

**WOLFEBORO ZONING BOARD OF ADJUSTMENT
REGULAR MEETING**

VIRTUAL MEETING

**May 4, 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.
David Senecal- Present and in a room alone.
Luke Freudenberg - Present and in a room alone.
Audrey Cline- Present and in her car room alone.
Sarah Silk- Present and in a room alone.

Staff Present: Matt Sullivan, Director of Planning and Development

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 May 4th 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.

Matt Sullivan asked for nominations for the Chair of the ZBA.

Tim Cronin nominated Luke Freudenberg.

Suzanne Ryan nominated Sarah Silk.

A roll call vote was taken for Luke Freudenberg as Chair.

Suzanne Ryan – No

Tim Cronin – Yes

David Senecal – Yes

Luke Freudenberg – Yes

Audrey Cline – Yes

Sarah Silk – No.

The vote for Luke Freudenberg as Chair was 4 in favor and 2 opposed.

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

Suzanne Ryan – Yes

Tim Cronin – No

David Senecal – No

Luke Freudenberg – No

Audrey Cline – No

Sarah Silk – Yes

The vote for Sarah Silk as Chair was 2 in favor and 4 opposed.

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

Luke Freudenberg asked that Matt finish the voting and then he will take over from there.

Matt requested nominations for Vice Chair.

David Senecal nominated Sarah Silk as Vice- Chair.

Suzanne Ryan – No

Tim Cronin – Yes

David Senecal – Yes

Luke Freudenberg – Yes

Audrey Cline – Yes

Sarah Silk – Yes.

The vote was for Sarah Silk as Vice Chair was 5 in favor and 1 opposed.

Matt requested nominations for Clerk.

David Senecal nominated Tim Cronin as Clerk.

Suzanne Ryan – No

Tim Cronin – Yes

David Senecal – Yes

Luke Freudenberg – Yes

Audrey Cline – Yes

Sarah Silk – Yes.

The vote was for Tim Cronin as Clerk was 5 in favor and 1 opposed.

The New Zoning Board of Adjustment officers are as follows:

Chairman - Luke Freudenberg

Vice- Chair – Sarah Silk

Clerk- Tim Cronin

As the voting was completed the Chairman asked Tim Cronin to read the first case on the agenda.

Tim Cronin read the application into the record as follows:

TM# 158-21

Case # 03-SE-20

Applicant: Cynthia & Clinton Johnson

Public Hearing for a Special Exception under Article 175, Section 43 (10) of the Wolfeboro Planning & Zoning Ordinance to allow for the replacement of an existing non-conforming structure with a new structure in the same non-conforming footprint but with a vertical expansion, plus a conforming addition. This property is located at 134 Piper Lane. THIS APPLICATION HAS BEEN WITHDRAWN.

Matt Sullivan stated he received an e-mail from Jim Rines on April 20, 2020 at 10:03 am stating that on behalf of Cynthia & Clinton Johnson, I am withdrawing this application without prejudice and to please let me know that you have received this email.

Suzanne Ryan asked whether since they had withdrawn the application without prejudice, would the application be resubmitted to the Board for review in the future.

Matt Sullivan stated they have been back and forth with application over the last few years so he is not sure if they will be coming back. They have been approved for certain work on the site already without the Special Exception. The component being presented to the ZBA was a very specific element of the application which was the vertical expansion.

Tim Cronin read the 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. **THIS APPLICATION WILL BE CONTINUED, THERE WILL BE NO SITE VISIT.**

Matt Sullivan stated he received an email from the Burke family on Friday, April 17th stating “After much thought on what we would like to do with the property at 112 North Main we feel we would like to continue the application to a later date”. I did speak to them on the phone they have requested to be continued to the June 1 ZBA meeting. I do not have that request in writing, but that is what they requested. In this case the Board should take a formal vote on this request to continue this application to this time and date. I will answer any question but I am asking for a vote on this request to continue to June 1st to 7:00 PM.”

Suzanne Ryan made the motion to continue the application to June 1st with the application to be the first item on the agenda with the meeting to be held virtually.

Matt Sullivan emphasized that it was being continued to virtual, Go-To-Meeting format. He did get an opinion from counsel that the Board can continue this to a virtual location and change it to a physical location if necessary.

Tim Cronin seconded the motion.

ROLL CALL VOTE: Suzanne Ryan – Yes - Tim Cronin – Yes – Luke Freudenberg – Yes – Audrey Cline – Yes – Sarah Silk – Yes. **The motion passed unanimously.**

Suzanne Ryan said she has a legal question I would like counsel weigh in, should the request be sent to the Planning Director.

