

Wolfeboro Zoning Board of Adjustment

Regular Meeting

6 February 2017

Minutes

RECEIVED AND RECORDED

2/15, 2017 4:30 PM

Book No.

Page No.

WOLFEBORO, N.H. TOWN CLERK

Members Present: Fred Tedeschi, Chairman, Mike Hodder, Vice- Chairman, Chris Franson, Clerk, 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 Great Hall at the Wolfeboro Town Hall. A quorum was present.

Case # 23-V-16

TM# 242-8

Applicant: Robert & Helen Conrad

Agent: Shannon Alther, TMS Architects

Variance

165 Clark Road

Continued Public Hearing from December 5, 2016

David Senecal and Hank Why recused themselves from this hearing. Susan Raser was seated.

Continued Public Hearing for a Variance from Section 175-64 of the Wolfeboro Planning & Zoning Ordinance to allow the replacement of an existing dwelling on the existing footprint and relocation of existing garage to be attached to the dwelling. This property is located at 165 Clark Road.

Existing Impervious Lot Coverage: 5,718 Sq. Ft. Existing Total Lot Area Within 250' of Shoreline: 12,170 Sq. Ft. Existing Percentage Lot Coverage: 46.984% Proposed Impervious Lot Coverage: 3,483 Sq. Ft. Proposed Total Lot Area Within 250' of Shoreline: 12,170 Sq. Ft. Proposed Percentage Lot Coverage: 28.6% This project proposes the following:

- * Removal of an existing garage within of 11'-11 3/8" of southern side setbacks and 8'-5 7/8" of northern side setbacks
- * Construction of a two-car garage addition to the home with minimum side setbacks of 2'-9 3/8" on northern setbacks and 1'-2'-9 3/8" on southern setbacks.

- * Relocation of septic tank and leach field 50' additional from the shorefront area.
- * Partial re-construction, renovation of, and addition to an existing home resulting in additional square footage.
- * Additional infringement of the existing home into setbacks to the southern side of the property, and addition of a walkway between the driveway and home.
- * Installation of pervious pavers and surfaces during the redevelopment of the site to reduce impervious surface coverage but increase driveway, walkway, and patio coverage.

A stamped plan from Norway Plains has been provided, revised 1/9/2017. The existing and proposed setbacks are as follows: Existing Proposed Change Notes A 11.8' 11.8' 0 Abutting Neighbor B 11.4' 11.4' 0 Abutting Neighbor C 2.5' 2.8' +0.3' To Town Property D 0.17' 0.5' +0.33' Chimney/Town Property E 1.3' 1.6' +0.3' To Town Property F 4.9' 4.9' 0 To Town Property G 25.9' 19.7' -6.2' At Shoreline H 28.1' 13.6' -14.5' At Shoreline 1 9.66' 6.4' -3.26' Abutting Neighbor 2 13.66' 12.0' -1.66' Abutting Neighbor 3 15.3' 3.3' -12' To Town Property 4 13.09' 3.4' -9.69 To Town Property.

Shannon Alther addressed the Board and noted the surveyed plans. The site is challenged in all areas. Areas of the dwelling may remain intact particularly the areas abutting the town property. The site plan was reviewed. The existing and proposed changes were outlined as noted in the Planner's Review.

Susanne Ryan asked for the size of the garage.

Shannon Alther noted it was roughly 24' x 24' with a connector. A new garage will be constructed and have habitable space above.

Sarah Silk asked about the "C" measurements and location of the HVAC units.

Shannon Alther noted the reasons the HVAC are located where they are, being the property slope and adjacent location to the mechanical room.

Chris Franson asked how feasible it is to preform construction in such a tight envelope.

David Senecal stated that he believes the construction is possible especially if some of the structure is left intact. They may require a temporary easement for construction purposes however.

Shannon Alther stated the goal is not to go beyond the property line and a construction management plan would be developed and reviewed by the Building Inspector.

Sarah Silk questioned a suggested question #4 by the Town Planner.

The same design concept has been kept and additional dimensional information has been added.

Shannon Alther reviewed the five criteria as submitted with the initial application. A trigger for the application is because of the desire to attach the garage to the dwelling which is 24' x 24' and the connector is approximately 10' to 5' in line with the east wall of the house.

Fred Tedeschi closed the public hearing.

The Board reviewed and discussed the proposed application and discussed reopening the public hearing to clarify questions regarding the attached and the reconfiguration to allow for the garage, what is now impervious and what will become pervious and if the deck is subject to permitting by the town.

It was moved by Fred Tedeschi and seconded by Mike Hodder to reopen the public hearing. All members voted in favor. The motion passed.

1. Setback variance for everything in the plan is within the setback.

Shannon Alther stated everything in the setback would require the variance.
The deck will have pervious pavers under and the deck itself will allow water to flow through.

The Board discussed the existing concrete patio and the encroachment that currently exists, the deck would be higher on the first level and the encroachment is reduced.

Shannon Alther noted that some of the foundation walls may need to remain as retaining walls.
The deck will have posts.

The Board re-closed the public hearing.

1. The variance will not be contrary to the public interest.
The majority of the Board agreed this criterion was met.
2. The spirit of the ordinance is observed.
The majority of the Board agreed this criterion was met.
3. That substantial justice is done.
The majority of the Board agreed this criterion was met.
4. The values of surrounding properties will not be diminished.
The majority of the Board agreed this criterion was met.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because: The Special Conditions of this property that distinguish it from other properties.

(B) Owing to special conditions of the property, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The majority of the Board agreed this criterion was met.

