

Wolfeboro Zoning Board of Adjustment

Regular Meeting

3 April 2017

Minutes

RECEIVED AND RECORDED

4/10, 2017 8:30 M

Book No.

Page No.

WOLFEBORO, N.H. TOWN CLERK

Members Present: Fred Tedeschi, Chairman, Mike Hodder, Vice- Chairman, Hank Why and Suzanne Ryan, Members, Susan Raser, Alternate, David Senecal, Alternate and Sarah Silk, Alternate

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

Chairman Tedeschi called this meeting to order at 7:02 pm in the Wolfeboro Public Library Meeting Room. A quorum was present.

Matt Sullivan announced due to an error in the Public Notice the Palmason case scheduled for tonight will be rescheduled and re-noticed.

Appointments

Fred Tedeschi appointed Sarah Silk to be seated for this hearing.

Joseph & Mary Balboni

Case # 13-V-17

TM# 142-4

Variance

730 North Main Street

Public Hearing for a variance from Article IX, Section 175-64A (4) of the Wolfeboro Planning & Zoning Ordinance to allow the addition of a 30' x 50' garage with an area of encroachment of 654 sq. ft. and setback from the shoreline 34.5'. This property is located at 730 North Main Street. A site visit was held previously.

The applicant seeks to add a 30'x50' garage to an existing lot. The addition of the garage will produce an additional encroachment of 654 sq. ft. into the 50' shorefront setback including both garage and overhang. The encroachment is, at its maximum, 15.5' into the 50' shorefront setback.

The applicant had submitted an application for this proposed garage and it was denied without prejudice by the Zoning Board of Adjustment in 2016. The reason for that denial was the lack of a complete Town of Wolfeboro Shoreland Permit, and did not include a professionally engineered design for the storm water management plan. The project has been granted an NHDES Shoreland Permit.

Attorney Kalled representing the applicant reviewed the application and five points required for a Variance as submitted. The applicant is requesting the variance to construct a garage that would house their boat and trailer along with jet skis and other items. The applicant does not want to store his wrapped boat and other items in the yard.

Public Comment:

Janet Bragg, 33 Robin Acers Drive spoke in position and commented that any structure built will obstruct her view and there is no advantage to the abutters.

Jim Rouillard, 4 Olsen Lane spoke in opposition and asked the application be denied.

Attorney Kalled rebutted and noted this building would be below the max height allowed by zoning and will sit low as the grade of the road and will sit well below the abutters across the street due to the natural grade of the property. The pitch of the roof will be lower than typical for the area. The design is intended to work with and match the existing home.

Mike Hodder asked if the abutter has a view one could assume there is a view tax, and would you think the value of the property is diminished if the view is obstructed?

Attorney Kalled responded the area is wooded and especially on the Robin Acres side there is a mix of hardwood and evergreens and you would not have much of a view. The construction of the garage would open the view more.

Mike Hodder noted his concern is the abutters value will diminish.

Attorney Kalled responded he is not aware of the view diminishing.

Suzanne Ryan stated the abutters are going to look at the roof 50' long and asked about the need for driveway modification.

Attorney Kalled responded the driveway configuration will be a pervious driveway surface.

Suzanne Ryan stated the building is 50' long and that is not a normal 2 car garage and asked why the applicant did he not consider something smaller.

Attorney Kalled responded this proposed garage is what Mr. Balboni has requested and fits he needs for storage as he would like to be able to store his boat and other watercraft out of sit instead of being wrapped and stored in his yard which could be an eyesore.

Suzanne Ryan noted a covenant on the property of not more than one guest cottage and not more than one garage.

Attorney Kalled responded that the wording states "may not construct more than one garage" and this would be the only one garage constructed. This use is intended to be used solely for personal use and not for business and no there is no intention of operating a business on the property.

Mr. Connelly, Builder for the applicant noted the garage is measurement is based upon the size of Mr. Balboni's boat and trailer which is approximately 44'.

Susan Raser asked about the wooded area of the property and the note on the application that it is "mostly compliant" and what appears to be a boathouse.

Attorney Kalled noted the wooded property near the existing garage and the opposite side of the property is wooded and it is light. There is a canopy, not a boathouse at the dock. Further, when the boat is in the water the trailer still needs to be stored and the boat may be too large to store at the dock.

Fred Tedeschi commented it is not a hardship to launch his boat as the launch is very close.

Attorney Kalled noted the existing house violates the setback more than the proposed garage. Further the as-built garage will not create a higher obstacle and will be approximately 8' lower than the house.

Sarah Silk asked if it was a 1' overhand or an 18'.

Mr. Connelly responded it could be either, however an 18" overhang is more aesthetically appealing.

The Public Hearing was closed.

The Board deliberated on the application and the criteria required for a variance.

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

Suzanne Ryan feels it alters the neighborhood and does not protect the integrity of the shorefront area.

Hank Why commented he does not alter the character of the neighborhood as it sits low and the impact is lessened. Further the lot is constricted and challenged and it is a reasonable garage to conform to setbacks. The lot is 316' long an very narrow and is not overbuilt.

