

**WOLFEBORO ZONING BOARD OF ADJUSTMENT
REGULAR MEETING**

VIRTUAL MEETING

**JUNE 1, 2020
7:00PM**

MEETING MINUTES

Matt Sullivan, the Director of Planning and Development, in absence of a Chair and Vice Chair, began the meeting with a roll call attendance of members.

Member Attendance Roll Call:

Tim Cronin- Present and in a room alone.
Suzanne Ryan - Present and in a room alone.
Luke Freudenberg - Present and in a room alone.
Dave Senecal - Present and in a room alone
Audrey Cline- Present and in her car alone.
Sarah Silk- Present and in a room alone.

Staff Present: Matt Sullivan, Director of Planning and Development

Call to Order:

Matt Sullivan called this meeting to order at 7:00 PM digitally. A quorum was present.

Matt Sullivan welcomed the Board and public to the June 1st meeting of the Wolfeboro Zoning Board of Adjustment. To save time he read this statement:

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.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;

We are utilizing the GoToMeeting platform for this electronic meeting. All members of the 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 (786) 535-3211 followed by the audio access code 313-282-701, 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.**

b) Providing public notice of the necessary information for accessing the meeting;

We previously gave notice to the public of how to access the meeting using GoToMeeting, and instructions are provided on the Town of Wolfeboro website the on Virtual Town Meeting Login Information page.

c) 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 email planningdirector@wolfeboronh.us

d) Adjourning the meeting if the public is unable to access the meeting.

In the event that the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Members of the Board will be unmuted for the entirety of the meeting. Members of the public will be muted for the meeting with the exception of public comment portions or public hearings.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote. Minutes will be produced for the record of the meeting.

Appointments:

Matt Sullivan asked for nominations for the Chair of the ZBA for the 2020-2021 calendar year.

Tim Cronin nominated Luke Freudenberg.

Suzanne Ryan nominated Sarah Silk.

Matt Sullivan took a roll call vote for Luke Freudenberg as Chairperson.

Suzanne Ryan – No

Tim Cronin – Yes

Luke Freudenberg – Yes

Audrey Cline – Yes

Sarah Silk – No

The vote for Luke Freudenberg as Chair was 3 in favor and 2 opposed.

A roll call vote was taken for Sarah Silk as Chair.

Suzanne Ryan – Yes

Tim Cronin – No

Luke Freudenberg – No

Audrey Cline – No

Sarah Silk – Yes

The vote for Sarah Silk as Chair was 2 in favor and 3 opposed.

Matt Sullivan asked Luke if he would like to take over the meeting for the voting for Vice-Chairperson and Clerk.

Luke Freudenberg requested nominations for Vice Chairperson

Suzanne Ryan nominated Sarah Silk as Vice Chairperson. There being no further nominations, a roll call vote was taken.

Suzanne Ryan – Yes

Tim Cronin – Yes

Luke Freudenberg – Yes

Audrey Cline – Yes

Sarah Silk – Yes

The vote was for Sarah Silk as Vice Chairperson was 5 in favor and 0 opposed.

Luke Freudenberg requested nominations for Clerk and nominated Tim Cronin. There being no further nominations, a roll call vote was taken.

Suzanne Ryan – No

Tim Cronin – Yes

Luke Freudenberg – Yes

Audrey Cline – Yes

Sarah Silk – Yes

The vote was for Tim Cronin as Clerk was 4 in favor and 1 opposed.

Matt Sullivan stated that the 2020-2021 ZBA Officers are now defined.

The New Zoning Board of Adjustment officers are as follows:

Chairperson - Luke Freudenberg

Vice Chairperson – Sarah Silk

Clerk- Tim Cronin

As the voting was completed, the Chairman read the first case on the agenda.

Luke Freudenberg read the first application into the record as follows:

TM# 217-196

Case # 04-V-20

Applicant: Frank W. and Jared R. Burke

Public Hearing for a Variance under Section 175-144(B) of the Wolfeboro Planning & Zoning Ordinance to allow for the conversion of an existing barn into an additional unit which would exceed the permitted density in the Village Residential District. This property is located TM# 217-196, 112 North Main Street.