Matt Sullivan said yes to please email him with the question.

Audrey Cline asked him to share Suzanne’s question and the answer with the Board.

Matt Sullivan said he would.

Luke Freudenberg asked that Matt continue to do the roll call votes for the meeting.

Tim Cronin read the next application into the record.

TM# 218-085

Case # 05-SE-20

Applicant: R&M Family Trust

Public Hearing for a Special Exception under Section 175-72(C) of the Wolfeboro Planning & Zoning Ordinance to allow for the keeping or harboring of all livestock in accordance with the New Hampshire Department of Agriculture’s Best Management Practices in the Village Residential District. This property is located TM# 217-196, 33 Pine Street. A site visit will be held at approximately 6:05PM prior to the meeting.

Matt Sullivan asked the members if they had viewed the property. Suzanne Ryan – Yes- Tim Cronin- Yes – Dave Senecal – Yes – Luke Freudenberg – Yes – Audrey Cline – Yes- Sarah Silk – Yes.

Suzanne Ryan asked if the Zoning Ordinance’s requirement that 3 Board members view a Special Exception application still applies in light of the circumstances.

Matt Sullivan stated that he did not have a legal opinion at this time but that we are in a defensible position right now because of the current circumstances.

Reed Marbury joined the meeting and stated that at this time he would like to have a few chickens in his yard for eggs for his family. He would not like to limit the amount as he might want to get a few chickens for meat. The property is an acre and a half in size. The chickens will be kept to the back side of the property away from the road.

Tim Cronin asked if there would be 2 chicken coops and had they been moved since last Friday. Reed Marbury stated he had moved them since Friday. There would only be one (1) chicken coop which would be located in the center of the property, though an exact location had not been decided.

Suzanne Ryan asked that the points of the Special Exception be addressed by the applicant.

Reed Marbury read the supporting facts for the application.

1. **Site Suitability:** This would not have an impact on the neighbor as they will be set back off the property in the middle of the property.
2. **Immediate Neighborhood Impact:** As the coop will not be near the property boundaries the noise will be limited. We are also not planning on having any roosters.
3. **No undue Nuisance:** They do not see any traffic that would be an issue. And no increase of traffic.
4. **Availability of Public Services & Facilities:** The property is serviced by Town water & Sewer, so there is no impact to the town. And we are close to the Fire Department if a problem were to come up.
5. **Appropriateness of Site Plan:** The coop is in a good location for the property.
6. **Immediate neighborhood Integrity:** It would change the character of the neighborhood. As this is one of larger property there is not any anticipated impact to the neighborhood. The goal is to make them unnoticeable.
7. **Impact of property values:** There is not any believed impact to property values.
8. **The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan:** It does follow the master plan.

Tim Cronin asked a question in reference to criterion #2, noise and or vibrations, are the owners planning on having any roosters at this location.

Reed Marbury stated that they were not planning to.

Dave Senecal said that he had the same question about whether they were going to have roosters or not and how many birds they are planning to keep.

Reed Marbury said we are planning on 12 but it might go up or down at times. But they would like to stay with 12.

Dave Senecal asked if they planned to sell the eggs.

Reed Marbury stated that they are not but they might share with their neighbors if they have extras.

Sarah Silk asked about the note stating a small chicken coop with mobile fencing. She asked if the coop and the fencing would be moving on the property so the chickens have a fresh area to forage. Sarah Silk asked if sometimes there will be a fenced in area and sometimes there won't.

Reed Marbury said these are mobile temporary fences you move around or you can stake them in the ground for a more permanent fencing and that they are easily movable on a daily basis.

Tim Cronin said that in his previously life in Connecticut that all animals should be kept 100' from any property line and with a mobile coop/fencing, it's possible that you could have them right up against the property line which would be very close to your neighbor's house.

Reed Marbury said he is not planning to go that close to the property line.

Luke Freudenberg asked what the side setbacks would be for a mobile chicken coop.

Matt Sullivan said that if it is not a structural element, then it is not subject to the side setbacks. The UNH Guide does have some recommendations from side setbacks of 50'. However, the Town does not have a clear setback for chickens.

Audrey Cline said she reviewed the UNH Guide and that it is extremely vague with no specific guidance for chickens. She requested to take some of that information and make it part of this approval and one of those is the housing and space guidelines for chickens with number of square feet per coop and yard that should be provided. She stated that she had not received enough information to know the scope of the request. More specific information should be provided. There is clear agreement that no roosters should be permitted. At least 10 sq. ft. per chicken and in the coop there should be 3 or 4 sq. ft. per chicken should be provided.

