

**Wolfeboro Zoning Board of Adjustment
Regular Meeting
November 6, 2017
Minutes**

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

Staff: Matt Sullivan, Director of Planning & Development.

Chairman Tedeschi called this meeting to order at 7:00 pm in the Great Hall at the Wolfeboro Town Hall. A quorum was present.

Appointments:

TM# 188-41

Case # 13-V-17

Applicant: Robert Karstedt

Variance

Public Hearing for a Variance under Section 175-80 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a 6' x 12' front deck with railings to replace damaged and unsafe deck of 6' x 5' without railings and too narrow to access front door safely. This property is located at 22 Lakeview Drive.

Susan Raser read the abutter and public notice for the record. A site visit was held at approximately 4:10 pm prior to the meeting.

Mike Hodder disclosed to the Board approximately 25 years ago he had a business relationship with the applicants' grandfather and 10 years ago he had a business relationship with the applicants' grandmother. He has been retired for 9 years and does not presently have any business relationships with the applicant or his family members and does not feel there is a need to step down from the hearing. The Board agreed.

Robert Karstedt reviewed the application and plans with the Board along with photos of the old deck that has already been removed. The new front deck may be lower than the original deck and may only require one step instead of two, depending on the grade.

The Board and the applicant clarified that the new deck including two possible steps would be an 8' encroachment. The deck would be two and a half feet wider on each side and one foot extending into the front encroachment without the step(s). The photos show 5' deck not including the stairs.

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

The Board discussed and Matt Sullivan clarified the applicant could have rebuilt the deck as it previously existed but the expansion of it is what triggered the need for the variance.

The Board reviewed the five criteria as follows.

- (1) The variance will not be contrary to the public interest;
- (2) The spirit of the ordinance is observed;

The Board agreed these criteria have been met. Approving the variance will not deform the purpose of the residential Zoning Ordinance Section 175-80 front setback requirements or materially alter the essential character of the neighborhood.

- (3) Substantial justice is done;

The Board agreed this criterion has been met. There is no gain to the Town by denying this variance. The applicant loses if the ordinance was strictly enforced.

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

The Board agreed this criterion has been met. There has been no information this will diminish property values. There has been no evidence presented to

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

The Board agreed this criterion has been met. As currently built the front porch is unsafe cannot be replaced given the current setbacks. As it is already in violation, the use is in place and reasonable. When the dwelling was built this was not a violation of a setback.

It was moved by Susan Raser to grant the variance under Section 175-80 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a 6' x 12' front deck with railings to replace the damaged and unsafe deck without railings of 6' x 5' and too narrow to access the front door safely. The variance applies to the residence at 22 Lakeview Drive with the five conditions contained in the Director of Planning & Developments Memo dated 31 October 2017. Sarah Silk seconded the motion.

Susan Raser amended the motion to include the front encroachment of 8' including the steps.

All members voted in favor. The motion was approved. The amended motion passed.

TM# 268-40

Case # 14-SE-17

Applicant: Robin & Richard Wyman

Variance

Public Hearing for a Special Exception from Section 175-43 (A) 2 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of one room with a small entrance deck to an existing one room camp originally built in the 1940's. This property is located at 76 Middleton Road.

Susan Raser read the abutter and public notice for the record. A site visit was held at approximately 4:40 pm prior to the meeting.

Robin & Richard Wyman reviewed the application, plan and the 8 points required for the Special Exception submitted with the application.

Mike Hodder asked if there can be more than one expansion of a non-conforming use as the ordinance only speaks of one expansion. He referenced the applicants letter noting there may be a possible additional expansion in the future.

After discussion the Board agreed the applicant has requested this first expansion only at this time. The Board also questioned if Section 175.45 (A) 2 applies as this is a commercial use.

Matt Sullivan noted this a mixed use consisting of commercial and residential uses on the property and Section 175.45 (A) 2 does apply.

Robin Wyman stated the 25% expansion is based on the square footage of the 5 cabins only. The rec hall square footage was not calculated nor was the residence on the property. There is a possibility the residence may be expanded in the future and the Wyman's do not want the residence to be affected by any expansion of the cabins. The deck is 12.5' x 3.5' (33 sq. ft.) deck and the bedroom expansion is 12.5' x 13.5' (169 sq. ft.) The camp currently sleeps two persons and with the bedroom expansion will sleep four persons. There will be a separate exterior entrance to the addition. Plans of the cabin expansion was given to the Board for review.

The Board asked about the separation between the cabins and Matt Sullivan responded that it does not apply in this application.

Robin Wyman explained there are five camps on five acres and 3 camps sleep only two persons and the demand is for larger cabins to sleep families and not just couples any longer.

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

The Board deliberated on the application and reviewed each of the eight points required for approval.

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. There is adequate usable space and the site is suitable for the expansion. The Board felt this criterion has been met.
2. Immediate neighborhood impact: The proposal is not detrimental, injurious, obnoxious or offensive to abutting properties in particular and to the neighborhood in general. The hours of operation are not going to be affected. The Board felt this criterion has been met.
3. 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 camp is existing and this will not change or increase the traffic. The Board felt this criterion has been met.
4. Availability of public services and facilities: The camps are existing and services are in place. Schools will not be affected by this change as these are summer camps and the septic system is existing and adequate for the site. The Board felt this criterion has been met.
5. The site plan is appropriate. Parking, traffic pattern, open space and lighting will not be impacted. The Board felt this criterion has been met.
6. Immediate neighborhood integrity will not be affected. The Board felt this criterion has been met.
7. The local property values will not be affected as this is a small change to one structure. The Board felt this criterion has been met.
8. That the proposed use and structure are consistent with the spirit of ordinance and the intent of the Master Plan. The Board felt this criterion has been met.

