

**Town of Wolfeboro
Zoning Board of Adjustment
January 10, 2022
DRAFT MINUTES**

Members Present: Audrey Cline, Chair, Luke Freudenberg, Vice-Chair and BOS Representative, Tim Cronin, Clerk, Sarah Silk, Suzanne Ryan, Members, Dave Senecal, Alternate.

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

I. Call to Order

Audrey Cline called the meeting to order at the Great Hall at 7:00 PM (a quorum was present). She stated there are several vacant seats for alternate members on the ZBA; noting Nancy Strotman has requested appointment to the ZBA.

Nancy Strotman reviewed her experience; noting she is retired and interested in serving the Town.

Audrey Cline asked Ms. Strotman if she would accept a vacant position (alternate member) on the ZBA that expires in 2024.

Nancy Strotman stated she would accept the position.

II. Unfinished Business

None.

III. New Business

Audrey Cline reviewed the Board's meeting procedures.

a. Luke Freudenberg/Millwood Place, LLC

Tax Map #204-17

Case #1-V-22, Variance from Article XXIII 175-145 A & B

Formal Submission/Public Hearing

Luke Freudenberg recused himself.

Audrey Cline appointed Dave Senecal, Alternate, to sit in for Luke Freudenberg, Member.

Suzanne Ryan stated it has been brought to the Board's attention that Tim Cronin has commented/replied to a website regarding this application.

It was moved by Suzanne Ryan to request the Board take a nonbinding vote (in the interest of transparency and perceived conflict) that Mr. Cronin recuse himself under the jurors standard, RSA 500-A:12 (d). Sarah Silk seconded the motion.

Discussion of the motion:

Tim Cronin asked Ms. Ryan what she is referring to as he does not recollect such.

Tavis Austin and Sarah Silk stated it was a comment made on a Facebook forum.

Tavis Austin stated the email he received was forwarded to all members of the Board on January 6th; noting those members are present this evening.

Audrey Cline asked Mr. Cronin if he thinks he can be fair and impartial.

Tim Cronin replied absolutely.

Roll call vote: Suzanne Ryan – yes, Sarah Silk – yes, Audrey Cline – no, Tim Cronin – no, Dave Senecal – no. The motion failed (3-2).

Sarah Silk noted she voted yes because the Board has to be very transparent and not have any indication of impropriety as well as err on the side of caution due to the narrative in the email.

Tim Cronin stated he would not recuse himself.

Suzanne Ryan stated it is a nonbinding vote on this particular issue and the purpose of the motion is to be transparent and put on the record.

Audrey Cline noted the Board has received a lot of written comments on the application. Prior to opening the public hearing she stated she has administrative questions for Mr. Austin. She confirmed the application was accepted as complete by Mr. Austin however, noted only one map and lot was noticed in the newspaper.

Tavis Austin stated the lot is assigned two map and lot numbers however, it is one legal parcel bisected by a river.

Sarah Silk stated she spoke to the Assessing office regarding this question; noting there are two lots, 204-017 and 204-015. She stated they are two lots of record and noted the lots have not been joined together.

Audrey Cline asked if the owner authorization is on file and requested Mr. Austin to follow-up on such.

Tavis Austin stated he does not have such however, there is a Purchase and Sales Agreement between the applicant and the owner which authorizes the applicant to submit the application.

Audrey Cline asked whose signature is on the Notice of Decision.

Tavis Austin replied it is his signature.

Referencing the application requirement checklist, Audrey Cline asked why such was not submitted by the applicant and asked if they communicated with Mr. Austin that they would not be submitting the information.

Tavis Austin stated the applicant submitted a site plan that shows the extent of the site planning that has occurred for this project.

Audrey Cline asked if the applicant was aware of the requirements required for application submittal.

Tavis Austin replied yes.

Audrey Cline stated the site plan is quite deficient from the Board's point of view and it would be irresponsible to make a decision based on the site plan that was submitted.

Suzanne Ryan stated she also found deficiencies in the application submittal and noted the drawings were not to scale and both drawings were two different scales (1:65 and 1:100). She stated the plans were also not submitted on 11x17 paper; noting it is difficult to determine the intentions for the site.

Audrey Cline stated there are quite a few items on the checklist that are missing that would help the Board determine how an increase in density would impact this lot and surrounding lots; buffer to wetlands and shorefront, building envelope, property line envelope for the building locations, location and numbering of parking locations and drive lanes, and road widths.

Suzanne Ryan stated the road with the most predominant access to the property is posted during the mud season and is a dead-end road; noting a need for more information on the ability to use that road. She stated Willow Road is 12' wide and 316' in length; noting the road is seasonally posted for weight limit. She expressed concern about the history as to when the Town received the old railroad pathway and whether there was an easement or right-of way to cross over Bridge Falls Path.

Audrey Cline stated the Board has to be thoughtful of which elements would be reviewed by the Planning Board and elements that would change because the ZBA is looking at an increased density.