Suzanne Ryan asked if Audrey could adapt out some of the concerns to include them as conditions of approval.

Audrey Cline answered that they could, though she was unsure if it was the Board's responsibility to put this together or if the application should do it.

Matt opined that if there are specific elements of the UNH BMP Guide that should be part of the approval, the Board should raise them to applicant right now to see if they will agree to them as a condition of approval. However if there are certain density requirements the applicant may not have that information immediately available.

Audrey Cline noted that one of the things that the UNH Guide did say is that the property owner should have a manure management plan. She would like to see a location on the site plan as to where they are planning on composting that. We do not want it in the wet area or close to the neighbors. That should be identified so if it becomes a problem we have it documented on the approval. The second thing is they recommend that the chicken housing not be within 50' of the property line. I do not have a problem with free range or the pen. But the chicken house should not be closer than 50'.

Sarah Silk asked if there were 1 or 2 coops proposed.

Reed Marbury stated the coop that is there now would be in place and the second one would be moved around the yard. The plans are just conceptual at this time. If necessary I would need to get this information together and get back to you. And if that is a problem then we can stay with the one coop for now.

Audrey Cline stated that this will be an approval for only egg layers. If the applicant wishes to have meat chickens at another time, we would have to review this or we would have to go through the information for that as to where they would be getting slaughtered and that type of information.

Luke Freudenberg asked if the applicant would be aggregable to doing just egg laying for right now.

Reed Marbury said yes.

Audrey Cline asked how many square feet the chicken coop is.

Reed Marbury stated it is 60 sq. ft. and clarified it to be 40 sq. ft.

Matt Sullivan noted that the dimensions of the chicken coop should be included in the conditions.

Tim Cronin asked if we are looking at one chicken house and not the movable one. The approval will be for just the one house.

Luke Freudenberg clarified the term chicken tractor as a device that will move around the yard with a pen in order to give the chicken a new place to graze during the day. It also provides cover from outside forces & dangers.

Matt Sullivan request to add that one of the coops is going to be a mobile coop for clarification in the conditions.

Tim Cronin noted that an additional condition is the distance from the property lines.

Matt Sullivan said he was concerned that you would not be able to meeting the 50' side setback based on the coop's current location if measured from both property lines.

Reed Marbury stated that he would like to keep the coop where it is and requested that the side setbacks not be a condition of approval.

Audrey Cline said this is not in the Best Management Practices it is in the chicken guidance, there are no specifics in the Best Management Practices.

Tim Cronin stated that he views the property as an estimated 202' width. Where it shows coop number 2, the lot is over 200' wide. He asked the applicant to clarify whether he could move the coop all the way in the back in the finger area, where it is only 95' wide.

Reed Marbury said he has them in the front area. He cannot access the back area with further damage to the wetlands.

Audrey Cline asked whether it's required to cross the wetlands to take the moveable tractor back and forth.

Matt Sullivan opined that the owner will likely have to unless he is only moving the tractor around the front (street side) part of the lot.

Luke Freudenberg asked Reed Marbury he was agreeable to a 20' setback from the property line.

Reed Marbury said yes, as it is right now.

Audrey Cline asked to have the compost area identified as well on the final plan.

Reed Marbury said that he would like to have close to where the coop is right now. They have some raised beds there now.

Audrey Cline asked if you are going to have a contained area for the compost as you are close to the wetlands and what are the plans for runoff.

Reed Marbury said they would just be using a composting system for manure, which is a 3 step process and it will be contained.

Matt Sullivan asked if Audrey Cline was comfortable with this.

Audrey Cline said it should be in a containment system like a wooden structure. And not on the edge of the wetlands. So it does not leach in the wetlands.

Matt Sullivan asked Reed Marbury to review the plan for a spot suitable for the disposal and add it.

Suzanne Ryan suggested it be added as a condition.

Sarah Silk asked Matt to review the conditions they have just set.

Matt Sullivan recommended the following additional conditions:

Condition #6 A manure management plan shall be provided which will be to add the material bins to the final plan and the location of those on the property and shall be within an acceptable proximity to the wetlands.

Condition #7 The approvals shall be for egg laying chickens only.

Condition #8 The primary coop will be limited to a maximum size of 5' x 8' or 40 sq. ft.

Condition #9 One (1) coop included as part of the approval is to be a mobile coop that can be moved around the property and not kept in a fixed location.

Condition #10 One (1) coop with a fixed location shall be subject to a side setback of 20' from the abutting property lines.

Sarah Silk asked if the Board wanted a Condition #11. The Board expressed that it did want the condition. Matt Sullivan added condition #11 there will be no Roosters permitted.

