

Wolfeboro Zoning Board of Adjustment  
Regular Meeting  
January 3, 2011  
Minutes

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WOLFEBORO, N.H. TOWN CLERK

**Members Present:** Alan Harding, Chairman, Suzanne Ryan, Vice Chairman, Kathy Barnard, Member, David Booth, Member, Mike Hodder, Alternate, David Senecal, Alternate

**Members Absent:** Steve McGuire, Clerk, Charlene Seibel, Alternate, and Geordy Hutchinson, Alternate

**Staff Present:** Rob Houseman, Director of Planning & Zoning

Alan Harding called this meeting to order at 7:00 PM in the Wolfeboro Public Library Meeting Room. A quorum was present.

**TM# 243-43**  
**Case # 09-V-2010**  
**Russell J. & Melissa L. Merka**  
**Variance**  
**Consideration for Rehearing**

Alan Harding noted this was a public meeting and not a public hearing and no comment will be taken from the abutters or the applicant. Mike Hodder was seated for this consideration.

*It was moved by Alan Harding and seconded by Suzanne Ryan regarding Case # 09-V-10, Merka that we find we have no jurisdiction to consider the Motion for Rehearing because the Zoning Board took no vote on the application, the application was withdrawn by the applicant and therefore there was no decision here.*

Suzanne Ryan commented this was made clear on November 15, 2010 and the minutes reflect that.

Mike Hodder commented he was not on the Board at the time of the hearing and did not get the chance to speak, but had he; he would have spoken against the motion and decision. The decision the on Merka case was perhaps ill considered, and did not do service to the town in general or to the residents of Fairway View Estates in particular.

David Booth commented the situation here was there was no decision made by the ZBA because the application was withdrawn, there was no case.

Mike Hodder responded that then perhaps he was speaking to the case behind the decision to withdraw.

David Booth noted there is no case.

Mike Hodder simply wanted to get on the record those concerns.

Kathy Barnard noted the Board took no action and RSA 677-2 states there needs to be a vote to approve or disapprove and there was no action taken in this case.

Alan Harding, Suzanne Ryan, David Booth and Kathy Barnard voted in favor of the motion. Mike Hodder voted in opposition. The motion passed.

The procedures for the hearings were reviewed and the Board was introduced.

TM# 205-40/21

Case # 11-V-10

Applicant: Amy Knapp

Variance

Suzanne Ryan read the Re Noticed Public and Abutter notification for the record. A site visit was held on November 1, 2010. Mike Hodder remained seated for this hearing.

Variance from Article 175, Section 85 of the Wolfeboro & Planning Zoning Ordinance to allow for an existing shed in its current location which does not meet the setback for property located at 56 King's Pine Road.

The application was triggered by an enforcement action related to the construction of a structure without a permit. It was discovered the unpermitted structure was built within the setback from the property line.

Amy Knapp addressed the Board and explained she thought it was alright to build the shed where it was built. The shed was placed where no trees would have to be removed and it would be functional and of no inconvenience to her neighbor Mark Stetson, the only one who would see the shed.

Amy Knapp reviewed the five criteria required for the variance as submitted in her application. The shed is portable and she was not aware it did not meet the setbacks. Additionally the builder did not think a permit was needed but she made the decision herself not to obtain a permit and would not place the responsibility of that decision on the builder. Somewhere along the line the setback changed. She was told by the builder of her home (who is different from the builder for the shed) her permit for her garage was good for five years and it was not.

Alan Harding commented that it seems to him she has received bad advice. In 2005 the setback was 10' and has now been increased to 25'.

There is electricity to the building. If the shed were to be moved there would have to be trees removed in order to comply with the 25' setback.

Rob Houseman explained this application should be viewed as if the shed were not there currently and secondly if the shed were built prior to March 2010 the Board could be looking at the provision that allows waivers to be granted if they simply did not get a building permit. A permit itself would have resolved this in a timely fashion. This structure was built in June of 2010.

Amy Knapp believes the shed is 16' x 16'. The shed was built on site and there is no other place on the property this could be built. It would have to be removed with a crane. It is attractive and her neighbor likes it.

The Board discussed the application and if there is an unusual circumstance with the parcel itself.

Amy Knapp also noted there is a rocky area in the location around the shed that is natural.

Mark Stetson, 58 Kings Pine Road addressed the Board. The lot is all ledge 20' from the house and this is the only area for the shed. He and his wife have no issues with the shed. There is a common strip of land shared by the three parcel owners.

The Board discussed the ledge area on the lot.

Shane Folsom, Folsom Design asked to review a copy of the shed on the property. He did the septic design and towards the front of the lot there is poorly drained soil they need to consider. The shed needs to be setback 50' from the poorly drained soil. Also noted there is a septic easement on the property.

