

Wolfeboro Zoning Board of Adjustment
Regular Meeting
September 12, 2016
Minutes

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Book No. Page No.

WOLFEBORO, N.H. TOWN CLERK

Members Present: Mike Hodder, Vice- Chairman, Chris Franson, Clerk, Hank Why and Suzanne Ryan, Members, Susan Raser and Sarah Silk, Alternates

Members Absent: Fred Tedeschi, Chairman and David Senecal, Alternate

Staff: John Krebs, Interim Planner, Robin Kingston, Administrative Assistant

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

TM# 204-37

Case # 20-V-16

Applicant: Robert E. & Susan M. Simmons

Sarah Silk was appointed to be seated for this hearing.

Public Hearing for a Variance from Article 175, Section 115 (2) of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a 26' x 26' garage that would encroach into the side yard setback. This property is located at 22 Grove Street.

Chris Franson read the public and abutter notification. A site visit was held at approximately 6:15 pm and minutes were submitted for the record.

The proposal is for a 24' x 24' garage with a 1' roof overhang (26' x 26' footprint with overhang) with an encroachment into the side yard setback by 7.59' to roof overhang and 6.35' to the corner of the garage. The total area of encroachment is 107 sq. ft.

Bob Simmons addressed the Board and reviewed the plan and application as submitted. The property is constrained by the location of a utility pole that cannot be moved.

Lou LaRochelle, Contractor, addressed the Board and explained further constraints such as snow removal and snow storage as well.

Bob Simmons reviewed the five criteria required for the variance. The structure will be constructed on an existing impervious surface (driveway).

Mike Hodder asked about disability referenced by the applicant.

Mr. Simmons explained he is on Social Security Disability due to medical issues.

Public Comment:

Lou LaRochelle spoke in favor of the application. The attached garage will enable the applicant to access the dwelling without having to go outside.

No person spoke in opposition and the public hearing was closed.

Deliberations:

Mike Hodder read RSA 674:33 V Reasonable Accommodations and noted approval could fall under that RSA. The Board discussed applying this statute versus applying the five conditions as under 674:33 V the garage would need to be removed when Mr. Simmons no longer resided at the property.

The Board reviewed and deliberated the 5 criteria required for the Variance as follows:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The Board agreed criteria 1 and 2 have been met.

3. That substantial justice is done.

The Board agreed this criteria has been met.

4. The values of surrounding properties will not be diminished.

The Board agreed there should be no diminution of property values and may improve property values. Additionally, the location will be where impervious surface exists already.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because: The Special Conditions of this property that distinguish it from other properties.

(B) Owing to special conditions of the property, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The Board agreed all parts of this criteria have been met.

It was moved by Suzanne Ryan and seconded by Hank Why to grant the variance for Case # 20-V-16, TM# 204-37 for a 26' x 26' garage that will encroach into the side yard setback 15' with the following conditions.

1. 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.
2. The application, as submitted to the ZBA, does not satisfy all applicable requirements for Site Plan Review application.
3. The applicant shall pay all recording fees.
4. 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.

All members voted in favor of the motion and the motion passed.

TM# 187-53

Case # 19-V-16

Applicant: Kristin Johnson

Susan Raser was seated for this application.

Public Hearing for a Variance from Article 175, Section 80 of the Wolfeboro Planning & Zoning Ordinance to allow for the installation of a shed that would encroach into the side and rear yard setback. This property is located at 27 Port Wedeln Road.

Chris Franson read the public and abutter notification. A site visit was held at approximately 6:35 pm and minutes were submitted for the record.

This proposal is for a 10' x 16' shed with an encroachment into the side yard setback by 7' and into the rear setback by 17'. In addition, the applicant is seeking a variance from the 20' building separation requirement. The total area of encroachment is 160 sq. ft.

Kristin Johnson reviewed the application, plan and five criteria required for the Variance as submitted.

Public Comment:

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

Deliberations:

The Board reviewed and deliberated the 5 criteria required for the Variances as follows:

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.

The Board agreed the criteria 1 & 2 has been met as it does not alter the character of the neighborhood.

3. That substantial justice is done.

The Board agreed this criteria has been met.

4. The values of surrounding properties will not be diminished.

The Board agreed this criteria has been met.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because: The Special Conditions of this property that distinguish it from other properties.

(B) Owing to special conditions of the property, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The Board agreed this criteria has been met.

It was moved by Suzanne Ryan and seconded Susan Raser to grant the variance for Case # 19-V-16, TM# 187-53 for three variances for a shed 10' x 16' with an encroachment into the side yard setback by 7' and into the rear setback by 17'. In addition a Variance for a 4.5' encroachment into the 20' building separation as required by Section 175:80 – C with the following conditions:

- 1. 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.*
- 2. The application, as submitted to the ZBA, does not satisfy all applicable requirements for Site Plan Review application.*
- 3. The applicant shall pay all recording fees.*
- 4. 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.*

All members voted in favor. The motion passed.

TM# 142-4

Case # 13-V-16

Applicant: Joseph & Mary Balboni

Sarah Silk was seated for this application.

Public Hearing for a Variance from IX, Section 175-64A(4) of the Wolfeboro Planning & Zoning Ordinance to allow the addition of a 30' x 50' garage with an area of encroachment of 654 sq. ft. and setback from the shoreline 34.5'. This property is located at 730 North Main Street.

Chris Franson read the public and abutter notification.

This proposal is for a 30' x 50' garage with an area of encroachment of 654 sq. ft. and setback from the shoreline 34.5'.

Chris Franson noted there were two site visits and a number of correspondence have been received.

The applicant through his attorney, John Kalled has requested a continuance as the Town Shoreland Application has not yet been filed.

John Krebs, Interim Town Planner explained in his conversation with Attorney Kalled he recommend withdrawal without prejudice of this application tonight. Attorney Kalled did not agree and felt he would be ready for the October meeting. State approval has been obtained by they do not have the Town Shoreland Approval.

The Board discussed denying the application without prejudice.

It was moved by Suzanne Ryan and seconded by Hank Why to deny without prejudice, Case # 13-V-16, TM# 142-4, Joseph & Mary Balboni as the application is incomplete and a new submittal would require the Town Shoreland Permit being submitted with the application.

All members voted in favor and the motion passed.

Consideration of Minutes:

22 August 2016

Corrections

Page 5 – 5th paragraph – Change Ron to Rob

Page 6 – end of motion – remove the line that begins with Mike Hodder and leave “All members voted in favor and the motion passed.”

It was moved by Suzanne Ryan and seconded by Chris Franson to approve the minutes of August 22, 2016 as amended. All members voted in favor and the motion passed.

Other Business:

FIT Appeal

The Board requested staff to contact Attorney Spector to find out if an appeal has been filed.

Staff will report findings to the Board.

There being no further business, this meeting was adjourned.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'Robin Kingston', written over the printed name.

Robin Kingston
Administrative Assistant