Matt Sullivan stated the applicant requested a continuance until July 6, 2020. Suzanne Ryan suggested not continuing the application as this same application has been continued twice thus far. The consensus was that the application was complete. A discussion of continuing versus denying without prejudice ensued.

Suzanne Ryan made a motion, and it was seconded by Sarah Silk, to deny the application without prejudice knowing that the applicant may resubmit the same, modified or new application at a future date.

Roll call vote to deny the application known as Case # 04-V-20 regarding TM# 217-196 without prejudice was taken.

ROLL CALL VOTE: Suzanne Ryan – Yes; Tim Cronin – Yes; Luke Freudenberg – Yes; Audrey Cline – Yes; Sarah Silk – Yes. **The motion passed unanimously (5,0).**

Tim Cronin read the next application into the record:

TM# 149-006

Case # 06-V-20

Applicant: Beth Baldwin Trust

Public Hearing for a Variance under Section 175-64(A)1,4 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a mudroom addition within the front and shore-front setbacks of the Shorefront Residential District. This property is located 8 Fern Avenue.

Roll Call for completion of site visit: Tim Cronin - Yes; Sarah Silk - Yes; Audrey Cline - Yes; Suzanne Ryan - Yes; Luke Freudenberg - Yes.

Jim Rines (White Mountain Survey & Engineering) representing the Beth Baldwin Trust for three variance requests presented a color coded plan. His client, Beth Baldwin, has moved to the subject property full time and is requesting the addition of a mudroom and a detached garage. It was determined that the subject property consists of two separate lots of records even though it is being taxed as one with a right of way over the lot. The lot originally consisted of seven parcels of land including Fern Avenue which is a fee interest road left over by the developer. A revision was made to the initial application submitted in March, 2020, to accommodate request of abutters that the detached garage be set back 20 feet from Fern Avenue so that there would be sufficient room for the applicant to park outside the garage if needed and not impede the foot traffic on Fern Avenue. In addition to accommodating the right of way, the placement of the garage needs to be in a location that will allow for installation of a septic tank with a pump chamber for a planned sewage disposal system. The placement of the system is limited by a setback from the abutters existing well located on the property line, in addition to setbacks from the shoreline and existing wetlands. Since the subject well was drilled prior to August 24, 1989 it is afforded protections (exemption from a ten foot setback from a boundary line) that wells drilled thereafter do not have. When the State was sent a plan and notified of the situation, the applicant was instructed to split the difference between the pre 1989 well and the shoreline for placement of the system and proceed with whatever setbacks are then available from the wetlands. If a ZBA variance is granted for this project, applicant will apply at the state level for septic system approval with wetlands waiver and an encroachment waiver to the abutters well.

Since this is an existing lot that does not have a primary use, applicant is seeking a variance to allow an accessory use on a lot that does not have a primary use. The applicant has agreed to a self imposed deed restriction that these two lots could never be sold separately.

The septic system is going to be a pre-treatment system called a Clean Solution which allows for the smallest footprint and basically a clarified effluent versus non-clarified effluent system.

If this variance is approved by the ZBA, the Applicant will also apply to the Planning Board for a Special Use Permit for activity relative to both the leach field and garage being within setbacks (the 25 ft. no touch buffer and the 75 ft. structural setback within the wetlands area which is poorly drained). The applicant will be seeking relief there and will also need a State of New Hampshire Shoreland Permit and a Town Shoreland Permit.

Jim Rines pointed out the applicant is also seeking relief for mudroom of 33.5 ft. from the waterfront.. The current structure is 25 feet from the lake. The overhang will be .4 ft from boundary line of Fern Avenue.

Since the applicant has offered to a self imposed deed restriction not allowing the lots to be sold separately in the future, Suzanne Ryan questioned why the owner did not merge the two lots into one and why the two lots were not shown with a 'ziggar' on the plan. Jim Rines explained that this was not done due to the fee interest in Fern Avenue that is held by the heirs of the original developer. The two lots do not actually abut since the Fern Avenue land lies between them.

