

Wolfeboro Zoning Board of Adjustment  
Regular Meeting  
April 2, 2012  
Minutes

RECEIVED AND RECORDED  
4/9, 2012 9:00 AM  
Book No. Page No.  
*Catherine M. Wals*  
WOLFEBORO, N.H. TOWN CLERK

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

**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. The Rules of Conduct for the meeting and hearings were reviewed.

**TM # 176-20-1**

**Case # 03-V-12 and 03-V-12-2**

**Harriman Hill Affordable Housing Limited Partnership**

**Pine Hill Road, Beck Drive**

**Ed DesMarías, ELRHC**

Kathy Barnard stepped down from this hearing. Mike Hodder was seated.

Steve McGuire read the public and abutter notification for the record. A site visit was held at approximately 6:20 PM prior to the hearing

Public Hearing for two Variances from Article VI, Section 175-44 (L) (4) (C) of the Wolfeboro Planning & Zoning Ordinance to allow for a sign larger than 2 square feet and an "Off Premises" sign (since the location of the proposed sign is part of the road ROW area to be presented to the Town for adoption once construction has been completed). The property is located at Rt. 109A (Pine Hill Road) / Beck Drive.

Planner's Remarks: The applicant proposes to install a 17.78 sq ft sign at the entrance of the development; a copy of the proposed sign is included in the

application for your review. The proposed sign location is on a separate parcel than that of the residential units. Two variances are required since the sign exceeds the permitted sign size and is considered off premise sign.

Eddie DesMarais addressed the Board, reviewed the application and the five points required for the variances as submitted with the application.

Alan Harding asked if this would be a double sided sign.

It was explained it would be a one sided sign and the opposite side of the sign would be blocked by trees in the proposed location. It will be located very close to where the current sign is located and will be higher because of the anticipated snow banks in the winter. The Hospital Aid Association has reserved an easement for if and when the town takes over the property.

Unnecessary hardship, special conditions, and spirit of the ordinance were discussed - The proposed sign would be 6'6" x 2'8" and the rider panel would be 1 sq. ft. The exact address of the development is Beck Drive.

Alan Harding pointed out the argument going north is negated by no sign to read going south.

Mike Hodder noted concern with the size of the sign as compared to others in the area. Does all the proposed information need to be on the sign to accomplish the purpose?

The Board had concern with the size of the sign, given it being a one sided sign and the speed limit being 30 mph in that area.

Edie DesMarais asked the size of the sign variance be tabled but asked the Board to vote on the off premise sign variance.

*It was moved by Suzanne Ryan and seconded by David Booth to continue the public hearings on the two variances to May 7, 2012 at 7:00 pm in the Wolfboro Public Library Meeting Room. All members voted in favor and the motion passed.*

Tax Map: 278-35

Case #: 04-V-12

Variance, request for relief from ARTICLE X, § 175-88.3 of the Robert and Doreen Blaisdell

Steve McGuire read the public and abutter notification for the record. A site visit was held at approximately 5:50 PM prior to the hearing

Public Hearing for a Variance from Article XX, Section 175-124 of the Wolfeboro Planning & Zoning Ordinance to allow for a 18' x 24' garage to be attached to an existing breezeway/mudroom. This property is located at 37 Friar Tuck Way.

**Planner's Remarks:** The applicant proposes to construct an attached garage (18'x24') and the recent zoning setback changes interfere with this construction. The side setback for the subdivision, at the time of approval, was 10 feet. The attached garage would be 9.1 feet from the side property line. Please note that this lot contains the community well, which requires a 250' foot well head protective radius and jurisdictional wetlands that limits the garage placement on the lot.

Doreen Blaisdell addressed the Board, reviewed the plan, application and five points required for the variance. The lot was purchased in 2000 and the dwelling was constructed in 2001. This zoning change took place in 2010 changing the setback from 10' to 25'.

No persons spoke in favor or against the application. Letters in favor of the application were received from Tanya & Darrell Mills, located to the western side of the subject property. Adam and Erin Tasker, Ned Grant and Joanne Rich Esposito. A letter was also received from Steve Peterson, President Sherwood Forest Lot Owner Association speaking in favor of the proposal.

