

Wolfeboro Zoning Board of Adjustment
February 1, 2021 7:00 PM
The Great Hall at Wolfeboro Town Hall
Meeting Minutes

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order #2020-04, this Board is authorized to meet electronically. **The Zoning Board of Adjustment has jointly decided to proceed with a virtual meeting format allowing for members of the public and Board to attend remotely.**

In accordance with RSA 91-A: 2, III, the Board members are attending the meeting remotely, which a public body has the authorization to allow.

Introduction:

Members Present/Roll call: Luke Freudenberg, Chairman (attending virtually and alone) ; Sarah Silk (attending virtually and alone), Vice Chairman; Audrey Cline, Member (attending virtually, and alone); Suzanne Ryan (attending virtually, and alone); Dave Senecal, Alternate (attending virtually, due to COVID, alone).

Members Excused: Tim Cronin, Clerk

Staff Present: Tavis Austin, Director of Planning & Development; Mary Jane Shelton, Recording Assistant (attending remotely, alone)

Votes taken during this meeting will be via roll call vote for all members.

In accordance with Emergency Order #12, for members of the public, this is to confirm that we are:

1. Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means through GoToMeeting. All members of the public and Board have the ability to communicate contemporaneously during this meeting through the GoToMeeting platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #+1 (646) 749-3122 followed by

the audio access code 918-242-429, or by video following the directions on the Town of Wolfeboro

Website posted on the home page under the Virtual Town Meeting Login Information page.

2. Providing public notice of the necessary information for accessing the meeting; we previously gave notice to the public of how to access the meeting in-person or using GoToMeeting and in, and instructions are provided on the Town of Wolfeboro website at wolfeboronh.us on the Virtual Town Meeting Login Information page.

3. Providing a mechanism for the public to alert the public body during the meeting if there are problems with access; If anybody has a problem accessing the meeting via phone or computer, please immediately call 603-569-5970 OR email planningdirector@wolfeboronh.us In the event that the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Thank you.

I. Call to Order: The meeting was called to order at 7:00 pm.

II. Public Hearings:

Tax Map # 203-05 Case # 01-V-21

Applicant: Geno Ranaldi - Public Hearing for a Variance from Article XII, Section 175-80-A of the Wolfeboro Planning & Zoning Ordinance to allow for a Variance from Setback Requirements; Height Requirements; Coverage for the replacement of a dwelling closer to the front and rear setback lines. Property is located at 67 Varney Street, which is in the Rural Residential District/(MH Overlay).

Luke Freudenberg polled the board members as to whom had performed a site visit. Sarah Silk confirmed she did visit; Dave Senecal visited the site; Audrey Cline stated is familiar with the site and reviewed it electronically as well; Suzanne Ryan advised she is familiar with the property; and Luke Freudenberg stated he visited and walked the property today.

Luke Freudenberg opened the Public Hearing.

Geno Ranaldi, applicant, presented his application to the board explaining that the property consists of a trailer home on the property and seeks to replace it with a modest home. The intention is to take the existing footprint of the trailer home, squaring it off which will shrink it by approximately 50 square feet, and add a second story. He proposes to replace the septic, but

keep it at a two bedroom capacity. There is also a large garage and some other structures. He

would also like to reduce the size of the garage to a single car garage 12 ft. x 20 ft. His intention is to build a small two bedroom home consistent with the neighborhood.

Geno Ranaldi then reviewed the five points:

1. Not contrary to the public interest: Proposed dwelling will be constructed on the same site as the existing mobile home, will be a small tasteful single family home and will not injure any public rights.
2. Spirit of the ordinance is observed: Proposed dwelling is small, will blend into the existing neighborhood and will enhance the appearance of the neighborhood.
3. Substantial justice is done: Proposed dwelling is smaller than most developers would propose and therefore should benefit the abutters. The existing mobile home is in need of replacement.
4. Values of surrounding properties will not be diminished: Proposed dwelling will enhance the other home values in the neighborhood as it will replace the ugliest property in said neighborhood. The proposed dwelling will be more in keeping with the other homes in the neighborhood.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: The placement of a septic system is very difficult on the subject lot. As a result, the proposed dwelling is small with two bedrooms, representing a modest increase from the existing structure which does not reasonably function by today's standards. The proposed use is a reasonable one due to its low impact and enhancement to the neighborhood.