At this point, Matt Sullivan made a procedural suggestion that the criteria for each of the three cases related to the subject property be presented individually, discussed individually, and include public comment prior to proceeding to the subsequent case and handled as separate applications.

Jim Rines then went through the following **criteria relating to Case #06-V-20** (Setbacks from road and shoreline to house lot):

Article IV, Section 175-64 A-1 and Section 175-64 A-4.

1. The variance will not be contrary to the public interest:

To be granted, the variance it must be proven that the variance is not contrary to the public interest. As is noted in the zoning handbook for officials(November, 2019), in order for a variance to be contrary to the public interest it must "unduly and to a marked degree violate the basic zoning objectives of the ordinance." To determine this, the handbook asks the question "Does the variance alter the essential character of the neighborhood or threaten the health, safety and general welfare of the public?" To determine this, Jim Rines stated that he referred to the purpose of the shorefront residential district which reads "The purpose of the district is to maintain the integrity of the existing shorefront residential district and to protect the shorefront from overdevelopment. Further, the Town recognizes the importance of implementing water quality protection standards in order to protect the shorelands within the Town of Wolfeboro since they are among the most valuable and fragile natural resources and the protection of these shorelands is essential to maintaining the integrity and exceptional water qualities." In consideration of such, Jim Rines suggested that the construction of a 10.8 ft wide by 10 ft long mudroom with 1 ft overhangs to an existing home being used as a year round home would not alter the essential character of the neighborhood nor would it threaten the health, safety or general welfare of the public. He also added that the house parcel along with the garage parcel are being depicted as one lot on the tax map. This variance for a mudroom is being requested as the land owner has moved to this property permanently. The mudroom originally was to be incorporated into the garage, but due to fact that the property actually consists of two separate lots of record, this application became necessary. As part of this project storm water mitigation

will be installed where none presently exists. A non State approved individual sewage disposal system will be replaced with a State approved one which pretreats the effluent. Both of these measures will enhance the surface and ground water quality.

2. *The spirit of the ordinance is observed:*

Granting of the variance will not violate the basic zoning objectives nor alter the basic character of the locality. In addition, the variance will not threaten the basic health and welfare of the general public. The construction of the mudroom along with the storm water mitigation and new sewage disposal system will not threaten but likely enhance it.

3. *Substantial justice is done:*

Loss to the individual is not outweighed by a gain to the general public. In this case, denial of the variance would result in a loss to the property owner which is not outweighed by a gain to the general public therefore a substantial justice would be done by granting of the variance.

4. *The values of surrounding properties are not diminished:*

Granting of the variance would increase the subject property value which typically does not diminish abutting property values but rather sometimes improve their values. Improvements for mitigation of storm water where none presently exists will enhance the ground and surface water which will have a neutral or positive effect on abutting properties.

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

The special conditions that distinguish this property from others similarly zoned is its relationship to the surface waters and its relationship to the end of a roadway. This lot is only 6690 square ft in size and is at the end of a road that only pedestrians occasionally travel on. To the general public, the subject property appears to be a single lot and only after a survey was it revealed to be two separate lots.

No fair and substantial relationship exists between the purposes of the ordinance applicable to this application and the specific application of those provisions to the property.

According to the officials' handbook, the Planning Board should ask the question, "Is the restriction on the property necessary in order to give the full force and effect of the purpose of the ordinance or can relief be granted to this property without frustrating the purpose of the ordinance? And is the full application of the ordinance to this particular property necessary to promote a valid public purpose?" Once the purpose of the ordinance is known, the property owner needs to establish that because of the special circumstances of this property, the ordinance provision to this property would not advance the purpose of the ordinance in any "fair and substantial way."