Sarah Silk stated a better drawing is necessary because it appears that the third unit on Tax Map #204-017 is actually bisected by the lot line. She stated the two individual lots impacts what the variance is for; noting that a certain number of units can be placed on one lot and a certain number of units can be placed on the other lot. She stated the number of units permitted would change if the lots were merged.

Referencing the Application Requirement Checklist, Suzanne Ryan stated the Board didn't receive any information related to e, f, g, i, j, a, and l.

Tim Cronin stated he has no issues with the application.

Suzanne Ryan stated page 5 of the application states that all information is required prior to scheduling a public hearing and page 4 states that all information provided is the sole responsibility of the applicant before a public hearing can be scheduled.

Audrey Cline stated an increase in density impacts just about everything else on the parcel. She asked Mr. Austin if he was present when the Board asked about the two parcels and whether the lots are merged.

Tavis Austin stated it is his understanding that it is one parcel. He stated there are two tax map numbers because the river bisects the property.

Sarah Silk stated she spoke with the Assessing office and noted one lot is split into two and the second lot is not.

Audrey Cline asked if either of the lots are nonconforming in any aspect and when merged would such resolve the nonconforming features if there are any or if additional nonconforming features would be created.

Tavis Austin stated there is no minimum lot size and no required frontage in the commercial district and there is no building on the lot.

Audrey Cline questioned whether there is no required frontage in the Wolfeboro Falls District. She stated it is her understanding that multifamily is in addition to the Wolfeboro Falls District and if there is an element spoken to in the multifamily section it supersedes anything in the Wolfeboro Falls District, however there are still requirements that apply in the Wolfeboro Falls District that are not included in the multifamily section.

Tavis Austin stated multifamily is a permitted use in the Wolfeboro Falls District. He stated merging the lots will not exacerbate or increase a nonconformity because what has been presented thus far is not changing the lot size for frontage.

Audrey Cline stated it appears the frontage of both lots is not conforming and confirmed that 150' of frontage is required. She asked if the lots were merged would it be considered a new lot for conformity.

Tavis Austin replied no.

Audrey Cline stated Article 4-A is a separate article for nonprofit workforce housing that gives a density bonus for nonprofit workforce housing. She stated instead of one unit per one acre or two acres in most residential districts, it allows for four units on one acre. She stated in the commercial areas for profit workforce housing is permitted; noting workforce housing is permitted in 90% of the town.

Tavis Austin stated that he doesn't know if with all of the bonuses if the applicant could achieve the density that the applicant has requested.

Audrey Cline stated she wanted to ensure that Wolfeboro provided the opportunity in a large degree for workforce housing whether it was profit or nonprofit. She asked Mr. Austin if he identified the parking requirements for the units that were being proposed and if so, what is that.

Tavis Austin stated multifamily requires one parking spot per unit and one for every three; noting he didn't evaluate such because there is no site plan as part of this application that shows how or where the buildings would be located, accessed or parking. He stated it is his understanding that this application is to see whether the density is permissible and if the density is permissible then the applicant would go on to design the project. He stated he asked the applicant if they would be comfortable with the height and shorefront limitations and the applicant responded that they wanted to ensure they meet the density requirements prior to submitting additional information.

Audrey Cline asked if the applicant intends to place parking underneath the buildings.

Tavis Austin stated such has been discussed however the applicant has not submitted a schematic of such; noting it was brought forth as a potential option.

Audrey Cline asked if residential is permitted on the first floor.

Tavis Austin stated the ordinance states multifamily is permitted and allows for residential units to be above commercial units; noting he doesn't interpret that commercial is required on the first floor.

Audrey Cline asked what would be on the first floor if residential is not permitted.

Tavis Austin stated the ordinance doesn't state that residential is not permitted.

Audrey Cline stated apartments are not permitted.

Tavis Austin read the ordinance stating that residential apartments are not permitted on the first floor.

Audrey Cline stated there has to be something on the first floor. She stated residential parking is residential.

Tavis Austin stated the latter is a question that has not yet been asked.

Suzanne Ryan stated there is not enough information to make a final determination on the application.

The Board discussed whether to continue the application and whether to open the public hearing.

Tavis Austin stated that if in fact there are two parcels the application should be re-noticed.

Audrey Cline requested owner authorization and questioned whether a signed Purchase and Sales Agreement qualifies for such.

Tavis Austin stated the Purchase and Sales Agreement notes provisions regarding the application and read Section 19 of the Agreement; noting such is signed electronically by the owner and Nate Drouin. He stated he could email the owner and receive authorization.

Audrey Cline noted the application is signed by Luke Freudenberg.

Dave Senecal stated the owner's signature reflects that they were aware that either he would have to be present or have an authorized representative present however, he doesn't see that authorization. He stated the drawings are not to scale as required and feels the public hearing should not be opened until the Board receives additional information. Understanding the applicant has submitted an application for a Use Variance, he requested renderings of the buildings and height information on the buildings. He stated the Board does not have enough information to open the public hearing.

Tim Cronin and Sarah Silk agreed with Mr. Senecal.

Sarah Silk stated the applicant proposes 70 units however the math does not compute to such.

