by Sarah Silk to adjourn. All members voted in favor. The motion passed.

Respectfully Submitted,

Robin Kingston
Administrative Assistant