Jim Rines stated the purpose of the ordinance is to maintain the integrity of the existing shore-front and to protect the shoreland from over development. Further, the Town recognizes the implementing the water quality protection standards in order to protect the shorelands within the Town of Wolfeboro since they are among the most valuable and fragile natural resources and that the protection of these shorelands is essential to maintaining the integrity of the exceptional quality of the waters. Jim Rines stated it is his opinion that there is no fair and substan-

tial relationship that exists between the purpose of the ordinance that is applicable to this application and the specific provisions of the application to the subject property which is because the property created prior to the adoption of the zoning ordinance and as such the lot is severely undersized. He further stated that because the home is existing and wholly non-conforming except for a very small 40 to 50 sq. ft area located in the middle of the home, any addition would result in a further non-conformity with the setbacks creating a need for a variance. The property owner is seeking a variance for the mudroom based on the configuration of the home and felt a small addition that was no closer to the lake than the existing structure, but closer to the right of way was a more sensible approach and more in keeping with the purposes of the ordinance. The proposed use is a reasonable one as a mudroom is a reasonable convenience in a year round home.

Luke Freudenberg opened the public hearing.

Matt Sullivan stated for the record that he did receive some public comment initially, however he received subsequent emails and correspondence reflecting that with amended plans many of those concerns had been addressed. Ultimately, he did not share the initial input from abutters with the Board. He will share that input should the Board feel uncomfortable with that. He also believes that those abutters will be present and comment at this time on their position relative to the proposed structure.

Sarah Silk, as a result of her site visit, asked about the feasibility of an alternate location for the mudroom utilizing a different house entrance located further from Fern Avenue but still opposite the proposed garage.

Beth Baldwin stated that the entry way being referred to has never been fully utilized because it is not located near the kitchen and has stairs on both its exterior and interior sides. As she gets older, she does not want to have to both ascend and descend stairs to enter the house. Her objectives to using the proposed location include not only the proximity to the proposed garage, but integrating the basement bulkhead inside the house to alleviate need for going outside and shoveling snow from the bulkhead to access the basement in the winter. In addition to the mudroom she is planning to relocate the oil burner and do a remodel of the kitchen, etc. which are integral to the proposed location of the mudroom.

Geoff Pechinsky, (the immediate abutter with the well located on subject property line where garage is proposed), wanted to have it recognized that Fern Avenue is a right of way that be respected with no impediments as it is his only legal access to the water. He has a right of way on the front with his neighbors on the other side.

Audrey Cline inquired if the subject property has a full basement.

Beth Baldwin responded, explaining that the basement has a concrete foundation but does not have full standing height.

Luke Freudenberg closed the public hearing.

Suzanne Ryan commented on the alternative use as well as plowing feasibility with proximity to road and whether the project would meet the five criteria.

Audrey Cline commented on the number of cars she observed during her site visit which were parked very close to if not in Fern Avenue.

The Board then addressed the five criteria:

1. The variance will not be contrary to the public interest;

Sarah Silk expressed concern about 5 inches between road and mudroom. Audrey Cline questioned the amount of the setback from the right of way. Matt Sullivan stated it would be a 30 ft setback. Suzanne Ryan commented that one of the goals of the Master Plan was to protect the area from over development. Suzane stated she felt this mudroom would add to the congestion of that particular location and the possibility of an alternate location should be a consideration.

2. The spirit of the ordinance is observed;

Suzanne Ryan stated that the reasons stated under criteria #1 also apply to criteria #2. In addition, the setback being only 4.8 inches is not in the spirit of the ordinance. Luke Freudenberg concurred with Sarah Silk and Suzanne Ryan on criteria #1 and #2. Tim Cronin stated that the minimal setback was a concern and that he would be more inclined to approve a mudroom in an alternate location set further back from the right of way. Audrey Cline and Sarah Silk both also concurred with preferring an alternate location.

Roll call of membership to reopen public comment: Tim Cronin - yes, Audrey Cline - yes; Sarah Silk - yes; Suzanne Ryan- yes, but limited to specific points; Luke Freudenberg - yes.

The public hearing was reopened.