Luke Freudenberg opened the Public Hearing.

Luke Freudenberg closed the Public Hearing as no members of the public indicated an interest in speaking. He asked the board to review the criteria.

Luke Freudenberg began the review of the criteria:

1. Site Suitability

Suzanne Ryan stated that they meet the site suitability requirements per the Board's proposed conditions.

2. Immediate Neighborhood Impact:

Sarah Silk said it does not apply when referring to the manure management and the side setbacks.

3. No Undue Nuisance:

No more traffic is generated for a chicken coop.

4. Availability of Public Services & Facilities:

It does not affect public services.

5. Appropriateness of Site Plan :

Suzanne Ryan said the site plan he has drafted with the amendments we have discussed meets the requirements of the site plan appropriateness.

6. Immediate Neighborhood Integrity:

Sarah noted that the Board had not received any testimony about that. Audrey Cline said the keeping of chickens is a historic use in just about every location. It is appropriate with these conditions. Suzanne Ryan added that the Agricultural Commission put together a warrant article to allow chickens by special exception so he is within his right to request it in that neighborhood.

7. Impact of property values:

Luke stated that he does not see that chicken coop and chickens are going to impact any property values in the area.

8. Consistency with the Master Plan

Suzanne Ryan noted the response to criterion #6 the community support for chickens in the Zoning Ordinance.

Luke Freudenberg asked for further comments. Being none, he requested a motion.

Suzanne Ryan made the motion to approve a Special Exception under Article 175-72 for the keeping of laying hens with the conditions numbered 6-11 to be included in the approval for tax map #218-85 -33 Pine Street, case #05-SE-20.

Tim Cronin asked that it also include the additional conditions from Matt Sullivan's memo dated April 27th, 2020. Matt asked if she was incorporating all of the conditions from the memo with his motion, being conditions #1-#11. Suzanne stated yes, that is included in her motion.

Seconded by Sarah Silk.

ROLL CALL VOTE: Suzanne Ryan – Yes - Tim Cronin – Yes – Luke Freudenberg – Yes – Audrey Cline – Yes – Sarah Silk – Yes. **The motion passed unanimously.**

Matt Sullivan asked the Chairman to read the next 3 applications into the record as they have asked to have these applications continued until the June 1, 2020 meeting at 7:00 PM to be held virtually.

Tim Cronin read the following applications into the record.

TM# 149-006

Applicant: Beth Baldwin Trust

Case # 06-V-20

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 shorefront setbacks of the Shorefront Residential District. This property is located 8 Fern Avenue. A site visit will be held at approximately 6:25 pm prior to the meeting.

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. A site visit will be held at approximately 6:25 pm prior to the meeting.

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. A site visit will be held at approximately 6:25 pm prior to the meeting.

A roll call was done as to the visitation of the property by the members.

ROLL CALL VOTE: Suzanne Ryan – No - Tim Cronin – Yes – Luke Freudenberg – No – Audrey Cline – No – Sarah Silk – No – Dave Senecal – No

Suzanne Ryan made the motion to continue the three applications for the Beth Baldwin Trust , Tax map & Lot 149-006 case #'s 06-V-20, 07-V-20, 08-V-20 to the June 1st, 2020 ZBA meeting to be held virtually. Seconded by Sarah Silk.

ROLL CALL VOTE: Suzanne Ryan – Yes - Tim Cronin – Yes – Luke Freudenberg – Yes – Audrey Cline – Yes – Sarah Silk – Yes **The motion passed unanimously.**

Audrey Cline asked if all the applications were on the same parcel. There is an addition to the house but also an application for a building on a parcel with no house.

Matt Sullivan stated yes, but that this complicated. It is a very unique situation. Jim Rines will speak about this application at the next meeting.

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. Matt Sullivan informed the Chair that there is an additional application on the agenda. John Simms from the Lakes Region Model Railroad Museum is on the phone. We had proceeded with the application without the proper authorization from the Board of Selectmen. The Planning Board application to be heard on Tuesday night will also not be heard. He informed Mr. Simms today that without the authorization I felt the application was not complete. Therefore the application will not be heard this evening. The board has several options as to what they can do with this application and he will outline those. The Board can continue the discussion of completeness, you can continue the application to a date uncertain, you can ask the applicant to withdraw the application, or you can take no action at all since you

do not have complete application in front of you. He offered to discuss this with the board. It is up to the Board as to how the application proceeds after the meeting.

Suzanne Ryan asked how a lack of action will influence the statutory time clock.

Matt Sullivan said he feels the board can choose to not take any action at all and the 'clock' has not started as this not a complete application.

