

**Wolfeboro Zoning Board of Adjustment**

**Regular Meeting**

**18 September 2017**

**RECEIVED AND RECORDED**

**9/25, 2017 6:00 P**

Book No.

Page No.

**Minutes**

**WOLFEBORO, N.H. TOWN CLERK**

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

**Members Absent:** Tim Cronin and Suzanne Ryan, Alternates

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

Chairman Tedeschi called this meeting to order at 7:00 pm in the Wolfeboro Public Library Meeting Room. A quorum was present.

Fred Tedeschi reviewed the procedures for the hearing and deliberations.

**Public Hearings:**

**TM# 201-25**

**Case # 8-V-17**

**Applicant: Ulwick Family Revocable Trust of 2013**

**Variance Trust**

**56 Port Wedeln Road**

**Agent: Roger Murray, Esq.**

Public Hearing for a Variance under XII, Section 175-80 A (2) (3) & D of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a 20' x 30' garage with a side setback of 11', a rear setback of 10' and lot coverage not to exceed 36%. This property is located at 56 Port Wedeln Road. A site visit was held at approximately 6:10 pm prior to the meeting. The applicant seeks to construct a 20' x 30' garage with a maximum side setback encroachment of 9' (11' from side property line), rear setback encroachment of 15' (10' from rear property line), and lot coverage not to exceed 36% (0.28 acre total lot size). The property is currently occupied by a single-family dwelling unit and 5' x 8' shed.

Attorney Murray addressed the Board, reviewed the five criteria required for a variance, and plans as submitted with the application.

A letter was received noting concern over additional drainage this project may create.

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

The Board reviewed the five criteria as follows.

- (1) The variance will not be contrary to the public interest;  
The Board agreed this criterion has been met.
- (2) The spirit of the ordinance is observed;  
The Board agreed this criterion has been met.
- (3) Substantial justice is done;  
The Board agreed this criterion has been met.
- (4) The values of surrounding properties are not diminished;  
The Board agreed this criterion has been met.
- (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship  
The Board agreed this criterion has been met.

It was moved by Mike Hodder and seconded by Sarah Silk to approve Case # 08-V-17, TM# 201-25, Ulwick Family Revocable Trust of 2013 for a variance to allow for the construction of a 20' x 30' garage with a side setback of 11', a rear setback of 10' and lot coverage not to exceed 36%. With the conditions listed in the Planner Review. All members voted in favor. The motion passed.

**TM# 241-34**

**Case # 9-SE-17**

**Applicant: Investek Properties LLC**

**254 Sewall Road**

**Special Exception**

Public Hearing for a Special Exception under Article 175, Section 43 A 1 of the Wolfeboro Planning & Zoning Ordinance to add a 2<sup>nd</sup> floor bathroom within the existing footprint of building. This property is located at 254 Sewall Road. A site visit was held at approximately 6:40 pm prior to the meeting. The applicant seeks to construct a 6' 3.75" x 15' 4" bathroom addition on the second floor of an existing non-conforming structure. Details regarding the addition are provided via the attached architectural design sheets and are addressed in detail within the "site suitability" portion of the applicant's narrative letter. The applicant's letter utilizes 1,298 sq. ft. area of the second floor as the base measurement for the 25% rule (proposed 7.5% expansion). However, the basis for that measurement should be the entire floor area of the non-

conforming structure. Utilization of that measurement (which would be greater than 1,298 sq. ft.) would result in a proportionally smaller addition than the narrative discussion indicates, but would still require a Special Exception. Though the addition may appear minor in scale, this proposal is unable to utilize the "more nearly conforming" provision of the Shorefront Residential Zoning district which allows for certain exemptions if the project is determined to be "more nearly conforming". This project is not more nearly conforming.

William Trevor addressed the Board and reviewed the eight points required for the Special Exception and plans as submitted with the application.

Mike Hodder asked 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.

Shamus Keating, Builder for the project noted the runoff will be the same however gutters are a possibility but have not been discussed with the applicant. There is existing French drainage system around the existing building and crushed stone will be added.

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

The Board deliberated on the eight points required for the Special Exception as follows:

1. Site suitability: that the specific site is an appropriate location for the proposed use or structure. This includes:

The Board felt this criterion has been met.