Jim Rines explained the limitations caused by location of septic tank and pump chamber that have to be five feet from foundation and further away from boundary line, etc. The proposed spot keeps it further from the lake and the alternate proposed location would necessitate moving the septic tank closer to the abutters' well. The .4 ft distance from right of way is from the overhang and the building will be 1.4 ft away.

Luke Freudenberg closed the public hearing.

The Board returned to the remaining criteria:

3. Substantial justice is done;

Suzanne Ryan stated justice to owner is not outweighed by justice to public and it is not in public interest to allow mudroom that close to right of way.

4. The values of surrounding properties are not diminished.

Luke Freudenberg stated it is a small narrow entryway down to lake for public. Plowing would make public access more narrow and less accessible, although it may not diminish value of abutters property it may have negative impact on access to the water.

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

Suzanne Ryan commented that there are no real conditions that distinguish this property from others in the area with the exception that it is at the end of the roadway.

Jim Rines requested permission to confer with client before the vote.

Jim Rines stated that his client respectfully requested to withdraw this application.

Discussion between Board members and Matt Sullivan resulted in a denial for withdrawal of the application at this late time in the process. Should the applicant wish to submit another application for a mudroom in the future, it would need to be for an alternate location.

Suzanne Ryan made a motion to deny the request for a mudroom for the Baldwin Trust (Case #6-V-20) based on reasons stated relative to criteria #1 through 5. Motion was seconded by Audrey Cline.

ROLL CALL VOTE: Tim Cronin - yes; Audrey Cline - yes; Sarah Silk - yes; Suzanne Ryan - yes; Luke Freudenberg - yes. **Motion passes unanimously to deny (5-0).**

Matt Sullivan stated that Case #07-V-20 7 and #08-V-20 were originally submitted as one application. However, the Planning and Development Office separated them into two applications — one for a permitted use variance and the other for a dimensional variance. Matt noted that the information relating to the criteria are identical for both cases and recommended they be read into the record and reviewed (including public comment) at the same time and then voted on separately, starting with Case # 07-V-20 which is the permitted use variance, as the outcome of that case will impact the vote of Case # 08-V-20.

Tim Cronin read the application into the record as follows:

TM# 149-006

Case # 07-V-20

Applicant: Beth Baldwin Trust

Public Hearing for a Variance under Section 175-65 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a detached garage, without a dwelling unit or habitable space, on a lot where no primary structure exists within the Shorefront Residential District. This property is located 8 Fern Avenue.

TM# 149-006

Case # 08-V-20

Applicant: Beth Baldwin Trust

Public Hearing for a Variance under Section 175-64(A)1 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a detached garage within the front setback of the Shorefront Residential District. This property is located 8 Fern Avenue.

Jim Rines presented the garage lot which currently does not have a primary use and the variance is for an accessory use without a primary use. There is an existing accessory structure on the lot. Use will be consistent with how property has been used in the past. There would be a deed restriction that the garage lot and house lot cannot be sold separately.

A new septic system is proposed in a location that is driven by shoreline, wetlands, and proposed garage.

Criteria for Case #07-V-20 and Case#08-V-20:

- 1. Variance shall not be contrary to public interest.;**
- 2. The spirit of the ordinance is observed;**
- 3. Substantial justice is done;**
- 4. The values of surrounding properties are not diminished; and**
- 5. Literal enforcement of the provisions of the ordinance would not result in an unnecessary hardship.**

Jim Rines explained that based on the foregoing circumstances and history related to this parcel, the usage of the land on both sides and the lack of defined travel surface and ground cover on the right of way, it was not until a boundary survey was completed was it discovered to be two separate lots. Owing to these special conditions, it is the applicant's position that there is no fair and substantial relationship between the existing purpose of the ordinance applicable to this application and the specific application of the those provisions to this property as the subject property was created prior to the adoption of zoning. As a result the lot is undersized and also has the abutting and on site wetlands, the pre August 20, 1989 abutting well and setbacks which severely limit the building envelope. In order to design and install the most compliant septic system and garage, the setback to the effluent disposal as well as the surface water in the abutters well, waivers will be sought from wetlands which will require the garage to be closer to the right of way than is required. The use is a reasonable one because the ordinance allows for construction of lots with both a garage and a home for up to 1,400 sq ft. whereas this application is only for a 30' x 24' structure. Since garages are often used year round on residential properties, this use is reasonable.