Audrey Cline stated the funding mechanism will require the number of bedrooms which will impact the size of the building.

Dave Senecal stated the Board should have additional information in order to make a decision such as building sizes, the number of units in each building and loading.

It was moved by Suzanne Ryan to not open the public hearing and continue the application to February 14, 2022 based on the fact the Board does not have necessary basic information to process the application.

Sarah Silk questioned the location of the meeting and questioned the availability of the Great Hall; noting the date of the meeting had changed due to voting set up.

Linda Murray stated the Deliberative Session is scheduled for February 8th at the Kingswood Arts Center and voting will take place at the Town Hall on March 14th.

Tavis Austin questioned whether an application can be continued if the public hearing has not been opened. He stated that if the application may need to be re-noticed.

Suzanne Ryan amended the motion and moved to not open the public hearing because the Board doesn't have the basic information necessary to process the application, re-notice the meeting, cost to be borne by the Town of Wolfeboro, and continue the meeting to February 7, 2022 at the Great Hall.

Audrey Cline recommended amending the motion to state the application will be re-noticed when the applicant is prepared to submit the information requested.

Tavis Austin confirmed there will be no further action on the application this evening and the application will be re-noticed when complete as outlined by the receipt of requested materials by the Board this evening.

Suzanne Ryan amended the motion and moved to not open the public hearing because the Board doesn't have the basic information necessary to process the application. Sarah Silk seconded the motion. All members voted in favor. The motion passed (5-0).

Audrey Cline noted the Board did not hear the submitted public comment because the public hearing was not opened. She stated the Board has received comments submitted via email and those comments will be available in the record file and will be read at the public hearing.

Tim Cronin addressed the comment he made on Facebook; noting a question was asked by Jen Morgan asking if Luke would be resigning from the Board if he is involved with the development; noting a conflict of interest. He stated he took that question as to whether Luke would recuse himself and he agreed to the comment. He noted Mr. Freudenberg has recused himself. He stated his comment wasn't for or against the application.

IV. Communications and Miscellaneous

a. Submittal of Q & A's to Town Attorney

None.

b. Member Discussion Items

None.

V. Approval of Minutes

June 23, 2021

Correction: Page 15, motion at top of the page; the minutes do not reflect who seconded the motion.

Audrey Cline stated she believes she seconded the motion.

It was moved by Sarah Silk and seconded by Tim Cronin to approve the Wolfeboro Zoning Board of Adjustment June 23, 2021 minutes as amended. All members voted in favor. The motion passed (5-0).

July 19, 2021

Corrections: Page 7, end of 2nd paragraph; add "Suzanne Ryan made a point that it is in a residential zone."
Page 11, 1st paragraph; add "it was very poorly drained soils and needs to be delineated" to the end of the sentence
Page 11, 5th paragraph; strike "RSA" and add "Wolfeboro Zoning Ordinance."

It was moved by Sarah Silk and seconded by Tim Cronin to approve the Wolfeboro Zoning Board of Adjustment July 19, 2021 minutes as amended. Suzanne Ryan, Sarah Silk, Audrey Cline, Tim Cronin voted in favor. Dave Senecal abstained. The motion passed (4-0-1).

August 2, 2021

It was moved by Sarah Silk and seconded by Suzanne Ryan to approve the Wolfeboro Zoning Board of Adjustment August 2, 2021 minutes as submitted. All members voted in favor. The motion passed (5-0).

September 20, 2021

It was moved by Sarah Silk and seconded by Tim Cronin to approve the Wolfeboro Zoning Board of Adjustment September 20, 2021 minutes as submitted. All members voted in favor. The motion passed (5-0).

October 4, 2021

Correction: delete Audrey Cline's jumbled responses

It was moved by Sarah Silk and seconded by Tim Cronin to approve the Wolfeboro Zoning Board of Adjustment October 4, 2021 minutes as amended. All members voted in favor. The motion passed (5-0).

December 6, 2021

Correction: ZBA Meeting Schedule; change meeting date of ZBA to February 7, 2022.

It was moved by Suzanne Ryan and seconded by Sarah Silk to approve the Wolfeboro Zoning Board of Adjustment December 6, 2021 minutes as amended. All members voted in favor. The motion passed (5-0).

VI. Other Business

2022 ZBA Meeting Dates

Tavis Austin noted the following additional changes to the 2022 ZBA meeting dates; March 7th to March 14, September 12th to September 19th (September 5th is Labor Day) and November 7th to November 14th. He stated the submission dates have also been updated.

Distribution of Product Promoting an Application

Referencing the Millwood Place, LLC application, Sarah Silk stated she was asked whether hats could be distributed at the meeting.

Tavis Austin stated he does not know if "electioneering" is permitted at a ZBA meeting and would ask counsel.

VII. Adjournment

It was moved by Suzanne Ryan and seconded by Tim Cronin to adjourn the January 10, 2022 Zoning Board of Adjustment meeting. All members voted in favor. The motion passed (5-0).

There being no further business before the Board, the meeting adjourned at 8:31 pm.

Respectfully Submitted,

Lee Ann Hendrickson

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