

Wolfeboro Zoning Board of Adjustment  
Regular Meeting  
June 6, 2011  
Minutes

RECEIVED AND RECORDED  
6/13, 2011 11:45 AM  
Book No. \_\_\_\_\_ Page No. \_\_\_\_\_  
*[Signature]*  
WOLFEBORO, N.H. TOWN CLERK

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

**Members Absent:** David Senecal, Alternate

**Staff Present:** Rob Houseman, Director of Planning & Zoning and Robin Kingston, Administrative Assistant

Alan Harding called this meeting to order at 7:00 PM in the Wolfeboro Public Library Meeting Room. A quorum was present. The Board was introduced and the conduct of public hearing was reviewed.

Alan Harding explained that alternates will be participating during applications however they shall not be participating in deliberations, motions or voting if they have not been appointed for a particular hearing.

**TM# 217-102**

**Case # 05-V-11**

**Applicant: Suncrest Trust, Richard Pierce, Trustee**

**Agent: Roger Murray, III, Esq.**

**Variance**

Steve McGuire read the public and abutter notification for the record. A site visit was held at approximately 6:30 PM prior to the meeting.

Variance from Article VI, Section 43,A, (1) of the Wolfeboro Planning & Zoning Ordinance to allow for the expansion of an existing non-conforming building by more than 25% of its existing area. The property is non-conforming as to density and set backs. The subject property is in the Central Business District C1. The applicant is proposing to expand and existing cottage from 590 sq. ft. to 1,600 sq.

ft. The property contains two structures, one containing 4 dwelling units and a second structure (cottage) containing 590 sq. ft.

The Town's Counsel and the Director of Planning & Zoning have concluded that the cottage may be expanded by special exception only 148 sq. ft. because the structure itself and the use is nonconforming.

Attorney Murray addressed the Board reviewed the proposed application. There are two buildings on the property which are both nonconforming as they do not meet the setbacks. The larger building is 3,506 sq. ft. of interior floor area and the cottage is 590 sq. ft. which gives a total area of the two buildings at 4,096 sq. ft. The proposal is to expand the cottage from 590 sq. ft. to 1,601 sq. ft. This would be done by extending the left hand side of the cottage as looked at from the lake 9.5 feet and then adding a second story. This would be an expansion of 1,111 sq. ft. By way of comparison 25% of the total square footage is 4,096 sq. ft. The proposed building would help screen the rear of the Yum Yum Shop building.

Suzanne Ryan asked how many beds, baths and kitchens the cottage currently has.

Mr. Pierce explained there are 2 bedrooms, one bath and a kitchen. The proposed cottage will remain 2 bedrooms.

Suzanne Ryan asked why unit 3 was submitted.

Mr. Pierce explained the original plans were for condo plan created in 2007 and he used these plans because they address square footage. There is no proposal at this time to create condominiums.

Steve Maguire asked if the main building is remaining 4 apartments and the 1 separate unit (cottage) will remain 1 unit. The proposal is tripling in size but overall the expansion is less than 25%. Would this require a new parking plan?

Rob Houseman responded there is not an increase in the number of units. The parking would be reviewed if a unit was added.

Attorney Murray stated parking is calculated on the number of units and that is not changing.

Attorney Murray reviewed the five points required for the variance as submitted with the application.

Mr. Peirce noted when he purchased the property there were only 5 spaces and by sheer will they created another space. Currently the Yum Yum shop has a right of way through the driveway and they are currently negotiating with the owners of the reconfigure the parking for both properties.

Attorney Murray explained a 590 sq. ft. building is non functional. There is substantial lot coverage on abutting lots and this proposal is not dissimilar to surrounding properties.

Steve McGuire asked when the last time the unit was rented.

Mr. Pierce responded it was last year for 6 weeks out of a year.

David Booth noted he is having trouble with the spirit of the ordinance being met and another concern is the hardship. He questioned "Is the situation unique and special that it supports the requirement for a variance?"

Attorney Murray stated they are not similar to the neighborhood. Most structures are in the area are attached. This is different because the buildings are separated and are existing on one lot. The main building could be expanded almost 900 sq. ft. with just a special exception.

David Booth noted he does not see that the building is functionally obsolete because things can be fixed and made nicer within the 590 sq. ft.

Attorney Murray noted it is the interior size of the cottage that is an issue. It is not being used as a functional residence.

Steve McGuire explained that Unit #2 is 632 sq. ft. and is functional.

Attorney Murray explained that is an existing apartment.

David Booth noted he has issues with #2, 3 & 5.

Kathy Barnard asked for clarification on the square footage.

Attorney Murray explained they are asking for an increase of 1,011 sq. ft.

Mike Hodder asked if the applicant intends to live in the property and make it their residence.

Mr. Pierce explained he and his wife are planning to make it their primary residence and need the square footage in order to do so.

Mike Hodder noted substantial justice is done. The benefit to the community outweighs the loss to the property owner. If there is no change the community gains nothing. This is one of the first buildings people see as they come in by boat from the bay.

Kathy Barnard asked about the unheated walkway.

Mr. Pierce stated it is covered and squares off the second floor. There will be walls and it will be used as a storage area for wood and act as a snow block.

Attorney Murray explained the decks on the main building were not calculated into the total square footage and the deck on the proposed cottage will be decreased. If the decks were calculated the square footage percentage of expansion would be less.