Tim Cronin inquired if the garage was a one story structure. Jim Rines replied in the affirmative.

Luke Freudenberg then opened the public hearing.

Sarah Silk requested an explanation as to how a Clean Solution System differs from a traditional septic/disposal system with a leach field. Jim Rines reported that a Clean Solution System is a aerobic system where a conventional system is an anaerobic system and gave an explanation of the process of each.

Audrey Cline asked if a regular drawing unit could be permitted in this instance as the subject parcel is a separate lot that pre-exists zoning. Matt Sullivan responded a single family dwelling permit could be pulled for the subject lot.

Audrey Cline asked Jim Rines if he considered a forced main and putting the tank across the street. Jim Rines responded that it was not considered as the Clean Solution System would require additional tanks and closer proximity to abutter's well.

Audrey Cline then asked if there were setbacks to wetlands area and if that would be a Planning Board or ZBA issue. Matt Sullivan responded that encroachment into a wetlands area requires a Special Use permit from the Planning Board. This project would be subject to permitting by the Planning Board subsequent to approval by the ZBA.

Sarah Silk inquired if the Conservation Commission still reviews Special Use permits. Matt Sullivan responded that they do. Sarah Silk further discussed whether that Special Use permit would be applicable to this due to it being a pre-existing lot of record. Matt Sullivan responded that it is applicable.

Geoff Pechinsky, the immediate abutter, questioned why an ordinance prohibits a garage on a lot without a primary use. Matt Sullivan clarified that the ordinance is more broad in that it prohibits any accessory structure whether it be a garage, tennis court, boat house, or similar structure, etc. The provision is common and is generally to ensure that building lots are built whole in that a single family dwelling unit is accompanied by the accessory structure.

Geoff Pechinsky further commented that he is concerned with size of garage and that it will essentially alter the character of the neighborhood. It is currently a wooded lot with a shed, is aesthetically pleasing and he does not feel it would offer a benefit to the general public. He also does not feel a 24' x 30' garage will increase his property value especially in light of the number of trees that will have to be taken down. He also pointed out his belief that the foot traffic on Fern Avenue is more than "occasional" and that the long standing neighbors have always known that the right of way is a public access road and that the subject property consisted of two separate lots.

Jim Rines pointed out that his client could choose to build an 1,800 sq ft house on the subject lot rather than a garage and such would be considerably more intrusive. Further, the proposed garage does comply with the 15 ft side setback.

Luke Freudenberg closed the public hearing.

Review of criteria for Case #07-V-20:

1. The variance shall not be contrary to the public interest.

Sarah Silk commented that it was a benefit that the property owner was willing to tie the two parcels together for eternity.

2. The spirit of the ordinance is observed.

Suzanne Ryan stated the applicant improves the public interest as they are mindful of the wetlands, the type of septic system to be installed and protects the spirit of the ordinance as well as the building of a garage versus a house is less detrimental to the area and less harmful to the land. As such, the spirit of the ordinance is observed.

3. Substantial justice is done.

Luke Freudenberg stated that the foregoing comments further support that substantial justice is done.

4. **The values of surrounding properties are not diminished.**

Suzanne Ryan commented that the only testimony related to the abutters concern over trees being taken down, however there was no expert testimony delivered that the values of surrounding properties will be harmed. She also commented it would be to the benefit of the neighborhood to not have a house on the subject lot.

5. **Literal provisions of the enforcement of the provisions of the ordinance would not result in an unnecessary hardship.**

Luke Freudenberg stated that the proposal of a garage versus a house and tying the lots together for eternity is a win/win situation.

Suzanne Ryan stated that the special condition is environmental in that the applicant is installing an environmental friendly septic design and that the property will have some storm water mitigation.