The Board discussed the application and the five criteria being met.

*It was moved by Kathy Barnard and seconded by Steve McGuire to grant the setback Variance for Case # 04-V-12, TM# 278-35 having met all the criteria for the setback variance. All members voted in favor of the motion. The motion passed.*

Amy Knapp

TM# 205-40

Case #: 05-V-12

Variance, request for relief from ARTICLE X, § 175-85

Agent: Eric Roseen, PLLC

Steve McGuire read the public and abutter notification for the record. A site visit was held at approximately 6:40 PM prior to the hearing

Public Hearing for a Variance from Article XIII, Section 175-85A (2) of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a garage and stairs closer than the 25' setback to the adjacent property line. This property is located at 56 King's Pine Road.

Planner's Remarks: The applicant proposes to construct an attached 2 car garage and the recent zoning setback changes interfere with this construction. Please note that at the time of the house construction the plans included a garage. However, the applicant was not able to construct it the garage at that time (This is offered as information only and shows that the applicant, when she purchased the lot, designed the house placement with a garage in mind). The steps attached to proposed attached garage would be 12.5 feet from the side property line.

The board briefly discussed another Zoning Violation on the property.

Rob Houseman explained the Planning Office is currently dealing with the issue.

Eric Roseen, PLLC addressed the Board, reviewed the proposal, plan and five points required for the variance. The garage will be 24' x24'. Outside steps to the second floor are also included.

Rob Houseman noted the front steps do not need to meet setback. The 12' is to the steps and there will be 16' to the garage.

Rob Houseman explained they do have to meet setback because they are side steps and they are seeking a variance for 12' 5" as submitted. The original building permit calls for a 24' x 24' garage however it was not built. The garage would be 29'6" from the garage on the next lot. The building permit was amended in 2005 and received an occupancy permit for the dwelling.

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

David Booth noted the uniqueness of the lot, the discussion held and the issues in the change of side setback and because the garage was listed and approved on the original buildings permit.

*It was moved by David Booth and seconded by Suzanne Ryan to approve Case # 5-V-12, TM # 205-40 for the reasons just mentioned and all five criteria for the Variance being met. All members voted in favor and the motion passed*

Tax Map#: 231-55

Case #: 02-UV-12

School House Trust

Stephen McGuire, Trustee

Variance request for the conversion of a cottage to retail use in the Village Residential and Residential, Office, and Institutional Overlay Zoning District

Steve McGuire stepped down from this hearing as he is a Trustee of School House Trust.

Suzanne Ryan read the public and abutter notification for the record. A site visit was held at approximately 5:50 PM prior to the hearing.

David Booth noted he is a member of the Trustees for Huggins Hospital, which is an abutter, and a number of years ago was on the facilities committee and has had indirect previous contact with the Trustee of Schoolhouse Trust and said some difficult things in public sessions and would step down.

Alan Harding asked if he felt he could be impartial and David booth responded that he believes he can. Alan Harding asked David Booth to remain seated.

Kathy Barnard acknowledged that she is a new member of the Board of Trustees of Huggins Hospital and believes she can be fair with this application.

Public Hearing for a Variance from Section 175-38, Section ROI Overlay District and 175-71, Village Residential District of the Wolfeboro Planning & Zoning Ordinance to allow for a retail operation to be conducted in the "cottage" building which is approximately 600 sq. ft. and located on the property. This property is located at 243 South Main Street. A site visit was held at approximately 5:30 PM prior to the hearing.

Planners Remarks: The applicant seeks a use variance for the conversion of a cottage to retail use, a use not permitted in the zoning district or in the overlay district.

The ZBA should first address the waiver request regarding plan submitted as part of this application. Since the plan requirements are not standards contained in an ordinance these items may be waived By the ZBA. I would offer that the ZBA, when considering a waiver request it evaluate such cases where, in the opinion of the board, strict conformity would pose a practical difficulty to the applicant and waiver would not prevent a complete review of the application.

Steve McGuire addressed the Board, gave a history, reviewed the application, plan and points required for the variance.

A waiver from the requirement for a plan (11' x 17') was submitted.

Rob Houseman reviewed why a full plan may not be necessary and a waiver can be applied for. This is a standard contained within the adopted standards in the application.