Sarah Silk inquired as to why the property has its own septic system when it is located so close to the central town sewer system. Audrey Cline stated that the property owner would be required to hook up to the town sewer if it is available, rather than have a private septic system. Tavis Austin responded that his belief is that the property is too far away to obligate connection. Suzanne Ryan suggested that, if the variance is approved, a condition be that the State requirement for hook up to a municipal system be adhered to if applicable. Dave Senecal reported that his understanding is that the Town sewer extends down Filter Bed Road, but does not continue up Varney Road to the location of the subject property, and that a property needs to be within 300 ft. for the state required hook up. Audrey Cline pointed out that the property owner would have more flexibility for design and layout of a dwelling if a private septic was not necessary on the property. Suzanne Ryan inquired if the application should be continued or if conditions should be placed on it relative to the sewer connection question. Sarah Silk recommended a continuance of the matter given the possibility that the applicant may have options to consider based on the sewer issue. Audrey Cline agreed and suggested continuing discussion of the application so that any other possible issues could be discussed and subsequently addressed by the applicant. Tavis Austin advised that the subject property is 800 + feet and therefore most likely is not required to be connected to the Town sewer. He suggested moving forward and discussing any other issues with the application.

Audrey Cline expressed questions and concerns regarding the following:

1. Was there a formal survey of the property? The applicant advised that the individual who prepared the septic design included in the application also prepared the survey presented. Audrey expressed her concern as to the accuracy of the plot plan presented as it does not include a licensed surveyor's certification stamp and there is a discrepancy as to the lot size on the two included handouts (.19 acres vs .22 acres).
2. What is the location of the current septic system? Applicant advised is in the same location as the proposed system.
3. Is the porch structure on the existing mobile home heated and/or used as a three season portion of the structure? The applicant was not sure if the porch is serviced by a separate or vented heating system.
4. Under Wolfeboro Zoning 175-6(A), a certified wetlands scientist is required to identify wetland areas, determine the type of wetlands and identify the delineation of such. The applicant responded that he did not believe David A. Cluff, the designer of the septic system and whose plan was submitted with the application, is a certified wetlands scientist. Audrey explained that the evaluation and results of a proper wetlands analysis may affect the allowable location/design of the dwelling, required setbacks, septic, etc. and may dictate additional/different required variances. Tavis Austin interjected that the existing structure was to be razed and the new structure would be erected within or upon the same footprint as the razed structure and that the new septic system would mirror the existing leach field, etc. Audrey stated that 175-7(E) does not allow for a three dimensional expansion without a variance of that section of the regulation, specifically addressing the wetlands and thus an evaluation of a different set of criteria.

Based upon the foregoing, the consensus of the Board

Suzanne Ryan made a motion, which was seconded by Sarah Silk, to continue the application to a date certain (March 01, 2021) at the next meeting of the Zoning Board in March, 2021 to allow the applicant to review and address the following questions/issues:

1. 175-6(A) requires a certified wetlands scientist for wetlands delineation.
2. If the wetlands meet the criteria of 175-(B)3(a), then 175-7(E) needs to be met or there needs to be a variance;
3. Requirement of hook up to town sewer hookup to be researched and determined if required;
4. Discrepancy in acreage of subject lot (.19 acres vs .22 acres) to be researched and resolved via certified survey.

Based upon the foregoing, Suzanne Ryan withdrew her motion to continue and requested that the Board continue the discussion considering additional issues to be brought forth by Audrey Cline regarding the criteria to be met.

Audrey Cline made the following additional comments:

1. Subject property is within the R Zone as well as the Manufactured Housing Overlay District. This overlay district was required by RSA 674-32 which requires that some areas exist in town that allow manufactured housing, the purpose of which is to ensure there is affordable housing available.
2. In Wolfeboro, manufactured housing was identified as going hand in hand with affordable housing and the logical location for such affordable housing within such zoned districts is on smaller more affordable lots, closer to town enabling workforce residents easy accessibility to town.
3. By constructing a larger dwelling on this small parcel, it is in effect removing it as an affordable housing lot within this district. Other larger non-affordable lots are better suited to larger dwellings without requiring variances.
4. Based upon the above, Audrey believes the subject parcel does not meet Criteria 1 and 2 of the variance criteria. In addition, she feels it also does not meet criteria 3 and 5.