Suzanne Ryan made a motion regarding Case #07-V-20 to approve the 24 x 30 ft garage for the Baldwin Trust with the conditions the Planner has outlined as # 1 through 6, with the caveat that the conditions be more detailed. Specifically, the a deed restriction be recorded at the Carroll County Registry of Deeds, that the lot not be utilized for any purpose other than the garage and the septic system, and that it is conditional on NH DES approval as well as the Planning Board and State Wetlands Shoreland Protection Act and the Planning Board Special Use Permit. Suzanne Ryan requested that the foregoing be itemized as Condition #7.

A discussion ensued as to whether the septic permit is germane to the approval for a variance from permitted use. **It was agreed that septic system permit would not be included in conditions.**

Motion was seconded by Luke Freudenberg. After further discussion, it was recommended by Matt Sullivan that an amendment to Condition #1 be made to include a Town of Wolfeboro Building Permit, Town of Wolfeboro Shoreland Permit, and State of New Hampshire Shoreland Permit. He further suggested a Condition #7 be added stating that language be added to the deed stating that subject lots will not be separately conveyed.

Suzanne Ryan amended her motion to approve Case #07-V-20 with the provision that Condition #1 be amended, clarified and itemized to include the required list of permits as stated above and that a Condition #7 be added stating the deed restriction to be recorded. Luke Freudenberg seconded the motion.

ROLL CALL VOTE: Tim Cronin - yes; Audrey Cline - yes; Sarah Silk - yes; Suzanne Ryan - yes; Luke Freudenberg- yes. Vote is 5-0 in favor of Case #07-V-20.

Luke Freudenberg consulted with Matt Sullivan as to whether all procedural requirements were met with respect to presentation and public comment on Case #08-V-20. Matt Sullivan advised the Board they could proceed with discussion of the criteria for Case #08-V-20.

Criteria for Case 08-V-20:

1. The variance shall not be contrary to the public interest.

Luke Freudenberg stated that approval of the application will not alter the character of the area and will be in the public interest as it will improve the storm water situation, the land use, and the sewage disposal system will be environmentally beneficial to such a small lot.

2. The spirit of the ordinance is observed.

Luke Freudenberg stated that, for the same reasons identified under Criteria #1, the spirit of the ordinance is observed.

3. Substantial justice is done;

Audrey Cline stated that a garage is a common use, there is no room on the house lot for the garage and the garage property is tied to the primary use property by the use approval. The garage is a substantial benefit to the landowner and is not a substantial negative issue to other residents of the road.

4. The values of surrounding properties are not diminished;

Luke Freudenberg stated that no public comment were given that expressed any factual evidence that surrounding property values would be diminished.

5. Literal enforcement of the provisions of the ordinance would not result in an unnecessary hardship.

Luke Freudenberg stated that due to the fact the application is for a garage, rather than placement of a house, on the lot and the upgrading of the sewage disposal system, there is no unnecessary hardship as a result.

Suzanne Ryan added that the special condition is that the existing house lot across the street does not have area for any sort of storage garage.

There being no further discussion, **a motion was made by Suzanne Ryan to approve the variance setback for the 30' x 24' garage with a 11 ft setback from the road boundary of Fern Avenue (Case #08-V-20 Baldwin). After clarification, the motion was amended to reflect a 20 ft setback from Fern Avenue (Case#08-V-20) with the conditions as outlined by the Town Planner. The motion was seconded by Tim Cronin.**

ROLL CALL VOTE: Tim Cronin - yes; Audrey Cline - yes; Sarah Silk - yes; Suzanne Ryan - yes; Luke Freudenberg - yes. The variance passed with a 5-0 approval.

Suzanne Ryan addressed Chairman Freudenberg with a Point of Order requesting that, due to the current time (9:00 PM), the remainder of the agenda be continued. A discussion ensued with Matt Sullivan advising the Board of their options giving appropriate consideration to all.

Other Business:

The consensus of the Board, with the suggestion of Matt Sullivan, was to discuss with the remaining applicants on the agenda the feasibility of continuing their cases for one week.