Mike Hodder commented he felt it will make an impact on the neighborhood and will be contrary to the spirit of the ordinance which is in place to prevent over construction in the shoreline area.

Sarah Silk noted the fences on each side of the abutting properties are more of an eyesore and in the neighborhood, there are a lot of garages and felt the applicant meets criteria one and two.

Fred Tedeschi noted the constraint of the lot is the width is the issue and not the length.

3. *Substantial Justice is done:*

Suzanne Ryan stated she does not feel it is met because it is the abutters that will lose.

Mike Hodder noted the town gains if the ordinance strictly enforced and the applicant loses.

Sarah Silk stated the town would lose if the applicant stored his boats outside in the winter.

Fred Tedeschi stated he thinks substantial justice is done.

4. *The value of surrounding properties not be diminished:*

Suzanne Ryan stated this will impact property values.

Hank Why does not believe the view is obstructed to the extent it would diminish property values.

Mike does not feel property values would be diminished.

Fred Tedeschi and Sarah Silk agreed property values would not be diminished.

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

Suzanne Ryan stated the surrounding properties face the same constraints. There are no special conditions. The use is reasonable but size is not reasonable and there are other reasonable uses

Hank Why felt the use is reasonable and the double narrow lot constrains the property.

Mike Hodder noted the lot clearly suffers from special conditions. The lot is a long thin piece of property however cannot find in favor of 5 -A2

Sarah Silk noted restrictions on the setback. A garage exists on the lot and the restrictions are fair and reasonable however a long skinny garage that conforms with the setbacks would be more obnoxious to the neighbors.

Susan Raser noted based on the 1961 survey as it appears there are special conditions and but she is hung up on the reasonable use because of the garage size.

Fred Tedeschi commented this is not reasonable and there are other uses for the property.

It was moved by Suzanne Ryan and seconded by Mike Hodder to deny the application for Joseph & Mary Balboni, Case # 13-V-17, TM# 142-4 for a variance for a 30' x 50' garage. All members voted in favor. The motion passed.

Consideration of Minutes:

3 March 2017

Page 2:

Suzanne Ryan noted as of 2/2/2016 it was used as an auto (insert: body) shop and has been converted to another use.

Suzanne Ryan stated it was an auto body shop (insert: , and no permit other than that.)

Fred Tedeschi ~~(noted replace:~~ **questioned if there are overhead doors in front if so would need to be removed and only one will remain in the rear of the building.**

Page 3

Sarah Silk ~~before the change of use~~ (insert: **stated because of the change of use** on April 19th, 2016 the **insert: the grandfathered** use went away and this is now a new use....and you are beating a dead horse.

It was moved by Suzanne Ryan to uphold the Town Planning Administrators decision. ~~and the April 19, 2016~~ **because** Planning Boards approval **of the** site plan for this location the sunset provision applies to the insert: **that** operation and **that** the planner's indication ~~the~~ **of that** use becomes less.

Alex Hunt current owner of the property reiterated **(insert: the use of)** the property and the uses throughout time and there are no residential properties in the area.

Page 4:

~~Autocare~~ **Auto Care Plus** is currently the only place you can purchase a vehicle in town.

Page 5:

Fred Tedeschi asked if Attorney Murray is opposing the intent of what is requested.

Add sentence: Attorney Murray responded he was not opposed but concerned with the storm water runoff.

Attorney Walker stated there are no abutters rejecting this request and the Lake Wentworth Association's objection is **(insert: to)**the impact.

Alex Hunt ~~commented~~ noted the comments regarding storm water drainage and noted the Planning Board now has an engineered plan for storm water drainage which it never had.

It was moved by Sarah Silk and seconded by Mike Hodder to approve the minutes of 3 March 2017 as amended. All members voted in favor. The motion passed.

Other Business:

FIT – No update

Cantwell/Brewster Academy:

The Town was served with papers on Friday, March 31, 2017, Mr. Cantwell has filed an appeal to the ZBA's Decision relative to the approval for Brewster Academy - Cantwell v. Town of Wolfeboro.

The Department will prepare a certified record of all files and a response.

Recusals:

Hank Why clarified when a member recuses themselves, they should move away from the table and take a seat in the audience.

The Board is meeting on April 17, 2017, 5:30 pm in the annex conference room with their legal counsel. This is a privileged meeting and not a public meeting.

Palmason Application: New date set to April 24, 2017 at 7:00 pm in the Great Hall.

Hank Why informed the Board he would be stepping down from the application. Susan Raser will be away and not able to attend the meeting.

Matt Sullivan informed the Board that one of the abutting property owners has given the ZBA permission to walk on their property during the site visit to get some perspective on the project.

Suzanne Ryan gave information to the Planner regarding recusals to be distributed to the Board prior to the meeting with counsel. This information will be emailed to board members.

It was moved by Suzanne Ryan and seconded by Hank Why there being no further business, this meeting be adjourned at 8:38 pm. All members voted in favor. The motion passed.

Respectfully Submitted,

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

Robin Kingston
Administrative Assistant