Audrey Cline said her feeling is that we would need to re-notice the application unless we continue it to a time certain.

Matt Sullivan said his preference would be to continue it to a time certain in order to avoid having to re-notice the application.

Audrey Cline opined that the Board would need to hear the application, see that it was not complete, and then continue it.

Tim Cronin asked if this is ready project that people are ready to start.

Matt Sullivan said it is not a shovel-ready project and we do not have a building permit sitting in the Planning office. I want you to know the Lakes region Model railroad has received several approvals from the town it is scheduled to go to the Planning Board and it is under some time sensitive scheduling due to LCHIP funding.

Suzanne Ryan said we have not accepted the application or opened the public hearing so it would not be appropriate to take public comment, there is an administrative issue that needs to be taken care of by the Board. If we are going to set a date, it should be until July. The BOS has a full plate with the Covid-19 virus, their task force, and financial business.

Matt Sullivan said that he did talk to counsel and she said that a lease is not required, but that is a vote of the BOS authorizing the application for both the Planning Board and the Zoning Board or a vote to authorize the Town Manager to formally authorize the application should be made. As much as a lease may be one of the forms authorization from the Town for the project, it is not the only method.

Tim Cronin asked if the BOS approves the application on Wednesday night to proceed, could a special meeting of the Board be scheduled to hear the application.

Matt Sullivan stated that he would defer to the board on that since any recommendation he makes on this would be inappropriate because of the unique circumstance of Town ownership.

Tim Cronin noted that since this is an attraction it would help the time for this to be open soon.

Sarah Silk made the point that they would not be able to open the museum now because of social distancing.

Matt Sullivan stated that the project/use would not be open for a period of multiple years.

Suzanne Ryan noted that the application indicates two (2) years until opening. This is not an emergency action on our part nor is it for the applicant. The applicant can resubmit.

Luke Freudenberg agreed with Suzanne Ryan that it is important to give the BOS as much time as needed.

Audrey Cline asked what the cost will be to the applicant for a resubmission to the ZBA.

Matt Sullivan it would be the normal cost of the fees and the abutter notices. I would need to check the file for the exact cost.

Suzanne made a motion wherein as the application is incomplete that the board not open the public hearing and take no further action, Seconded by Audrey Cline.

ROLL CALL VOTE: Suzanne Ryan – Yes - Tim Cronin – Yes – Luke Freudenberg – Yes – Audrey Cline – Yes – Sarah Silk – Yes. The motion passed unanimously.

Tim Cronin read the following application into the record:

TM# 164-12

Case# 10-SE-20

Applicant: The Greenwald Family Real Estate Trust- Cynthia Albert Link, Trustee

Public Hearing for a Special Exception under Article 175, Section 43(8) of the Wolfboro Planning & Zoning Ordinance to allow the conversion of existing deck to a covered screened porch. This property is located at 108 Hersey Point. A site visit will be held at approximately 4:50 pm prior to the public hearing.

Matt Sullivan asked the members if they had viewed the property. Suzanne Ryan – Yes- Tim Cronin- Yes–Luke Freudenberg – Yes – Audrey Cline – Yes- Sarah Silk – Yes. – Dave Senecal – Yes.

Randy Walker, Esq. introduced himself as the agent for the Greenwald Family Trust for the application to construct a screened porch over an existing deck. Located at 108 Hersey Point Road. An issue arose today as to when the deck was constructed. He addressed this issue by clarifying that the Greenwald's purchased the property 20 years ago in 2001, when they purchased the property the deck was existing. There have been no changes since the purchase. The assessing card is incorrect as it stated the deck was added in 2011. It also states a dock was added in 2011 and that is also incorrect. They have not made any changes to the property. Randy Walker spoke to the previous owner who owned it for over 20 years and he said when he bought the home there were to 2 homes on the lot.

The subject of the application is to add a screened porch over the existing deck. The ordinance provides that is permissible with a special exception under Section 175-43. He does not feel there is feel there will be any negative impact. Also that it does conform to the spirit of the master plan. Section 175-43-B specifically permits this type of use. And was put in the ordinance for this situation. On behalf of the Greenwald's, he respectfully requested that the board approve this application as submitted.

Tim Cronin asked he noticed that the condition of the existing deck was not listed. Please clarify whether the plan is to replace the existing deck.

Randy Walker stated he believes that they will also be replacing the deck as it was built in 1988.

Sarah Silk asked Matt to clarify whether there are support letters in the file.

Matt Sullivan said they are in the file but not in the packet as they were received today.

Suzanne Ryan requested clarification regarding the height of the roof line on the building as it faces the water and the eve. Suzanne Ryan asked for an approximate height of the structure.

