

**Town of Wolfeboro  
Zoning Board of Adjustment  
January 8, 2024  
DRAFT Minutes**

**Members Present:** Audrey Cline, Chair, Suzanne Ryan, Vice-Chair, Luke Freudenberg, BOS Representative, Sarah Silk, Clerk, Charles Sumner, Member, Catherine McMahon (arrived at 7:02 pm), Alternate.

**Staff Present:** Tavis Austin, Director of Planning & Development.

**I. Roll Call**

Audrey Cline called the meeting to order at the Great Hall at 7:00 PM. A quorum was present.

Sarah Silk reads site visits into record. See attached.

**It was moved by Suzanne Ryan to take a 5-minute recess to allow the Director of Planning & Development to return with documentation. Audrey Cline seconded. All in favor. Motion passed.**

**II. Public Hearings**

**BRENT S. RUSHFORTH QPR TRT 50%- MARILYN R RUSHFORTH QPR TRT 60% – 42 Worcester Island Road – Tax Map #258-15 -Case # 10-V-2023 - Public Hearing for a Variance under Chapter 175, Section 43, (A)(1) (I) of the Wolfeboro Planning & Zoning Ordinance to allow a Variance for Encroachment into setback - Formal Submission/Public Hearing **SITE VISIT 3:00 PM****

Audrey Cline invites representative for the Rushforth's forward for any comments.

Andrew Bernard, representative for Rushforth's stated seeking a variance to allow encroachment to a setback by adding 10-inch overhangs on a building that was built in the 1960's without overhangs, to prevent any further rot damage.

Audrey Cline asked Tavis Austin if this lot is a legally non-conforming building or with previous approved variances. Tavis Austin responded it's a legally existing non-conforming lot with no previous variances.

Audrey Cline asked Andrew Bernard how does he know he is encroaching; did he measure?

Andrew Bernard replied he did measure, the lower corner is 38ft off water, so he is within the 50ft buffer.

Audrey Cline stated part is over a previously constructed deck. Asked if there is a need for a variance if its over the deck. Tavis Austin replied the ordinance requires special exception to roof over a deck. Audrey Cline stated it's not really roofing over a deck. Looking at the building it's inside of present construction.

Suzanne Ryan reads 175-43 A:1-a & b from Zoning Ordinance. Stated there is no reference point where the setback is on either drawing given to the ZBA.

Chuck Sumner asked Andrew Bernard how he established that it is 38ft from the shoreline now.

Andrew Bernard replied that he measured it with his tape measurer. Audrey Cline stated they

need to identify what the dimensions are. Suzanne Ryan stated it's the applicant's responsibility with the help of the Planner to gather all the information needed per regulations for the ZBA. Stated would make a motion to continue this hearing until the ZBA is able to get the complete information needed and linear feet on the drawing.

Andrew Bernard stated he was told the concern was 175-43 A:1-i, for encroachment. Audrey Cline stated it needs to be on record how far into the set back. The question now is how formal it needs to be. Chuck Sumner asked Audrey Cline if the site plan was not adequate. Audrey Cline replied it likely is. There are currently two arguments being discussed, firstly that the ZBA shouldn't need to go look for this information, secondly it is stated this needs to be done by a licensed surveyor, however that could be argued that bar is too high. Suzanne Ryan stated you cannot use a tax record for drawing, as it is not accurate. Variance is a high standard and high bar to meet. Stated Jason denied because of encroachment but doesn't state what it was.

Audrey Cline asked Suzanne Ryan if the septic design that was done by a licensed professional was used, and the applicant made notes and proper measurements, turned that in would that suffice? Discussion on not having a waiver provision but a variance provision.

Sarah Silk questioned if the drawing in question was done by a surveyor. Audrey Cline replied no, septic. Sarah Silk questioned if it was approved by the state for septic. Audrey Cline replied yes. Sarah Silk stated wanting to check the validity of the plan. Another point, in degrees that the building existed on the drawing. It is not an addition to footprint, just the overhang.

Audrey Cline asked Tavis Austin if he knew of any additions to the building and if they were in recent years. Tavis Austin replied he did not see any information regarding additions in the file. Andrew Bernard stated the only alteration done to the property was enclosing a lower deck to become living space.