David Senecal reviewed the plan, topo and comments by Shane Folsom and noted the only flat area is where the shed is located behind the house.

David Booth asked for more detailed topo maps.

Rob Houseman explained this is a copy of a portion of the septic design. They may be able to piece together more detail.

The public portion of the hearing was closed.

The Board discussed the application, information and a possible continuance. Items discussed include a scale drawing of the shed and its current location, topography of the property and a rewrite of the response to #5.

*It was moved by Suzanne Ryan and seconded by Kathy Barnard to continue the application to the next regularly scheduled meeting and the applicant supply the information on the size of the shed, its location, topography of the property including septic and ledge and a rewrite of the response to #5. Alan Harding, Suzanne Ryan, David Booth and Kathy Barnard voted in favor. Mike Hodder voted in opposition. The motion passed.*

Suzanne Ryan asked when the meeting would be.

Rob Houseman responded it will be on February 7, 2011.

TM# 220-11

Case # 01-V-11

Applicant: Raymond Thornton

Variance

Agent: John Chase

Suzanne Ryan read the abutter and public notification for the record. A site visit was held at approximately 4:15 PM prior to the meeting. David Senecal was seated for this hearing.

Variance from Article 175-43, Section A-1 of the Wolfeboro Planning & Zoning Ordinance to allow for a 2<sup>nd</sup> story to a portion of the building to relocate the master bedroom and powder room, slightly exceeding the 25% limitation. Additionally the roofline will be modified. This property is located at 73 Heath Trail.

The applicant is seeking an expansion of a lawfully existing nonconforming cottage. The nonconformity is based on the lot containing two cottages when only one is permitted. The cottage is classified as the secondary (nonconforming) cottage and is not the primary waterfront cottage. The proposed expansion of the cottage is from 738 sq. ft. to 978 square feet by adding a second floor bedroom and bath. The proposed addition contains 240 square feet and the maximum allowed by special exception is 185 square feet, an excess of 55 square feet.

John Chase reviewed the requirements for the variance request as submitted with the application. Photos of the site were submitted and reviewed by the Board.

David Booth asked in what way the applicant feels the expansion will enhance the appearance.

John Chase explained the roof pitch will increase making it more typical of the other structures in the area. The overall appearance will improve with the new trim and siding color, new windows and the building being squared up. The building is getting old and could use an upgrade. The applicant's family is getting older and

Mr. Chase and his wife would like a more private bedroom and the location chosen is the most reasonable place.

David Booth asked the applicants agent to expand on criteria #5 as he is not sure the agent addressed it properly.

John Chase noted expanding the footprint is an option but it is within 140' from the water and the applicant rather not add any impervious surface. They feel this is the best approach. The building is existing nonconforming with two camps on the lot. As for the site the special conditions are this is a waterfront lot and expanding the footprint would not be in the best interest of the town.

Raymond Thornton explained the camp is 56 years old and they are at the point where they need to do something as it is showing wear and tear. They are fourth generation now and would like it to last another four generations. The camp is crowded as it is 768 square feet. They are requesting a 40% expansion which is only 55 square feet more than what is allowed by the 25% expansion. The 12' x 20' fits better on the camp than trying to force it to fit into the 25%. They are trying not to change the footprint and they are trying to maintain the original structure as best they can. When looking at #5 it talks about maintaining the integrity and this is not a mass expansion. They are cognizant of the Class "A" Lake and they are going through the Shoreland Protection Application Process.

John Chase submitted a copy of the decision from The Jean A Frost Camp back in March 2008 which is a similar situation to theirs and they talk about the use not changing and maintaining the integrity of the property. The ordinance was designed so the expansion of properties do not impact surrounding properties. In this case the abutters are all in favor of this proposal. The Frost application was approved.

Attorney Richard Sager, representing the Lake Wentworth Association addressed the Board. They are not in favor or opposed but if they have a choice they would be in favor of the variance because it would allow the footprint to remain substantially as it is but a special exception would create more impervious surface. This project is not going to have a huge impact on the lake but it is incremental. If the Board is inclined to approve this application the Association would like to see compliance with the Shoreland Protection Act, no new bedrooms being added. If the upgrade in size of the bedroom requires an upgraded septic system, they would

like to see that as a condition of approval as well. Given the increased pitch of the roof, they would like to see remedial measures in place to prohibit erosion from the runoff at a more rapid rate. The Association feels the applicant has met the requirement for unnecessary hardship.

Shane Folsom addressed the Board and explained there will be a new septic system that he is working on and also applying for Shoreland Approval. At the moment the lot has 12% impervious coverage so the State does not require the stone around the perimeter.