Cindy Albert-Link joined the meeting stated the applicants have a preliminary draft from our architect that it would be 8' ceilings above the deck. As it is a 1st story screened porch.

Suzanne Ryan asked if they know the pitch on the roof would be in regards to the runoff and how that would be handled.

Randy Walker said that it will be shallow roof and since it is over the existing deck the water will runoff the same way it would run off the deck onto the grass on 2 sides.

Audrey Cline commented that decks are permeable so when you add the roof you will need to address the run off from the roof by guttering it otherwise and to not allow it to run off down to the lake.

Randy Walker said he did not think they were planning to gutter it but the owners can comment as to how they were planning to take care of the run off.

Bill Greenwald joined the meeting and noted that the roof as you face the water is a gable roof, so the water drains left & right as opposed to draining to the lake. There is enough area for the ground to absorb the water before it goes to the lake, as it is set 10' back from the reference line.

Randy Walker stated that it is a very level lot so there is limited slope down to the lake. Additionally, there is quite a good amount of rip rap before the lake.

Suzanne Ryan noted that if the application is approved there should be some kind of condition for gutter with a stone drainage. One thing the master plan was very clear on was water runoff. They are at the water's edge so there is no room for error.

Luke Freudenberg asked if the application we be agreeable to installing gutters to redirect the water back and away from the lake.

Randy Walker stated that he feels the applicant is very protective of the lake would not have an issue if this was made a condition of approval.

Audrey Cline said she felt having it go right to lake because it was so close wouldn't be a problem.

Suzanne Ryan said she feels that over time the deterioration of the asphalt shingles could cause a problem. I would leave the requirement of the gutter to the Town Planner, Code Officer, and has the Conservation Commission weighed in on this proposal.

Matt Sullivan stated that the Conservation Commission has not weighed in as it is outside of their jurisdiction. From a shoreland permitting perspective, decks are treated as impervious surfaces they are not functionally the same as a roof. He agreed to work with the applicant to address this issue.

Suzanne Ryan asked a question about the lighting. There is a concern of spot lights on the houses around the lake. What type of lighting is proposed as part of the application.

Randy Walker stated that in the application that there would be no lighting at all added.

Bill Greenwald stated that there will be no such spot lighting including on the porch. There are a few downward point flood lights that are going to be removed.

Suzanne Ryan asked if there are any plans for further enclosure to add glass or plexi-glass to make it 3 season.

Bill Greenwald stated that the owners do not use the house year round so there are no plans for this.

Suzanne Ryan said she did not know it was a seasonal property.

Bill Greenwald said it is a year round property but they only use it seasonally.

Suzanne Ryan thank you for clarifying that.

Audrey Cline recommended a condition there should be no storm glass or poly inserts and cannot be replaced down the road, no half walls or anything of that nature, no heating unit to install at any point nor expansion of the deck.

Matt Sullivan asked for clarification on the request. The ordinance allows for a 25% expansion by special exception of non-conforming structures, provided that there is no further encroachment, and that this option could be used in the future. He asked for confirmation that there is no half wall and it is a fully screened-only porch.

Randy Walker deferred to the Greenwald's, though he commented that there are no storm windows or heating units and it would not be an issue.

Bill Greenwald said there is no half wall as it would obstruct the view. There are no plans to add this.

Suzanne Ryan said she would like it to be no future expansion off the existing deck.

Sarah Silk asked for clarification regarding the note from Matt confirming that the existing deck will be removed.

Matt Sullivan asked Randy Walker if the deck is being removed.

Randy Walker clarified that the deck is being removed.

Bill Greenwald stated that the deck is pressure treated wood and with the contractor he has determined that the deck is structurally sound and would make a good base for the finished flooring. Our intention is to not remove it but we are going to do further investigation if this request is approved.

Matt Sullivan reviewed the conditions as discussed by the Board:

#7 The applicant shall pin the existing deck in the event of reconstruction to confirm that the proposed deck dimensions are identical to the existing deck structure.

#8 The applicant shall coordinate with town staff to design a solution for treating and infiltrating additional storm water created by the addition of the roof to the deck to the satisfaction of town staff.

#9 The proposed deck covering or enclosure shall be limited to three sides with no half wall with screened material only and no plexi-glass or glass covering and shall be used for seasonal purposes only and shall not be heated.

Suzanne Ryan emphasized that the conditions should clarify no spot lighting.

Suzanne Ryan requested that there be no direct spot lights flood lighting towards the lake.