It was moved by Fred Tedeschi to grant the Special Exception from Section 175-43 (A) 2 of the Wolfeboro Planning & Zoning Ordinance for TM# 268-40, Case # 14-SE-17, Applicants, Robin & Richard Wyman to allow for an increase in square footage of 169 sq. ft. addition in living space and a 44-sq. ft. addition to an exterior deck on Cabin 2, not exceeding 213 sq. ft. and subject to the conditions in the Planners Review. Susan Raser seconded the motion. All members voted in favor of the motion. The motion passed.

TM# 242-25

Case # 15-V-17

Applicant: Susan & Malcom Pease

Variance

Public Hearing for a Variance under Section 175-70 (E) of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a single-family dwelling with an attached garage set forward and not meeting the setback requirements of the Village Residential District. This property is located on Greenleaf Drive.

Hank Why stepped down from this application. He is not an abutter as he is separated by 30' of green space.

Suzanne Ryan was appointed for this application.

Susan Raser read the abutter and public notification for the record. A site visit was held at approximately 4:25 pm prior to the meeting.

Attorney Phillip Marbury addressed the Board and reviewed the application and plans as submitted. There are arguments that a variance is not needed and referred to *Section 175.70 E – Garages: Garages shall be located to the side or rear of the principal dwelling unit. The garage shall be integrated into and masked by the residence or set back at least 15 feet behind the front building line and not be the dominant architectural feature of the streetscape.* Referring to the site plan the Pease's proposed garage shows the garage is to the far-right side of the structure and he feels this complies with the requirement. It does not comply with the second portion being setback by 15' but the requirement is "or" meaning one or the other criteria needs to be met and he feels the first criteria has been and referred to the building plans. It demonstrates it is integrated into and masked by the residence. The architectural design has similar peaks and masonry work for both the garage and structure. The five criteria required for the variance were reviewed as submitted. There are no setback issues with the placement of the garage. The property is constrained due to drainage, its narrowness and ledge on the site itself. For reference, copies of photos of other the properties on Greenleaf Drive were given to the Board for review.

The door on the diagram, page 1 was designed for some type of off road vehicle.

Matt Sullivan noted the garage extends approximately 20' from the structure. Additionally, most of the dwellings in the photos were constructed prior to the implementation of the ordinance. Also, if the garage were setback further it would not meet the rear setback requirements of the VR setback requirements.

The Board discussed bringing the structure forward to be flush with the garage. Attorney Marbury explained that it is not possible due to constraints of the lot with the ledge and need for storm drainage and as he understood it septic, however he believes this dwelling will be on town sewer.

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.
2. The spirit of the ordinance is observed;

The Board agreed these criteria have been met. There is no detriment to the existing neighborhood and approving the variance will not deform the purpose of the Residential Village District and the Home Owner's Association has no objection to the proposed design.

3. Substantial justice is done;

The Board agreed this criterion has been met. There is no gain to the Town by denying this variance. The balance falls on the side of the applicant.

4. The values of surrounding properties are not diminished;

The Board agreed this criterion has been met. There has been no information this will diminish property values. Given the ledge that exists the lot is difficult and having a dwelling that fits on the lot will improve the values.

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

The Board agreed this criterion has been met. The special conditions that exist on the property include the location of ledge and areas for storm water drainage.

It was moved by Suzanne Ryan to grant the variance under Section 175-70 (E) of the Wolfeboro Planning & Zoning Ordinance, garage placement for TM# 242-25, Case # 15-V-17, Applicant; Susan & Malcom Pease for the garage placement setback and allowing the integration of the garage into the architectural development of the placement of the new home subject to the conditions in the Planner's Review. Susan Raser seconded the motion.

Suzanne Ryan amended the motion to include the approval is subject to the building plans presented dated 7.31.2017 and front page is called Building Layout Option #4. Susan Raser seconded the amendment.

The Board discussed citing the architectural drawings and not the building plan. Matt Sullivan noted the building plan reference is suitable.

All members voted in favor of the amendment and the motion. The amended motion passed.

Consideration of Minutes:

2 October 2017

Corrections:

Page 1:

Members Absent: ~~Sarah Silk~~, Suzanne Ryan, Alternate

Page 4:

~~Time~~ Tim Cronin asked ~~of~~ if the 5 required parking spaces would be marked as designated spaces.

The Board discussed and agreed to table the minutes and instruct the recording secretary to review the information on the second case under deliberations and add review comments/notes of each criteria if available.

Staff reviewed the recording of the October 2, 2017 ZBA Meeting as instructed. The public hearing was closed at 59 minutes; 37 seconds into the meeting.

Existing in the 10.2.2017 Minutes: The Board deliberated on the application. Discussion occurred as to the Special Conditions of this property versus others in the area. Noted were that most other parcels have no on-site parking at all. This property does offer some on-site parking which makes this unique and parking can be designated on-site the reduction of the required spaces for commercial units.

Additional comments to add: The majority of the Board discussed having no issues with any of the other conditions and it noted there are special conditions with the property. This property does provide off street parking and the net loss would be one parking space because the applicant does not need a variance to convert this to two units. Also, the parking is between the landlord and tenants. Concern was raised with the parking situation in the downtown area as a whole.

Staff determined that each of the five criteria were not reviewed independently.

Respectfully Submitted,



Robin Kingston

Administrative Assistant