*It was moved by Mike Hodder that in granting the waiver the ZBA has determined the application is complete. Kathy Barnard seconded the motion. All members voted in favor of the motion and the motion passed.*

The Board discussed the concern of leasing for a use that is not applied for. Traffic counts and turnovers, traffic spaces required by the ordinance (which there is ample room on the property) and a generic change of use to generic retail.

Kathy Barnard noted the ROI Overlay District being for professional and medical uses and not retail. The Planning Board has agreed that retail should be located in the downtown area consistent with the Master Plan.

David Booth asked if the cottage has been in continuous use.

Mr. McGuire responded it has been at least for the past 25 years.

Mr. McGuire was asked as he was opposed to "Pain Care" abutting his property and was not wanting another commercial property next to him, is he starting a slippery slope on East Clark Road with this application.

Steve McGuire noted there is already commercial operation, the Clark House next to him and he believes he will be the last residential property owner. The proposal is for a seasonal operation. There have been no comments from abutters on East Clark Road.

Rob Houseman explained this is a variance to the existing cottage only. There is a one size standard for retail operation. The Variance would run with the land and it would be limited to the 600 sq. ft. cottage. They could not come back to seek a 25% expansion because a variance was already granted. They would need to seek another variance.

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

The Board discussed the application.

*It was moved by Suzanne Ryan to approve Case # 2-V-12, TM# 231-55 as it meets the definition of all the five criteria as outlined in the application. This approval is specifically limited to retail use within the cottage of not more than 600 sq. ft. and the application needs Planning Board approval. David Booth seconded the motion.*

*Mike Hodder amended the motion to include "The application, as submitted to the ZBA, does not satisfy all applicable requirements for change of use. David Booth seconded the amendment.*

*David Booth, Suzanne Ryan, Alan Harding and Mike Hodder voted in favor of the amendment and motion. Kathy Barnard voted in opposition as she does not feel the spirit of ordinance is observed.*

## Minutes

### December 5, 2011

#### Corrections:

Page 2 - 3<sup>rd</sup> line from bottom - strike "of" before owner

Page 10 - under "News Article" change to read "Alan Harding distributed an article to the Board"

*It was moved by Steve McGuire and seconded Kathy Barnard to approve the minutes of December 5, 2011 as amended. All members voted in favor. The motion passed.*

### December 20, 2011

Page 2 - 3<sup>rd</sup> paragraph from the bottom, 5<sup>th</sup> line up - line should read "He does not get a second *bite* of the apple even though he is an abutter.

Page 3 - 4<sup>th</sup> paragraph down - Suzanne Ryan stated the ZBA chose to grant and the ZBA made a policy

*It was moved by Steve McGuire and seconded Kathy Barnard to approve the minutes of December 20, 2011 as amended. All members voted in favor. The motion passed.*

### January 13, 2012

Page 3 - Discussion under the motion - change to read "a member stated"

*It was moved by Kathy Barnard and seconded by Steve McGuire to approve the minutes of January 13, 2012 as amended. Alan Harding, Steve McGuire, Kathy Barnard and Suzanne Ryan voted in favor. David Booth abstained due to his absence. The motion passed.*

### March 19, 2012

Page 1 - Directly Under the Applicant Information



The applicant was informed the Board has only four members seated and they have a right to continue the public hearing. The applicant opted to proceed with the hearing. Chairman Harding discussed the odds to the applicant's approval were diminished by 15% with only four members and 40% with three. The applicant chose to proceed.

Last Sentence -last word should be "opposed"

It was moved by Kathy Barnard and seconded by Steve McGuire to approve the March 19, 2012 Minutes as amended. Alan Harding, Kathy Barnard, Steve McGuire and David Booth voted in favor. Suzanne Ryan abstained. The motion passed.

Other Business:

David Senecal pointed out he cannot be at every meeting due to other obligations but thinks he is valuable to the ZBA.

The Board felt he should remain on the Board.

It was suggested when a member is absent the record reflect whether it was an excused or unexcused absence.

There being no further business, this meeting was adjourned at 9:00 PM.

Respectfully Submitted,



Robin Kingston  
Administrative Assistant