

**Wolfeboro Zoning Board of Adjustment
2 March 2020
7:00 pm
The Great Hall at Wolfeboro Town Hall
Meeting Minutes**

Members Present: Fred Tedeschi, Chairman, Sarah Silk, Vice Chairman, Tim Cronin, Clerk, Peter Colcord, Member Luke Freudenberg, Member, Audrey Cline, Alternate and Dave Senecal, Alternate

Members Excused: Suzanne Ryan, Alternate

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

Call to Order:

The meeting was called to order at 7:00 pm. A quorum was present.

Appointments:

None.

TM# 218-39

Case # 02-V-20

Applicant: Richard & Amelia Kirst

Variance

Agent: Randy Walker, Esq.

Public Hearing for a Variance under Article 175, Section 64 A-2 (a) of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a two-car detached garage within the southeastern side setback. This property is located at 54 Pine Street.

Tim Cronin read the public and abutter notice for the record. A site visit was held at approximately 4:05 pm prior to the public hearing and attended by Fred Tedeschi, Peter Colcord, Luke Freudenberg, Tim Cronin, and Dave Senecal. Sarah Silk noted that she was unable to locate the address that afternoon for the site visit. Matt Sullivan noted that the abutter and public notice were sent out correctly indicating the proposed detached garage.

DESCRIPTION/PLANNER COMMENTS:

The applicant proposes to construct a 22'x22' detached garage within the side setback of 15'. The applicant has provided a memo addressing an error recognized in the plan set regarding shoreland measurement and the side setback. The application indicates that the garage wall will be 2' from the

property line, with the roof overhang to be 1' from the property line. This is therefore an encroachment of 14' into the property line for the full 22' length of the garage. The applicant should clarify if the 22'x22' includes overhang.

It has been requested that the applicant provide architectural elevations for the Board's consideration in order to gauge full project impact despite the linear distance to the abutter's primary structure. Further it is requested that the applicant comment on water line relocation as a result of the proposed project. The applicant has provided a narrative letter addressing the five (5) variance criteria and letters from abutting property owners.

Attorney Walker addressed the Board and reviewed the application, plans and five criteria required for a variance. The initial plan submitted was incorrect in showing the setback distance. A revised plan has been submitted reflecting the 15' side setback based on the shoreline frontage. The lot is constricted by existing electrical service, water line, septic, and existing driveway location, as well as the lot size. The applicants have also offered to place an evergreen buffer on the abutters property to help screen the garage if desired by the abutter.

Audrey Cline asked where the septic system is and if the driveway is in the location shown. Attorney Walker responded the septic is located very close behind the house near the end of the driveway. The driveway location exists as shown on the plan.

PUBLIC COMMENTS:

Letters were received from Peluso; Abbott and Mulcahy in favor of the application. No persons spoke against the application and the public hearing was closed.

DELIBERATIONS:

The Board deliberated on the five criteria required for a variance.

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

The majority of the Board agreed this criterion has been met. Due to the narrow lot and topography the granting is not contrary to the public interest.

(2) The spirit of the ordinance is observed;

The majority of the Board agreed this criterion has been met. The narrow lot, the locations of the systems and the neighbors support go to the favor of this application. There will be no water or septic connected to the garage.

(3) Substantial justice is done;

The majority of the Board agreed this criterion has been met. Audrey Cline noted there may be another location for the garage and does not agree the criteria has been met. Dave Senecal noted the abutters have no objection. Audrey Cline disagreed in principle as the variance runs with the land and outlasts current land owners.

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

There has been no testimony either way, therefore there is no indication that the values of surrounding properties will be diminished.

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

(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and 2 1998 Land Use Law Update, Timothy Bates, Esq., NH OSP Annual Planning and Zoning Conference, May 30, 1998. II-8 THE BOARD OF ADJUSTMENT IN NH NOVEMBER 2014 - NH OEP

(ii) The proposed use is a reasonable one.