Kathy Barnard noted the decks should be calculated in and the information is important to have. She asked if the applicant was agreeable if they take the expansion now a condition may be that there is not further expansion on the property in the future.

Suzanne Ryan asked what the height of the building is allowed to be.

Rob Houseman explained how the town measures roof height and the height of the proposed building is below the maximum height allowed.

Steve McGuire asked if the 2<sup>nd</sup> floor deck is a walk out.

Mr. Pierce responded it was.

Suzanne Ryan asked if the Shoreland Protection Act plays into this application.

Rob Houseman noted the State of NH would allow development for year round use and the downtown area is waived under an urban exemption.

Public Comments:

Len Putman 25 N. Main Street, Unit # 2 addressed the Board. He explained he is in favor as this is a positive for the area. The owners are proactive on the property. It will improve the area, community safety and they are good neighbors.

No person spoke against this application.

Steve McGuire asked because this is a 2 building property are they are using all the expansion for the entire property?

Rob Houseman explained that if the buildings were attached this expansion would be permissible by Special Exception. There is a nonconforming use as it relates to setbacks. This application is solely for a Variance and not a Special Exception.

Mr. Pierce explained the he ran some quick calculations on the existing decks and he comes up with 892 sq ft. for the decks. Interior = 3,506 sq. ft. (main building) + 590 sq. ft (cottage) + 892 sq. ft. (decks) = 4,988 sq. ft. x 25% = 1,247 sq. ft. This is more than the 1,011 sq. ft. being requested. Mr. Pierce suggested that no further expansion be allowed on the property and a restriction could be recorded with the deed as to the number of bedrooms allowed.

Mike Hodder noted the applicant is asking a variance and not a Special Exception and the percentage square footage is not applicable to the Variance.

The public hearing was closed.

Board Deliberations:

The Board discussed the criteria required for the variance and discussed concerns.

Steve McGuire and Suzanne Ryan had issues with criteria #1. Particularly Suzanne Ryan noted just because it is going to be made more attractive is not a reason to approve it.

Alan Harding noted the variance criteria are subjective. It needs to be looked at in its totality. He feels it meets the criteria.

Kathy Barnard agreed with the applicant's statement in conjunction with the Master Plan.

#2. The Board agreed this criteria is met as this it would be positive to have downtown residents.

#3 The Board agreed this criteria has been met. It was noted some members find it painful to see cottages disappearing but noted they want people to live here comfortably

#4 The Board agreed this criteria has been met.

#5 The Board discussed issues with this criteria. There seems to be a discrepancy with #4 & 5. The Board discussed if this application were to be granted there could be some sort of condition or deed restriction that there be no further expansion on the property.

Rob Houseman addressed the Board and explained the Commercial Zoning Districts unique tiered setback. Multi Family properties have a 10' setback and 6' side setback and lot coverage in the district is 100 %. Commercial properties have no setback and single family properties have a 30' setback.

David Booth explained 4 of the 5 criteria make him uncomfortable.

Steve McGuire noted the vitality to the downtown was a good point brought up by Kathy Barnard and it is positive to have downtown residents on an on going basis.

David Booth noted that Mr. Hodder's rationale that the damage done to the applicant is more than done to the town makes sense.

Alan Harding noted it is a plus to the town, downtown, waterfront and general public.

*It was moved by Alan Harding and seconded by Kathy Barnard to approve application Case # 05-V-11 since all five criteria have been met.*

The Board discussed the motion. Kathy Barnard suggested a condition that further expansion of either of the two building units be prohibited.

Alan Harding amended his motion to include further expansion of either of the two building units is prohibited. Kathy Barnard seconded the amendment.

The Board discussed recording the Notice of Decision.

It was moved by Alan Harding and seconded by Steve McGuire to amend the amended motion to include: "All of 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 here shall generally be determining."

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

#### Consideration of Minutes:

Page 2; 6<sup>th</sup> paragraph from top, first sentence - change "decedents" to "descendants"

Page 3; 1<sup>st</sup> paragraph - change "decedents" to "descendants"

Page 4; 2<sup>nd</sup> paragraph from bottom - change George to Geordy

Page 5; after 3<sup>rd</sup> after the first sentence add - October 6, 2010 application received, November 1, 2010 Site Visit held, January 3, 2011 Public Hearing held and continued to February 7, 2011

It was moved by Kathy Barnard and seconded by Alan Harding to approve the minutes as amended. All members voted in favor of the motion.

Other Business:

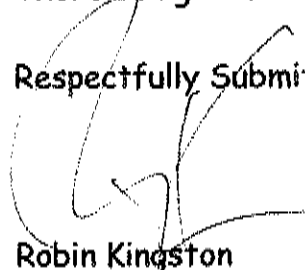
Final Rules of Procedure - Rob Houseman will check with Pat Waterman to make sure the Amended Rules of Procedure have been received by her office.

Knapp Application - TM# 205-40-21 October 6, 2010; Mr. Houseman sent an email to all Board members on May 4, 2011 that the applicant has formally withdrawn her application on May 4, 2011. This completes the application.

David Booth asked about Charlene Seibel as she has not been at meetings and is not listed. Alan Harding explained she asked not to be reappointed.

There being no further business this meeting was adjourned at 8:30 PM.

Respectfully Submitted,



Robin Kingston  
Administrative Assistant