Lakes Region Model Railroad Museum, Inc. (Case #09-SE-20)

John Simms commented on Case #09-SE-20, stating the importance of expediting it but conceding that continuing for one week would be acceptable.

Mark G. Wheaton Revocable Trust Payde Stockman (Case #12-EW-20)

Payde Stockman confirmed that it was acceptable to continue his case for another week.

Christopher L. Bolt, agent for Arthur T. and Margo Wood, stated his client's case is fairly simple and straightforward and would be receptive to continuing their matter for a short period - i.e. a week. Chris Bolt suggested, and Matt Sullivan concurred, that the cleanest manner procedurally would be to read the case(s) into the record and then continue them.

The Board Members then discussed and agreed upon the date of June 4, 2020 at 7:00 PM via GoToMeeting platform to hear the remaining cases from tonight's agenda.

Tim Cronin read the following cases into the record:

TM# 217-46

Case# 09-SE-20

Applicant: Lakes Region Model Railroad Museum, Inc.

Public Hearing for a Special Exception under Article 175, Section 92 of the Wolfeboro Planning & Zoning Ordinance to allow a Museum use in the C1-Central Business District. This property is located at 61 Railroad Avenue.

Suzanne Ryan made a motion to continue Case #09-SE-20 to a virtual meeting on Thursday, June 4 at 7:00 PM. Motion was seconded by Tim Cronin.

ROLL CALL VOTE: Suzanne Ryan - Yes; Tim Cronin - Yes; Audrey Cline - Yes; Sarah Silk - Yes; Luke Freudenberg - Yes. Vote was unanimous (5-0).

TM# 171-19

Case# 12-EW-20

Applicant: Mark G. Wheaton Revocable Trust-Payde Stockman

Public Hearing for an Equitable Waiver pursuant to RSA 674:33a under Article 175-80.A.(2) – Side Setback; Residential District of the Wolfeboro Planning & Zoning Ordinance to permit a further encroachment beyond that approved by the Zoning Board at its October 7, 2019 meeting. This property is located at 102 Old Keewaydin Point Road.

Suzanne Ryan made a motion to continue Case #12-EW-20 to a virtual meeting on Thursday, June 4 at 7:00 PM. Motion was seconded by Sarah Silk.

ROLL CALL VOTE: Suzanne Ryan - Yes; Tim Cronin - Yes; Audrey Cline - Yes; Sarah Silk - Yes; Luke Freudenberg - Yes. Vote was unanimous (5,0).

TM# 259-34

Case# 13-SE-20

Applicant: Arthur T & Margo Wood

Public Hearing for a Special Exception under Article VI Section 175, Section 43 (A)(10) of the Wolfeboro Planning & Zoning Ordinance to redevelop and vertically expand an existing

*garage and attached bunk room (collectively “the Garage”). **This property is located at 72 Oakwood Road.***

Suzanne Ryan made a motion to continue Case #13-SE-20 to a virtual meeting on Thursday, June 4 at 7:00 PM. Motion was seconded by Tim Cronin.

ROLL CALL VOTE: Suzanne Ryan - Yes; Tim Cronin - Yes; Audrey Cline - Yes; Sarah Silk - Yes; Luke Freudenberg. Motion passed unanimously (5,0).

Approval of Minutes:

Suzanne Ryan made a motion to approve, as written, the minutes of March 2, 2020, April 6, 2020 and May 4, 2020. Motion seconded by Luke Freudenberg.

ROLL CALL VOTE: Suzanne Ryan - Yes; Tim Cronin - Yes; Audrey Cline - Yes; Sarah Silk - Yes; Luke Freudenberg - Yes. Vote was unanimous (5,0).

Motion to adjourn was made by Tim Cronin and seconded by Sarah Silk.

ROLL CALL VOTE: Suzanne Ryan - Yes; Tim Cronin - Yes; Audrey Cline - Yes; Sarah Silk - Yes; Luke Freudenberg - Yes. Vote was unanimous (5,0).

Meeting was adjourned at 9:15 PM.

Respectfully submitted,

Mary Jane Shelton
Recording Assistant