Audrey Cline asked Andrew Bernard if the 38 ft was a field measurement. Andrew Bernard replied yes.

Suzanne Ryan reads the checklist for applicants from page 10 of the application.

**It was moved by Suzanne Ryan to continue this hearing until accurate information for where bounds are, and setback would be. Sarah Silk seconded.**

Discussion:

Chuck Sumner stated we can all agree it is a non-conforming lot. All he wants is 10 inches. In most cases it's understandable to require the surveyor drawings and such but in this case there's enough to grant the variance. Audrey Cline asked how that would properly be notated in the file. Chuck Sumner asked if it could be approved tonight, but with contingency of getting accurate measurements for town files. Luke Freudenberg asked Audrey Cline if a condition could be made before CO is issued, a detailed drawing is submitted. If it was living space and encroaching would be a different situation, but its 10 inches of eave overhangs. Audrey Cline asked Suzanne Ryan if she would agree to allow the applicant to come back at the end of the night with proper paperwork. Suzanne Ryan reads from application of what is required for submission.

**Roll call vote: Chuck Sumner – no, Cate McMahon – no, Audrey Cline – no, Suzanne Ryan – yes, Sarah Silk – yes. Motion failed (3-0-2).**

**It was moved by Audrey Cline to have the applicant return to the ZBA at the end of the evening with a scaled drawing showing setback to shore and number of feet that is being**

**encroached on. Continue this hearing after hearing the next hearing. Sarah Silk seconds.**  
**Motion passed (4-0-1).**

**Granite State Adaptive**— 5 Jennifer Circle – Tax Map #188-028 -Case # 01-SE-24 - Public Hearing for a Special Exception under Article XII, Section 175-82. A. Farm, agriculture, farming, of the Wolfeboro Planning & Zoning Ordinance to allow for construction of an agricultural therapeutic equine facility/farming- Formal Submission/Public Hearing **SITE VISIT 3:30 PM**

Brian Walsh from Horizon's Engineering, speaking for client Jennifer Fraiser. Seeking a special exemption to allow Granite State Adaptive to build an agricultural barn and horseback riding area on their property behind Lake View Cemetery and near the wastewater treatment facility. It is a 25-acre property that is zoned residential. It is in the manufactured housing overlay district and wetland conservation district portions of the lot. 501c3 Charity, non-profit targeted to those with disabilities. Project received conditional approval from the Planning Board with one condition being to obtain a special exception for the proposed use. Believe have met the 8 criteria required to do so.

Cate McMahon asked if the application applies to the whole 24.9 acres. Brian Walsh replied that is correct.

Suzanne Ryan asked Brian Walsh to read out the 8 criteria requirements from application. See attached.

Jennifer Fraiser presented a PDF Slideshow to the board. Detailing the proposal of Granite State Adaptive, their mission, what they offer, their standards of practice and care, Guardian of Equus and who they collaborate with.

Suzanne Ryan stated she listened to the Planning Board site discussion, believed they could be stronger on number 5 of the criteria for parking, traffic circulation, fencing, signage. Would like an overview of how it refers to the site.

Brian Walsh replied that as for parking they passed through the site plan approval process with having 12 and the minimum was 8. Suzanne Ryan asked what is that number based on, where does the minimum number come from. Jennifer Fraiser answered it was researched based on similar facilities.

Audrey Cline asked Tavis Austin if there is anything in the ordinance. Brian Walsh reads parking and circulation from an approved site plan. See attached. Audrey Cline stated that does not answer where the 8 parking spots required came from.

Suzanne Ryan stated just want an to be shown on the map an overview of where things will be, fencing, parking. Brian Walsh points out where all parking spots will be. Shows where proposed riding areas will be as that is where they will be putting up fences. Jennifer Fraiser stated pasture fencing is still being worked out.