It was moved by Mike Hodder to approve the Case # 23-V-16, TM# 242-8 the Conrad residence 165, Clark Road with conditions 1-9 as outlined in the planners review dated 2/1/2017 as follows:

Conditions of Approval:

1. Final plans prepared and stamped by a NH Licensed Land Surveyor.
2. All federal, state, and local permits to be received, including but not limited to NHDES Shoreland approval and Town of Wolfeboro Shoreland 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. Construction fencing needs to be shown "to be installed" within property lines and a note added to the plans explaining how the house will be built without disturbance to the setback / buffer areas.
5. Protectives measure shall be depicted on the Proposed Plan detailing how the lake will be protected during all phases of construction.
6. Completion and submission of an as-built foundation survey by a Licensed Land Surveyor
7. The application, as submitted to the ZBA, does not satisfy all applicable requirements for a building permit.
8. The applicant shall pay all recording fees
9. 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.

With additional conditions that any alteration to plan presented with the application, required by DES and the Municipal Shoreland Protection must be approved by the ZBA prior to construction. The variance approval is to cover the construction of a 24' x 24' garage, demolition of an existing garage, a connector from the newly constructed garage, deck, and the house footprint as shown on the stamped and signed plans dated January 9, 2017 and received by the ZBA office on February 2, 2017 except for the air conditioners.

The motion was seconded by Susan Raser. All members voted in favor. The motion passed.

MOTION FOR REHEARING

TM# 218-150

Case # 25-AAD-16

Applicant: Gregory Cantwell

Appeal of Administrative Decision made by the Zoning Board of Adjustment - 1/9/2017

Sarah Silk, David Senecal and Mike Hodder stepped down from the hearing. Susan Raser was appointed as a voting member.

Fred Tedeschi reviewed the Decision as follows:

It was moved by Fred Tedeschi and seconded by Susan Raser that the Zoning Board deny the appeal on the grounds that the appeal is based on the location of this lot and the testimony and legal opinions received have clearly indicated two things, first, the mergers effected by Brewster Academy, with the consent of the town were properly recorded and all the steps needed to be taken to merge those lots have been taken and secondly that the fact that the zoning map on the towns website shows this property is not in the ROI district but is in the VR district is irrelevant for our determination because what is controlling is the description in the town code. All members voted in favor. The motioned passed.

The Board discussed the Motion for Rehearing Request.

It was moved by Chris Franson and seconded by Chris Franson to deny the Motion for Rehearing based on the fact there is no new info or error.

Fred Tedeschi spoke to the issue raised regarding Mike Hodder and noted he did not vote on this the case and noted the issues that someone who expressed an opinion does not necessarily deprive Mr. Cantwell of a fair second hearing. Further the case Winslow v. Town of Holderness states it is the vote that counts and not the discussion. Mr. Hodder and members of the Board have disagreed and at times he is persuasive and noted sectioned this section of the Motion for Rehearing is rejected on that ground as well.

All members voted in favor of denying the motion for rehearing. The motion passed.

Consideration of Minutes:

5 December 2016

Corrections:

The Board tabled the approval of the minutes of December 5, 2016 to enable staff to review the tape to verify examples of changes to be made to the zoning map and referred to by Jim Rines, on page 8.

Page 8

5th paragraph – after Jim Rines stated it was not their best work the examples cited should be included

1. ??? shown incorrectly
2. Episcopal Church sold lot in error
3. Citizens Bank incorrectly delineated
4. Three Sisters Gas Station needs correction

The Board discussed adding this info and verifying the references are correct. The Board requested staff review the tape to confirm accuracy of the lots cited.

(In reviewing the tape staff notes Jim Rines at 1 hour and 49 minutes into the ZBA Meeting gave some examples of inaccuracies noted in the zoning map as follows: Three Sisters, Citizens Bank, both of which are in the ROI zone. Pointing to the map - The Glidden parcel is shown, next to this which is not in the ROI zone; that was purchased after the ROI zone was created. Portions of the Episcopal Church that were sold by boundary line adjustment, the boundary line was changed; we respect the boundary that was created after this ROI zone was adopted, so technically there is a shore lot that has no frontage on Main Street but by the literal interpretation of the zoning ordinance a portion of that lot is in the ROI. Those kinds of unfortunate errors are reasons why almost every zoning ordinance says, the written description controls.

It was moved by and seconded by to approved the Minutes of December 5, 2016 with the corrections noted and added. All members voted in favor. The motion passed.

9 January 2017

Corrections

Page 2 – 6th para. – add “first of” after the word the.

2nd para. From bottom change effective to effect of

Last para. – add in the between not and voting

Page 3 – 2nd para, 3rd line, last word – change went to then

Para, beginning with Suzanne Ryan, 4th line add “be” between should and accepted

4th para. From bottom change tax to taxation

Page 8 – 1st para. Add “for the public hearing” after the word submitted

It was moved by Mike Hodder and seconded by Suzanne Ryan to approved the minutes of January 9, 2017 with the corrections noted. All members voted in favor. The motion passed.

FIT Update

There is no update on FIT case from the hearing on the 9th of January 2017. A decision is expected within 60 days.

Town and City Info – Hard Copies

Matt Sullivan stated there are costs related to this he would like the Board to review

Conflict of Interest – Workshop Date

A date of April 17th at 6 pm was set for this workshop to be held in the Planning & Zoning Office Conference Room.

There being no further business, this meeting was adjourned at 9:43 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be the initials 'RK' with a stylized flourish.

Robin Kingston
Administrative Assistant