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Wolfeboro Zoning Board of Adjustment

Work Session

November 19, 2012

Minutes

Book No.

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WOLFEBORO, N.H. TOWN CLERK

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

**Members Absent:** David Booth Member and 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.

**Work Session**

**Lots with no road frontage**

The Board met to discuss proposed changes in dealing with lots with no road frontage (RSA 674:41).

Kathy Barnard explained the Planning Board is looking for thoughts and suggestions in an ordinance for lots with no road frontage. She has heard from ZBA members the statute is not and does not give clear guidance. The Planning Board is looking for a few more standards from the ZBA to consider. The best way to do that is through some type of an ordinance.

Rob Houseman addressed the Board and explained the ZBA asked the Planning Board to consider this issue about two years ago. The Planning Board attempted a legislative change and ultimately put forward the idea of a zoning ordinance to take this out of RSA 674:41. What is before the ZBA is what the Planning Board has come up with and they want to know if they are on the right track and if it addresses the ZBA's concerns. If this does, the Planning Board is prepared to take it to a Public Workshop and then through the Public Hearing process. The Board is here to either refine the language or come up with more standards. Further, it

was explained that lots are not taxed as unbuildable unless they are deemed unbuildable. All lots are assessed as building lots.

The following is the proposed language:

*Lots with no frontage or frontage on a private way not shown on a Planning Board approved subdivision.*

*Statement of Purpose: In accordance with RSA 674:41, II-a, this article exempts from compliance with the other provisions of RSA 674:41 lots with no frontage and lots with frontage only on a private way not shown on a subdivision plat approved by the Planning Board.*

*The owner(s) of any lot exempted under this present article must obtain a special exception prior to the issuance of a building permit for that lot. Applications for a special exception under this article may be approved by the Zoning Board of Adjustment only if all of the following conditions are met:*

- 1. The lot complies with all other zoning requirements. If not, the property owner(s) shall first obtain any necessary variance(s).*
- 2. The general Special Exception criteria of §175-127 (A) through (C) and (E) through (H) are satisfied.*
- 3. Proof of the applicant's deeded right of access to the lot shall be made part of and included with the application submitted to the Zoning Board of Adjustment.*
- 4. Driveway access site plan approval by the appropriate public safety officer(s) shall be made part of and included with the application submitted to the Zoning Board of Adjustment.*
- 5. The applicant shall endorse the Town's "Acknowledgment Regarding Issuance of a Building Permit on a Private Way", which shall be made part of and be included with the application submitted to the Zoning Board of Adjustment. The endorsed document shall be recorded if the application is approved.*
- 6. The applicant shall endorse the Town's "Acknowledgment Regarding Ineligibility for Subdivision Approval", which shall be made part of and be included with the*



*application submitted to the Zoning Board of Adjustment. The endorsed document shall be recorded if the application is approved.*

The Board discussed the proposed changes.

Suzanne Ryan explained the she was looking for guidance as to how as planners the Master Plan is looked at for these back lots, not so much as how the statute applies. She is not in favor of going down this road with the ordinance. Copies of the back lots were submitted for the Board's review. When you take the Natural Resources Chapter of the Master Plan and overlay that with the maps, you can see constrained land, water surface land, steep slopes, agricultural soils, and unfragmented lands. When compiled you start to see something that says why would we want back lots developed. When you start developing these lots, you will see practical difficulty.

The Board discussed the documents submitted, concerns Suzanne Ryan noted, and how practical difficulty cannot be used as a reason to deny building on a lot. The applicant has to prove practical difficulty to the Board. Additionally, the development of a lot will not distort the Master Plan.

Rob Houseman explained you cannot look at this proposed language in a vacuum; all other regulatory requirements have to be met. An applicant will have to conform with all other requirements regardless of whether this is a back lot or not.

Alan Harding noted a person owns a lot, has property rights and should be allowed a home if they wish to. If you are going to legislate something that covers everything conceivable, it is not going to happen because somebody will figure out a way to get around it. That is why there is a Zoning Board of armatures' whose opinions are based on personal experience, rules of procedure and individual interpretation of the RSA.

The Board discussed in depth the proposed Special Exception criteria being a much better way of handling this type of application. Additionally the recording of the plot plan in the Carroll County Registry of Deeds should be an additional requirement.

Alan Harding moved that the ZBA submit the revised plan to the Planning Board  
Mike Hodder seconded the motion.

The Board discussed the motion.

It was moved by Mike Hodder to amend this draft in paragraph 2 to state "The general Special Exception to criteria of §175-127 are satisfied." Strike out (A) through (H). Alan Harding seconded the amendment.

It was moved by Steve McGuire to amend the motion under # 3. Proof of the applicant's deeded right of access to the lot shall be made part of and included with the application submitted to the Zoning Board of Adjustment and filed in the Carroll County Registry of Deeds. Kathy Barnard seconded the amendment.

Alan Harding, Kathy Barnard, Steve McGuire, Mike Hodder and Fred Tedeschi voted in favor of the two amendments and the motion. Suzanne Ryan abstained from the vote. The two amendments and the motion passed.

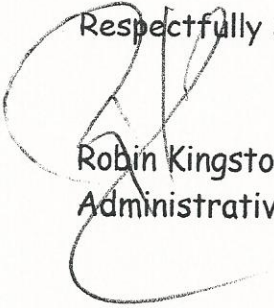
#### Other Business

Suzanne Ryan commented if the Planning Board goes forward and this ordinance is passed at town meeting the ZBA needs to amend the form and use what she gave the Board as a draft for that.

The Board agreed if this ordinance passes, the application will need to be revised.

It was moved by Steve McGuire and seconded by Mike Hodder that there being no further business this meeting be adjourned at 8:05 pm. All members voted in favor. The motion passed.

Respectfully Submitted,

  
Robin Kingston  
Administrative Assistant