2. Immediate neighborhood impact: that the proposal is not detrimental, injurious, obnoxious or offensive to abutting properties in particular and to the neighborhood in general

The Board felt this criterion has been met.

3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.

The Board felt this criterion has been met.

4. 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

The Board felt this criterion has been met.

5. Appropriateness of site plan.

The Board felt this criterion has been met.

6. Immediate neighborhood integrity: that the historical uses and established use patterns be weighed with recent change in trends in the neighborhood.

The Board felt this criterion has been met.

7. Impact on property values: that the proposed use will not cause or contribute to a decline in property values of adjacent properties.

The Board felt this criterion has been met.

8. That the proposed use or structure is consistent with the spirit of Part 1 and the intent of the Master Plan.

The Board felt this criterion has been met.

Mike Hodder noted his only concern was as the roof height and the velocity of runoff could be greater but as noted previously a French drain system exists and there is the addition of crushed stone around the building footprint.

*It was moved by Mike Hodder and seconded by Susan Raser to approve the Special Exception for Case # 9-SE-17, TM# 231-34, Investek Properties LLC to add a 2<sup>nd</sup> floor bathroom within the existing footprint of building with the conditions outline in the Planner's Review dated September 5, 2017 and incorporated by Reference. All members voted in favor of the motion. The motion passed.*

**TM# 201-58 & 60**

**Case # 10-SE-17**

**Applicant: Walter W. Fischer 1993 Trust**

**18 Partridge Drive**

**Special Exception**

**Agent: Randy Tetreault**

Mike Hodder recused himself and David Senecal was seated for the hearing.

Public Hearing for a Special Exception under Article 175, Section 55.1 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a single family dwelling on a lot with no road frontage. This property is located at 18 Partridge Drive. A site visit was held at approximately 6:25 pm prior to the meeting.

This submission is made under the "Lots with No Frontage" provision of the Town of Wolfeboro Zoning Ordinance. Although this lot is "shown" on a plan approved by the Planning Board, it is not shown in its entirety, and was not a subject of the Cricket Hill Estates, Inc. subdivision plan (CCRC B27P77).

It is important to note Planning Board Case 2017-23, a re-configuration of non-conforming lots, was conditionally approved by the Planning Board. This approval consolidated three (3) existing non-conforming lots owned by Walter Fischer 1993 Trust into two (2) lots, with an access easement to be provided to lot 201-058, the subject of this application. This consolidation created two lots compliant with the lot area dimensional requirement of the Shorefront Residential Zoning District (1 Acre). The Planning Board's Notice of Decision has been included in the Zoning Board's information packet.

The proposed single-family home is compatible with residential development density and character in the surrounding shorefront area.

The Planning Board reviewed and commented on the contents of this application on September 5<sup>th</sup>, 2017. Per those requests/comments, a letter has been provided by the Fire Department confirming access adequacy of the proposed plan. A zoning Compliance Certification by the Code Enforcement Officer Corey Ryder has been attached. The applicant has provided responses to special exception criteria A-H. The board shall evaluate the application under these conditions in finality. Via the documentation submitted by Anna Barbara Hantz, Esq. or 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 reconfiguration plan is currently under review by Town counsel, in addition to a driveway maintenance agreement. A driveway permit has not been filed with the Department of Public Works. Therefore, a proposed condition precedent, requiring the construction and approval of the driveway by the public safety officer(s) prior to the issuance of the certificate of occupancy has been added. The applicant has provided an Acknowledgment Regarding Issuance of a Building Permit on a Private Way. The endorsed document shall be recorded if the application is approved. The applicant has provided an Acknowledgment Regarding Ineligibility for Subdivision Approval. The endorsed document shall be recorded if the application is approved.

Randy Tetreault addressed the Board gave a history of the property, reviewed the eight points required for the Special Exception and plans as submitted with the application.

The Board discussed the previous lot mergers which addressed the under sized lot issue. Also the Board noted the following. The lot Reconfiguration brings 2 non-conforming lots into one conforming lot. The frontage is no more non-conforming as to the waterfront. The Fire Department has consented to this proposal and there will be only one dwelling. Storm water drainage is addressed and a culvert exists and the project will address making storm water drainage more adequate. There are no adverse effects on property values and improved road would help the area.