The majority of the Board agreed this criterion has been met. It is one of the smallest properties on Crescent Lake. The adjoining lots are larger, and this lot is narrow, has ledge, and wetlands, which make it unique. The purpose is to put distance between buildings and create separation and a buffer. There is distance between the buildings, and it is buffered.

Audrey Cline disagreed and feels there is not enough information in the application to state there is no other alternative location.

Matt Sullivan recommended that the Board remove proposed Condition # 5 from the Planner’s review and add a condition to include a plan revision date be added to the Peter Cooperdock Proposed Garage Plan. Further, he clarified that the Board cannot require a vegetative buffer on an abutting property.

MOTION by Fred Tedeschi; 2nd Tim Cronin to approve the variance for Richard and Amelia Kirst to allow for the construction of a two-car detached 22’x22’, including overhangs, with a 2’ setback including overhang, with a recommendation from the Planner that a condition be added that the final proposed plan include a revision date for the addition of the corrected side setback. All in favor. *Motion passed 5-0.*

CONDITIONS:

1. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Building Permit and Shoreland Permit approval.
2. All 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 submittal requirements for a Building Permit or Town of Wolfeboro Shoreland Permit.
4. Construction shall be completed in accordance with the dimensions (22’x22’ including overhangs) as shown on the approved planset referenced in the Planner Review above, as amended to the date of this approval. This shall include a maximum side setback encroachment of 13’ as measured to the edge of the roof overhang.

5. The footing location shall be certified by a Licensed Land Surveyor, via an as-built footing location plan, in accordance with the dimensions approved by the Board during this hearing, prior to the issuance of a Building Permit.
6. The as-built overhang location shall be certified by a Licensed Land Surveyor, via an as-built structure location plan, in accordance with the dimensions approved by the Board during this hearing, to be provided to the Planning Department prior to the issuance of Certificate of Completion/Occupancy.
7. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall be responsible for the payment of all recording fees.
8. 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.
9. The applicant shall provide a final proposed garage plan that includes a revision date for the addition of the corrected side setback.

The applicant was reminded that there is a 30-day appeal period subsequent to the granting of the Variance.

TM# 218-39

Case # 03-SE-20

Applicant: Cynthia & Clinton Johnson

Special Exception under Article 175, Section 43 (10)

Public Hearing for a Special Exception under Article 175, Section 43 (10) of the Wolfeboro Planning & Zoning Ordinance to allow for the replacement of an existing non-conforming structure with a new structure in the same non-conforming footprint but with a vertical expansion, plus a conforming addition. This property is located at 134 Piper Lane.

The applicant's agent has requested a continuance to the 6 April 2020 ZBA Meeting.

MOTION by Fred Tedeschi; 2nd Peter Colcord to grant the continuance request for TM# 218-39, Case # 03-SE-20 to the 6 April 2020 ZBA Meeting located in the Great Hall at the Wolfeboro Town Hall at 7 PM. All in favor. *Motion passed 5-0.*

CONSIDERATION OF MINUTES:

6 January 2020

Page 1:

Remove Peter Colcord from being present.

Page 3:

The setbacks were changed after construction of the dwelling which ~~and~~ was in conformance with the existing zoning laws at the time.

MOTION by Sarah Silk; 2nd Fred Tedeschi to approve the 6 January 2020 minutes as amended. All in favor. *Motion passed 5-0.*

OTHER BUSINESS:

Fred Tedeschi commented this was his last meeting, thanked the Board for all working together, and showed appreciation to the members and their service. Sarah Silk acknowledged Fred and thanked him on behalf of the Board members for his years of service on the ZBA.

Matt Sullivan reminded members of the Spring Zoning Conference will be held on May 30th and to let him know if they would like to attend. Registration is provided at the Town's cost.

Board elections will be held at the April meeting.

Robin Kingston announced to the Board that after 25 years working for the Town and Zoning Board she will be resigning as of 14 April 2020.

Respectfully Submitted,

A square image containing a handwritten signature in blue ink, which appears to be 'RK'.

Robin Kingston
Administrative Assistant