Matt Sullivan stated that all proposed lighting must comply with the Town of Wolfeboro dark sky ordinance, which will be added as a condition #10.

Matt Sullivan noted there were no public comments received.

Luke Freudenberg closed the public hearing. The Board reviewed the Special Exception Criteria as follows:

1. **Site Suitability:** The applicant has demonstrated that the site is suitable.
2. **Immediate Neighborhood Impact:** No excessive impact is anticipated.
3. **No undue Nuisance:** There will be no undue nuisance as a result of the proposal
4. **Availability of Public Services & Facilities:** **There is** no impact to sewer or water and the applicants have agreed to address the run off issue
5. **Appropriateness of Site Plan:** The drainage will be addressed as well as the lighting, making the site plan appropriate.
6. **Immediate neighborhood Integrity:** The proposal fits with the rest of the neighborhood.
7. **Impact of property values:** It is an improvement therefore there is no anticipated decline in property values.
8. **The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan:** It does meet the spirit of the ordinance and Master Plan.

Luke Freudenberg made a motion to approve TM# 164-12 Case # 10-SE-20. This property is located at 108 Hersey Point- the applicant is The Greenwald Family Real Estate Trust- Cynthia Albert Link, Trustee to expand vertically over an existing deck with a roof structure as allowed in Article 175, Section 43(8) with the conditions that have been outlined by the Planner and Zoning Board.

Suzanne Ryan amended the motion to read that condition #7 should read: should the deck be removed and replaced, the deck should be pinned and the location should be certified, pictures taken, and sent to the town that the deck has been replaced in kind. This should be added to the motion as a condition.

Sarah Silk seconded the motion with the addition of conditions #8, 9, and 10.

ROLL CALL VOTE: Audrey Cline, Yes, Tim Cronin, Yes, Luke Freudenberg, Yes, Suzanne Ryan, Yes, Sarah Silk, Yes. The motion passed unanimously.

Tim Cronin read the application into the record as follows:

TM# 217-14

Case# 11-V-20

Applicant: Margery Blake-Hart

Public Hearing for a Variance under Article 175, Section 90 (A)(2)(b) of the Wolfeboro Planning & Zoning Ordinance to allow for a shed to encroach in the side line setback in the C1 Central Business District. This property is located at 20 Libby Street.

Roll Call for individual visits to the site: Suzanne Ryan – No - Tim Cronin – Yes – David Senecal – Yes – Luke Freudenberg – Yes – Audrey Cline – Yes – Sarah Silk – Yes.

Luke Freudenberg opened the Public Hearing on the application.

Margery Blake-Hart addressed the five (5) variance criteria. She stated the variance will not be contrary to the public interest as the shed located on the property line to make it consistent with the properties on lots 12 & 13 that have their sheds placed on the property line. The shed is a high quality shed designed by Reeds Ferry with the design to mimic the other sheds in the area.

The Spirit of the ordinance is observed because the shed will be set back from the property line and similarly placed at the end of the driveway.

Substantial justice is done because the property owners and use the sheds for extra storage and it can be used for seasonal storage.

The values of the surrounding properties will not be diminished because the shed will be placed consistently with the houses on the street. The applicant feels it will preserve the property values with the visibility into the back yard and preserving the view of neighbors.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because to have the shed in this area would allow for season storage and restrict access from the road and the use of the driveway.

Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area. No fair and substantial relationship exists between the purposes of the ordinance applicable to the property because the placement of the flat surface close to the driveway permits easy access for storage.

The purposed use is a reasonable one because seasonal property care equipment is essential for winter equipment, it also provides privacy for lot tax map 13. The applicant indicated that they had spoken all the abutters and the neighbor to the southeast said that the addition of the shed will afford him more privacy for their backyard. We respectfully request the board approve the variance for the shed.

Matt Sullivan asked the applicant if they planned to have the property surveyed.

Margery Blake-Hart said we do have plans to have the property surveyed.

Sarah Silk It is not specifically on the memo do you want to make the survey of the property line a condition.

Matt Sullivan would prefer the survey to be added as a condition. He would like the position of the shed be in conformance with any approval.

Suzanne Ryan would like to know if you want the property line surveyed after the shed is in place or before the shed has been placed.

Matt Sullivan said he would like have the survey done prior to the placement of the shed. If the shed is placed in the incorrect place then we would know. Also this would let the shed company where to place the shed.

Audrey Cline stated that she is not in favor of putting a building on the property line. There is no way to maintain the shed wall on the property line the snow will shed off and the rain and runoff to other people property. Based on that I would need more information before I could agree on a variance.

Margery Blake-Hart said we did speak to the neighbor about moving it back but they wanted it closer because it would block their view and asked us to move it forward.

