

***Town of Wolfeboro
Zoning Board
Minutes Of***

Monday, August 01, 2022-- 7:00 PM

1. Roll Call:

Audrey Cline, Chairman; Suzanne Ryan Member; Tim Cronin, Member; Luke Freudenberg, Member; Chuck Schumer Alternate; Nancy Stroman, Alternate; Cate McMahon, Alternate

Sarah Silk, Alternate —Absent, Excused

Staff present: Tavis Austin, AICP, Director of Planning and Development

2. Public Hearings

A. Cline asked C. Sumner to be a voting member in the absence of S. Silk. C. Sumner accepted.

T. Cronin read the case (#12-V-22) from the agenda into the record; this was continued from the July 11, 2022, meeting.

A. Cline asked the applicant to provide a brief overview of their project and any additional information from the prior hearing.

Brian Davidson, applicant, provided a brief overview of the project and the required variance. He added additional information from an email provided to him by Randy Tetreault, Norway Plains Associates, Inc. This additional information was presented to provide evidence of the wetlands on the “right side,” as viewed from the street, of the home as previously provided to A. Cline and the Town in 2011.

B. Davidson further commented on a discussion with Barry Muccio of the Municipal Electric Department in response to those concerns raised at the last meeting with respect to the electric service lines; no concerns were had by B. Muccio.

S. Ryan questioned the setback to the wetland and whether there was any consideration of a smaller garage which would not require a variance.

The Board and B. Davidson generally discussed multiple dimensions on the plan.

A. Cline asked if there was any public comment.

Jeri Davidson, applicant, stated a preference for a detached garage rather than a garage attached to a common wall of the master bedroom.

S. Ryan motioned to close the public hearing at 7:18PM. A. Cline seconded the motion which passed unanimously.

S. Ryan noted the apparent self-created hardship where the applicant had previously converted an existing garage into a bedroom and now needs a garage that requires a variance. She commented that she could not see the hardship and added that the project lot is a small lot with only 150 feet of road frontage—which is typical for the neighborhood, not unique.

A. Cline suggested the Board move to discussing the five variance criteria. The Board began with criteria 1 and 2, discussing them at the same time.

S. Ryan stated the Town had voted to increase the setbacks for better light and air circulation as well as larger spaces between structures. She continued noting that courts have held that cumulative impacts on neighborhoods are counter to the spirit and intent of the regulations.

C. Sumner stated that in his opinion, overcrowding from smaller structures was not against the spirit of the regulations particularly as other Board members had suggested simply constructing the same square footage in a different configuration—as to not require a variance—would be acceptable in the neighborhood.

There was general discussion of the ‘spirit of the regulation’ not being a discussion of aesthetics.

S. Stroman noted there appeared to be a lot of open space on the lot despite the requested variance. She also commented that it seemed inappropriate to bias review of the current request based on the conversion of the original garage.

Discussion turned to criteria 3.

S. Ryan commented the project flies in the face of a variance.

T. Cronin pointed out the Board is being asked to look at an eight-foot encroachment into a side yard setback, while it seems the Board is reviewing the project like an airport.

S. Ryan asserted that the project is a self-created hardship but believes that criteria number 3 is satisfied; criteria 1 & 2, no, but this variance doesn’t hurt the neighborhood.

S. Stroman asked for clarification on ‘substantial justice.’

A. Cline explained that 20’ is the setback in the regulation for this neighborhood and that there are many garage configurations to achieve the same square footage without requiring a variance.

S. Ryan commented that because there are so many options that don’t require a variance, hard to find hardship.

Discussion turned to the fourth criterion.

S. Ryan stated no information had been provided on either side of the diminishment criterion.

Discussion turned to the fifth criterion.

A. Cline stated there are multiple ways to construct a garage of the proposed size on the lot without need for a variance—narrower, deeper, etc.—therefore she believed there was no hardship.

S. Ryan agreed stating if there were other alternatives, no hardship can be determined.

C. Sumner stated that there were other configurations that may not require a variance, however, how does the Board balance such a statant with the earlier comments related to light and air circulation.

L. Freudenberg stated he would be more hesitant if the requested encroachment was greater than eight feet. He pointed to the submitted plan and tax map indicating the neighboring property (lot 12) presented structure along the frontage of what appeared to be 80% of the lot. He urged the Board to consider a rational approach to looking at the project—as a whole—without focusing primarily on the hardship criterion.

T. Cronin motioned to approve the application as submitted.

S. Ryan requested an amendment to the motion to include the suggested conditions of approval from the Planner's Review numbers 1, 2, 3, 5, and 6.

There was discussion of suggested condition #4. The amendment was amended, as discussed, to include #4.

C. Sumer then seconded the motion which passed with a 3-2-0 vote with A. Cline and S. Ryan voting no. Motion carried; variance granted with the following conditions of approval:

Conditions of Approval:

- 1. All federal, state, and local permits to be received, including but not limited to Town of Wolfeboro Building Permit approval.*
- 2. All the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.*
- 3. The application, as submitted to the ZBA, does not satisfy the submittal requirements for a Building Permit.*
- 4. Construction shall be completed in accordance with the dimensions shown on the "Site Sketch" 53 Keewaydin Road, Wolfeboro, NH 03894, as submitted to the Wolfeboro Building Department, May 23, 2022. This shall include a maximum side setback encroachment of 8' (12' to the property line) as measured to the roof overhang.*
- 5. The linear encroachment of the overhang shall be added to the Zoning Board of Adjustment Application Plan and incorporated as part of this approval.*
- 6. A final plan shall be provided to the Planning and Development including the Property Owner Name, Address, and Date.*

S. Ryan left the meeting. S. Stroman appointed as voting member.

There was no old or new business discussed.

A. Cline turned the Board to the minutes available for review.

L. Freudenberg motioned to approve the minutes of June 6, 2022. T. Cronin seconded the motion which passed unanimously.

T. Cronin motioned to approve the minutes of June 27, 2022. A. Cline proposed several amendments. C. Sumner seconded the motion as amended. Motion carried on a unanimous vote.

T. Cronin motioned to approve the minutes of July 11, 2022. C. Sumner seconded the motion which passed unanimously.

A. Cline brought attention to the re-written minutes of January 10, 2022. Board voted unanimously to table that discussion until the next meeting.

L. Freudenberg motioned to adjourn the meeting at 7:50 PM. C. Sumner seconded the motion which passed with a unanimous vote.

Adjourned.

Submitted by T. Austin