Audrey Cline stated that between state law and town ordinance there is no difference between an equine facility and a therapeutic equine facility. Should the board approve it as an equine facility, and the property gets sold in 20 years to someone else who wants to run an equine facility, they could potentially have much more activity than what is being proposed here, where there is no scoping and scaling. Brian Walsh responded that use for agricultural in a residential zone under RSA 21:34-a definition of farm agriculture is riding instruction of equine and equine facility. Audrey Cline replied they have to take into consideration the impact to the neighborhood, wouldn't just be approving their vision, but any equine facility should this be approved. How do you judge the impact on a neighborhood? Jennifer Fraiser answered she is

doing this for sustainability. It's not a big facility, arena 80x150, barn will be 8 stalls, with more stalls one for washing, one for grooming and two for storage. Wouldn't lend itself to being made into show grounds. Audrey Cline replied there is lots of room for changes over time. Nothing in the application that scopes quantity of activity going on. Approval allows for any activity. Jennifer Fraiser responded that the next person would have to go through the process to have another building put up.

Suzanne Ryan stated it is incorrect on the idea that approval allows anything. The ZBA says what the applicant is approved for. Cannot make decision based on hypotheticals 20 years from now. Cate McMahon asked Audrey Cline what would remedy the concern for her. Audrey Cline responded language in the application or testimony that scopes the amount of activity. Suzanne Ryan stated if they were to make a change of use that affects the exterior they would have to come back to the board. Agriculture in the State of NH is a protected right. Do not think you can legally put parameters on how many horses they can have.

Suzanne Ryan stated the Planning Board approved site plan pending our approval. Not interested in putting any conditions other than state & federal conditions. Audrey Cline replied Planning Board was looking at site items, not the number of rings or arenas. Suzanne Ryan replied it isn't necessary. Can the land support what they are trying to do, according to the Planning board, yes.

Jennifer Fraiser states she understands the concern, but someday maybe could be 15 house lots. They just want to preserve this property. Audrey Cline questioned how she would propose preserving the property. Jennifer Fraiser responded that the whole point is to be sustainable. It's 25 acres, they were very deliberate of the site plan for the best interest of the horses, humans and neighborhood, and avoided wetlands.

Audrey Cline asked what the facility looks like on a busy day. Jennifer Fraiser replied 1-3 staff, 1-4 volunteers, 6 participants. Could potentially grow to be 4 staff, 8 volunteers, and 20 participants. Noting that not everyone is there at the same time. Also, it is worth noting that horses under their care cannot be used more than 3 hours a day. Audrey Cline stated this is exactly the information she was looking for.

#### Public Input:

Ashley Larochelle, 3 Jennifer Circle – Stated daughter was introduced to Granite State Adaptive when in preschool, is now involved in the program outside of the preschool setting. Oldest daughter also involved with 4-H. Whole family has benefited from the programming.

Ray Osborne, 33 Jennifer Circle – Stated a portion of his property abuts this property. Has seen the property itself and the plans. Stated his wife and himself have no concerns and are very supportive of it.

**It is moved by Suzanne Ryan to approve Case # 01-SE-24 per plan presented 1/8/2024, as approved by the Planning Board in accordance with 175-82 A, agricultural/farming use for and to construct an agricultural therapeutic equine facility/farming. Preceding the following conditions are met 1. All federal, state, and local permits to be received including but not limited to Town of Wolfeboro approval. 2. Notice of decision shall be recorded at the Carroll County Registry of Deeds and applicant shall bear the responsibility for payment of all recording fees. Sarah Silk seconds.**

Audrey Cline would like to amend the motion by including the slide titled "Traffic/activity at the farm". No second. Motion failed.

**Roll call vote: Luke Freudenberg – yes, Sarah Silk – yes, Suzanne Ryan – yes, Audrey Cline – yes, Chuck Sumner – yes. Motion passed (5-0-0).**

**Continuation - BRENT S. RUSHFORTH QPR TRT 50%- MARILYN R RUSHFORTH QPR TRT 60% – 42 Worcester Island Road – Tax Map #258-15 -Case # 10-V-2023 - Public Hearing for a Variance under Chapter 175, Section 43, (A)(1) (I) of the Wolfeboro Planning & Zoning Ordinance to allow a Variance for Encroachment into setback - Formal Submission/Public Hearing **SITE VISIT 3:00 PM****

Andrew Bernard handed in a new map per the request of the board. Discussion amongst board members while looking over the map.