Suzanne Ryan inquired if manufactured housing is allowed in other Wolfeboro zoning districts. Audrey Cline responded that the Manufactured Overlay District extends over several zoning districts, not just one. RSA 674-32 suggests that a town not restrict manufactured housing to one specific district. However, when you consider the number of small lots, or difficult lots which require variances for larger houses, are the ideal lots which make sense for manufactured/affordable housing from an economic standpoint. There are few lots which meet that criteria. At the current cost of building at \$244/sq. ft. a 1,500 sq. ft. house would not be considered affordable housing. Tiny homes and new manufactured housing in the 700 sq. ft. range would be considered affordable.

Luke Freudenberg voiced his opinion that he feels the applicant is meeting at least one of the criteria by improving the value of surrounding homes by removing a dilapidated mobile home and replacing it with a dwelling. He further commented that the new dwelling remains within the current building footprint with expansion via a second floor. Luke stated that while he understands and appreciates Audrey Cline's position, he believes the applicant, if able to address the concerns brought forth earlier, is not intending to build an unreasonable structure for the lot size.

Dave Senecal commented that the applicant, if after having a proper survey done, has the ability and the right to raze the current dwelling and construct a new building of the same size with the only requirement being a building permit.

Audrey Cline reiterated that the new dwelling could be manufactured housing or not, and that her point was addressing the increase in square footage that would make a larger new dwelling of any type more expensive and out of the affordable housing range.

Sarah Silk pointed out that the proposed project includes a reduction in the size of the garage. Audrey Cline concurred, stating that she felt that was a positive point as it pulls the structure further away from the wetlands.

A discussion ensued as to whether to proceed with reviewing the criteria or to continue the application to the March ZBA meeting.

Tavis Austin made clear to the applicant that the role of the Board is not to help design the proposed structure but to provide relief from the zoning regulation within the Board's authority based on site specific criteria.

Luke Freudenberg closed the Public Hearing.

Suzanne Ryan made a new motion, which was seconded by Sarah Silk, to continue the application (Case #01-V-21) to March 01, 2021, specifically the next meeting of the Zoning Board in March, 2021, to allow the applicant to obtain answers to the questions raised by the Board and assess how he wishes to proceed. Roll call vote: Dave Senecal - yes; Audrey Cline - yes; Sarah Silk - yes; Suzanne Ryan - yes; Luke Freudenberg - yes. Motion passes unanimously by a vote of 5-0.

III. Consideration of Minutes:

Sarah Silk made a motion, which was seconded by Luke Freudenberg, to approve the minutes of the December 7, 2020 meeting of the Zoning Board of Adjustment as written. Roll call vote: Dave Senecal - abstain; Sarah Silk - yes; Audrey Cline - yes; Suzanne Ryan - yes; Luke Freudenberg - yes. Motion was approved by a vote of 4 in favor, 1 abstaining.

IV. Other Business:

Tavis Austin reviewed with the Board the responses he received from Town Counsel regarding special exception applications which were in follow up to the Board's December 7, 2020 meeting. Specifically, does the Board have the ability to grant a special exception beyond two years at the initial hearing? The answer is yes.

Sarah Silk inquired if there was a way to determine if any other town has approved a special exception for a 5 year period, or any period in excess of 2 years.

If an applicant receives site approval within the two years, they do not have to request an extension for good cause. Tavis went on to explain that if a project obtains site plan approval within the initial 2 years, that site plan approval basically vests special exception approval for the applicant.

Tavis recommended the Board look for an applicant to demonstrate good cause that their project may take more than two years to achieve a subsequent permit. He admitted that is often a difficult threshold and it is up to the Board to determine what constitutes good cause.

Suzanne Ryan asked if good cause could be defined as the applicant being vested in their project. Tavis Austin stated that good cause is at the discretion of the Board.

Audrey Cline inquired if there is a vesting period for approval of a site plan. Tavis Austin replied that he believed site plans have to achieve substantial compliance within two years, but it is something that the Planning Board would have some authority to stipulate a time period. Tavis spoke further on various scenarios where site plans do not progress, etc.

V. Adjournment:

Suzanne Ryan made a motion, which was seconded by Sarah Silk, to adjourn the meeting. Roll call vote: Dave Senecal - yes; Sarah Silk - yes, Suzanne Ryan - yes; Audrey Cline - yes; Luke Freudenberg - yes. Motion passes unanimously with a vote of 5-0.

Meeting was adjourned at 8:20 pm.

Respectfully submitted,

Mary Jane Shelton, Recording Assistant