John Chase explained that Shane Folsom is preparing a Septic Design and Shoreland Permit but the proposed project does not require a Shoreland Permit from the State. They could amend the application included with the septic design. On a property a few houses down the state did require a few downspouts and gutters and he would be happy to do that with this project.

Suzanne Ryan asked when they expect the permits to be granted.

Shane Folsom explained both plans are ready to go and they will be sent to the state.

John Chase noted it should be about 30 days.

Joe Erwin, 61 Heath Trail, neighbor and member of the Lake Wentworth Association supports this application.

Janet Wagner, 65 Heath Trail supports the application and two story design and is glad to see the new septic design.

Mike Hodder, Vice Chairman Conservation Commission noted the state supports building the up rather than building the footprint out.

Kathy Barnard asked if the applicant could shave of 55 sq. ft.

John Chase reviewed the photos and floor plan with the Board and explained the reasoning for the location of the second story and the support for the second floor.

The Public Hearing was closed.

The Board reviewed and deliberated on the application. Criteria # 5 was a concern for a few board members. Conditions for approval were discussed; the property should remain seasonal; this project should be tied to SPA approval.

*It was moved by David Senecal and seconded by Kathy Barnard that the Board approve the variance for Case # 01-V-11, TM# 220-11, as proposed subject to approval by the Comprehensive Shoreland Protection Act, new septic approval, no new bedrooms, remedial action for roof water drainage runoff and the property is to remain seasonal. All members voted in favor of the application. The application passed.*

TM# 220-11

Case # 02-SE-11

Applicant: Raymond Thornton

Special Exception

Agent: John Chase

Special Exception from Article 175-43, Section A-1 of the Wolfeboro Planning & Zoning Ordinance to allow for a 2<sup>nd</sup> story to a portion of the building, relocating 1 bedroom, converting to a living room and raising the roof pitches from 2 in 12 to 8 in 12. This property is located at 73 Heath Trail.

John Chase withdrew the application.

TM# 265-25

Case # 03-SE-11

Applicant: Mud Island Nominee Trust

Special Exception

Agent: Shane Folsom

Mike Hodder was seated for this hearing.

Suzanne Ryan read the abutter and public notification for the record. No site visit was held.



Special Exception from Article VI, Section 175.43 of the Wolfeboro Planning & Zoning Ordinance, Non-Conforming Uses to allow for the expansion by Special Exception, no more than 25% of its existing area that existed at the time of passage of this section. This property is located on Littlest Mud Island.

Shane Folsom addressed the Board. The Shoreland Permit has been received from the State of NH in regards to the expansion of the bunkhouse for the impervious area of 196 sq. ft. which is the roof line of the building and not the interior of the building? Two decks have been removed from two individual bunkhouses. There is one main cottage, three bunkhouses and a boathouse on this site. The effluent disposal system also received State Approval.

This property was constructed in 1939 and the bunkhouses served as free standing bedrooms as there were no bedrooms in the main structure on this property. The Board reviewed the expansion calculations.

Shane Folsom reviewed the eight points required for the Special Exception as submitted.

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

The Board discussed the application and information as submitted. A condition of future expansion was discussed.

*It was moved by Kathy Barnard and seconded by Alan Harding to grant the Special Exception as the eight points have been satisfied by the applicant to allow for the 25% expansion of one of the bunkhouses with the condition there will be no other expansion of the other bunkhouses since they have met the 25% expansion which is the allowable amount to expand. All members voted in favor. The motion passed.*

#### Consideration of Minutes:

15 November, 2010

Amendments: Page 1, 4<sup>th</sup> line from bottom; add "with our Counsel" after detail.

*It was moved by Kathy Barnard and seconded by Alan Harding to approve the minutes of 15 November 2010 with the addition just mentioned. All members voted in favor. The motion passed.*

**Other Business:**

Rob Houseman explained in August 2010 legislation changed in how Board has Alternates participate in their process. The Planning Board has amended their Rules of Procedure to allow for Alternates to sit at the table and participate in the discussion of the application but not in the vote unless seated by the Chair. Their adopted Rules of Procedure explain how the Chairman will handle this procedure. There is a benefit to having the alternates at the table. The process needs to be defined.

Kathy Barnard has some concern with confusion to the public.

Rob Houseman noted this is not a mandatory law but the alternates cannot sit unless the Rules of Procedures have been changed. The Alternates not seated do not participate in the deliberations. For example the Chairman will state which Board members are participating in the deliberations and the vote.

Suzanne Ryan noted she wants it clearly defined the difference between deliberations and voting.

Rob Houseman noted it is helpful to have alternates involved in the applications and discussion. Rob Houseman will create draft language for the Board.

There being no further business before the Board, this meeting was adjourned at 9:12 PM.

Respectfully Submitted,

Robin Kingston  
Administrative Assistant