Suzanne Ryan stated the need to discuss the 5 criteria requirements for variance. Cate McMahon stated believes to be met per proposal.

Andrew Bernard reads the 5 criteria requirements from application. See attached.

Chuck Sumner stated #5 if not approved this building will deteriorate faster and faster. #4 the values of properties will be improved because this property will look better.

Cate McMahon stated #2 doesn't seem to be right. It is the opposite of what it should be.

Andrew Bernard replied he was working off the understanding that the ordinance states he is encroaching setbacks, so believed it was observed since that is what is happening.

Audrey Cline stated the purpose of the ordinance is to protect health and welfare and not to change the way a neighborhood is. Such minor changes wouldn't have any affect on these.

Sarah Silk stated looking at the map, the building is not enlarged, only one corner in that small area will be what sees the change. Change is minor.

Audrey Cline stated #3 there is substantial justice to the owner, no detriment to the public.

Suzanne Ryan replied detriment to the public would be if we let it rot. Surrounding properties would benefit.

Audrey Cline stated #5 most houses in this climate have over hangs, could be considered special conditions.

Suzanne Ryan stated proposed use is reasonable because there are no other alternatives.

**It is moved by Suzanne Ryan to approve Case # 10-V-2023 Rushforth's for requested variance in the shorefront residential district setback 32ft as opposed to 50ft, with 65.8in linear feet, total of 89.5 sq ft, proposed overhang of 10 inches. Conditions: 1. Notice of decision shall be recorded at the Carroll County Registry of Deeds. 2. This variance shall be valid if exercised within 2 years from the date of final approval, otherwise extended by local ordinance. Sarah Silk seconds. All members voted in favor. Motion passed (5-0-0).**

### **III. New Business**

#### **a. Rules of Procedure – Conduct during meetings**

Audrey Cline stated not necessarily this board, but it has been brought up of people being on cell phones during meetings. There should not be any cell use during meetings.

Luke Freudenberg stated that he has been on this board for 6 years and will not be running again. Believes it is a good opportunity to get to know a bit more about town government. Encourages people to run.

**IV. Minutes of Previous Meetings:** 07/17/2023, 07/20/2023, 08/21/2023, 09/11/2023, 09/25/2023, 10/02/2023, 11/06/2023, 11/16/2023

**It is moved by Audrey Cline to approve draft minutes from 11/16/2023. Luke Freudenberg seconds. Sarah Silk abstained. The motion passed (5-1-0).**

**It is moved by Suzanne Ryan to accept 11/6/2023 minutes as printed. Chuck Sumner seconds.**

Sarah Silk noted there is a typo at the top of page 3, it reads "Luke Freudenberg states this does not change things, as we ask the applicant to no to work for 30 days" believes it should read "not to" so drop the first "to".

**It is moved by Suzanne Ryan to accept 11/6/2023 minutes as amended on page 3. Sarah Silk seconds. All members voted in favor. The motion passed.**

**It is moved by Suzanne Ryan to accept all 9/11/2023 minutes. Luke Freudenberg seconds. All members voted in favor. The motion passed.**

**It is moved by Suzanne Ryan that any outstanding pending minutes preceding 1/8/24 meeting that have not been accepted to be recorded with the town clerk for recording purposes only as draft. Chuck Sumner seconds. All members voted in favor. The motion passed.**

**V. Communications and Miscellaneous**

Sarah Silk wanted to confirm work session on 1/18/24. Audrey Cline replied last work session ended with making it all the way through the procedures in draft form. Sarah Silk asked about a new updated red version. Tavis Austin to go through the meeting minutes from that session and make changes.

Audrey Cline stated 1/18/24 meeting cancelled.

**VI. Adjournment**

**It was moved by Suzanne Ryan to adjourn the January 8, 2024, Zoning Board of Adjustment meeting. Luke Freudenberg seconded the motion. All members voted in favor. The motion passed.**

There being no further business before the Board, the meeting was adjourned at 9:26 pm.

Respectfully Submitted,  
Sierra Pawnell  
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