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

The Board deliberated on the eight criteria as follows:

1. Site suitability: that the specific site is an appropriate location for the proposed use or structure. This includes:

The Board felt this criterion has been met.

2. Immediate neighborhood impact: that the proposal is not detrimental, injurious, obnoxious or offensive to abutting properties in particular and to the neighborhood in general

The Board felt this criterion has been met.

3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.

The Board felt this criterion has been met.

4. 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

The Board felt this criterion has been met.

5. Appropriateness of site plan.

The Board felt this criterion has been met.

6. Immediate neighborhood integrity: that the historical uses and established use patterns be weighed with recent change in trends in the neighborhood.

The Board felt this criterion has been met.

7. Impact on property values: that the proposed use will not cause or contribute to a decline in property values of adjacent properties.

The Board felt this criterion has been met.

8. That the proposed use or structure is consistent with the spirit of Part 1 and the intent of the Master Plan.

The Board felt this criterion has been met.

It was moved by Susan Raser and seconded by Hank Why to approve Case # 10-SE-17, TM 201- for a Special Exception under Article 175, Section 55.1 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a single family dwelling on a lot with no road frontage with the eight conditions listed in the Planner's Review dated September 1, 2017 and incorporated by reference. All members voted in favor of the motion. The motion passed.



**Motion for Rehearing submitted by the Gerber Living Trust**

**TM# 203-62, 63, 64 & 65**

**Case # 7-SE-17**

**Applicant: The NH Boat Museum**

**Special Exception**

**Agent: Jim Rines, White Mountain Survey & Engineering, Inc.**

Hank why stepped down from this Motion for Re-hearing request. David Senecal was seated. Fred Tedeschi noted he was not present at the original meeting but has reviewed all of the information. The Board agreed they saw no reason for Fred Tedeschi to step down.

Public Hearing for a Special Exception under XVII, Section 175-107E of the Wolfeboro Planning & Zoning Ordinance to allow for the construction and operation of a Boat Museum on property located in the Bay Street Limited Business District. This property is located at 57-59 Bay Street. A site visit was held at approximately 6:30 PM prior to the hearing.

**Board Decision Made August 7, 2017**

*It was voted by at least three members to approve the Case # 05-SE-17 for the NH Boat Museum, TM# 203-62, 63, 64 & 65 as proposed on a plan dated July 19, 2017 and revised July 21, 2017 with the following six conditions:*

- 1. All federal, state, and local permits to be received, including but not limited to State and Town of Wolfeboro Shoreland, Town of Wolfeboro Driveway, Site Plan Review, NHDES Wetlands Bureau, and Building Permit approval.*
- 2. 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.*
- 3. The application, as submitted to the ZBA, does not satisfy the submittal requirements for a Site Plan Review, Shoreland Permit, or Building Permit.*
- 4. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.*
- 5. This Special Exception 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.*
- 6. The ZBA will review its approval if conditions imposed upon the applicant by the Planning Board under the site plan review authority substantially alter the plan for which this Special Exception has been approved.*

The Board reviewed the Re-Hearing requested and agreed there has been no new evidence submitted that was not available at the time of the hearing that was previously unavailable and the letter submitted by the Realtor from Dover NH contained no sales data or view rights and further no technical error had been made. Additionally in the applicants own letter for the rehearing motion it is stated they are not against the museum being built and when they purchased the property they were fully aware the plan was to build a museum.

It was moved by Mike Hodder and seconded by David Senecal to deny the motion for rehearing request on TM# 203-62, 63, 64 & 65, Case # 7-SE-17, The NH Boat Museum. All members voted in favor of the motion. The motion passed.

**Consideration of Minutes:**

7 August 2017

Page 1 – 2<sup>nd</sup> to last line from the bottom – Change “al” to “all”

It was moved by Mike Hodder and seconded by Susan Raser to approve the minutes of 7 August 2017 as amended. All members voted in favor. The motion passed.

There being no further business, this meeting was adjourned at 8:10 pm.

RK

Robin Kingston  
Administrative Assistant