Audrey Cline understood, but stated that it does not change her opinion on the request.

Audrey Cline asked where the fence is existing or proposed.

Margery Blake-Hart stated the fence is only conceptual and does not exist.

Sarah Silk asked about this pictures of the sheds in the packet and asked how long they have been in place on the abutting properties.

Matt Sullivan stated that he did not have exact construction dates.

Sarah Silk say she is looking the placement of the shed and feels there should be a better alternative. The placement of their shed is inconsistent with the other sheds in the area. She questioned the history of how other sheds in the area.

Margery Blake-Hart said she can only say they have been here for 5 years and the sheds have been there since they moved in.

Suzanne Ryan stated that based on the condition of the sheds, they have been there for a long time.

Audrey Cline opined that they were likely not placed with a permit.

Matt Sullivan noted that no public comment had been received.

Luke Freudenberg closed the public hearing and began with a review of the variance criteria.

1. Variance will not be contrary to the public interest:

2. Spirit of the ordinance is observed:

Suzanne Ryan noted that criteria #1 and #2 are analyzed together. It does not alter the neighborhood. There is no public health or welfare impact, with clear benefit for the applicant.

3. Substantial justice is done:

Sarah Silk stated that the shed does no injustice to the neighborhood. Suzanne Ryan added that there is no harm to the general public, but there may be to the abutter. Audrey Cline noted that all of the lots in the vicinity are very small. Placing structures on the property lines could be restricting the use of the other property owners. She is conflicted on the public harm.

4. Values of surrounding properties will not be diminished :

Luke Freudenberg stated that this is consistent with what is going on in the neighborhood as there are other sheds on other properties. The applicants have demonstrated that they have reached out to the other neighbors and are being respectful of their concerns.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship: Owning to special conditions relationship exists between the purposes of the ordinance applicable to the application and the specific application from other properties in the area.

Suzanne Ryan opined that there is no special condition that distinguishes it from the neighboring properties. She asked about the size of the other lots. Tim Cronin answered that one lot is 0.2 acres and another is 0.1 acre they are all small even across the street. The lot size itself is a hardship. Sarah Silk said the lot would be all like the other since they all have sheds. Suzanne Ryan says the lot needs something that makes it different from the others.

Suzanne Ryan suggested moving the shed back 5' and over 5'.

Matt Sullivan stated that in that case, no variance would be required.

Margery Blake-Hart stated that they are keeping within the wishes of the neighbors. We are trying to add value to the house by moving it would go against the wishes of the neighbors.

Sarah Silk asked if the public hearing was closed.

Luke Freudenberg stated that he has not closed the public hearing.

Audrey Cline said the neighbor's opinion does not get taken into consideration as to what gets a variance.

Audrey Cline noted that the side line set backs have changes since those shed were installed.

Dave Senecal suggested that the applicant be approved to move the shed 6" from the property line.

Margery Blake-Hart said the 6" would be fine.

Luke Freudenberg closed the public hearing.

Suzanne Ryan asked if it could it be moved 2' from the line.

Audrey Cline asked if there is a minimum distance between structures required.

Matt Sullivan answered that that standard does not exist in this zone.

Audrey Cline stated that she would be more comfortable with a surveyed plan.

Suzanne Ryan suggested a compromise of 1' from the property line with a surveyed plan required.

Suzanne Ryan made the motion to approve case #11-V-20 variance Article 175, Section 90 (A)(2)(b) for the setback for a 10' x 18' shed with a survey.

Matt Sullivan verified the motion to read that the shed location to be verified a minimum of 1' from the side property line, including the overhang, to be verified by a licensed land surveyor prior to the placement of the shed. He noted that locating one property line should not be an issue.

Suzanne Ryan clarified the motion to approve the application whereas the five (5) conditions have been met and with an addition 8 conditions (6 planner conditions from the review and our 2 conditions).

Sarah Silk seconded the motion.

ROLL CALL VOTE Audrey Cline, Yes, Tim Cronin, Yes, Luke Freudenberg, Yes, Suzanne Ryan, Yes, Sarah Silk, Yes. The motion passed unanimously.

Luke Freudenberg stated that votes on the minutes will be differed until the June, 2020 meeting.

Suzanne Ryan made the motion to adjourn. Seconded by Sarah Silk.

ROLL CALL VOTE: Audrey Cline, Yes, Tim Cronin, Yes, Luke Freudenberg, Yes, Suzanne Ryan, Yes, Sarah Silk, Yes. The motion passed unanimously.

Respectfully Submitted,
Terry Tavares
Administrative Assistant