

Wolfeboro Zoning Board of Adjustment
Regular Meeting
July 1, 2013
Minutes

RECEIVED AND RECORDED

July 9, 2013 M

Book No. Page No.

Dorinda M. Waterman
WOLFEBORO, N.H. TOWN CLERK

Members Present: Alan Harding, Chairman, Kathy Barnard, Member, David Senecal, Alternate Mike Hodder, Member, Fred Tedeschi, Alternate and Hank Why, Alternate

Members Absent: Steve McGuire, Clerk Suzanne Ryan, Vice Chairman

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 Town Hall Meeting Room. A quorum was present.

The Rules and the Procedures for the Public Hearing were reviewed.

Fred Tedeschi and David Senecal were seated for the hearing.

Appointments

TM# 167-33

Case # 05-V-13

Applicant: Michelle & James Phillips

Variance from Article XIII A, Section 175-88.3

Agent: Kerry Fox

Alan Harding read the Public and Abutter Notice for the record. A site visit was held at approximately 6:30 PM prior to the hearing.

Public Hearing for the a Variance from Article XIII A, Section 175-88.3 of the Wolfeboro Planning & Zoning Ordinance to allow for the construction of a deck that will encroach into the front and side setback. This property is located on the 550 Governor Wentworth Highway.

Kerry Fox addressed the Board, reviewed the application and plans as submitted. An enhanced plan was also submitted. A portion of the proposed deck encroaches into the front and side setbacks. The building is situated within the buffered area. The deck needs to be replaced and the applicant would like to enlarge deck which would enable him to move the children's play area to the side of the house away from the street side. There would be an increase of 168 sq. ft. into the setback.

The five criteria required were addressed and reviewed as submitted with the application. The 44' setback noted in the application is from the deck to the traveled way and not the property line. The property was purchased in 2011.

Alan Harding asked if the setbacks in 2011 were the same as they are today. Rob Houseman responded they are the same.

Letters in favor of the application were submitted from Kenneth and Diane Alger; Angus and Janice MacDonald; and Vincent & Marsha Brooks which are the three closest neighboring abutters.

Fred Tedeschi asked why the deck could not be placed on the other side near Governor Wentworth Highway.

Kerry Fox explained it is a safety reason for the children.

Jim Phillips explained his in-laws live across the street and they were able to purchase the property in 2011 and he remembers back then when a car veered around the corner and onto Wildwood Lane and yard. The proposed location change would increase safety.

Alan Harding noted he is having a problem with the hardship aspect. He sees the applicant can have an enlarged deck, but towards Governor Wentworth Highway a stockade fence erected would increase safety. He also asked if there is any reason they cannot build the deck within the envelope.

Kerry Fox responded the applicant's issue is to move the family onto the other side of the home due to safety concerns.

Mike Hodder noted there is a driveway in the other location. As a father, he would not want his deck closer to Governor Wentworth Highway.

David Senecal stated he feels the requirements have been met. There is 168 sq. ft. involved and conditions could be placed on a variance approval noting there is to be no roof over the deck and that it shall never become living space. The applicant is only adding 168 sq. ft. and there is already an existing deck. There are other decks on the 10 properties existing in the subdivision. The subdivision was created in the late 1950's and the house in 1960.

Kathy Barnard noted the plan submitted may not be a survey.

Kerry Fox responded that the plan submitted tonight has accurate dimensions on it.

Rob Houseman noted this could be a basic survey and Mr. Fox would need to take it to a certified plan based on a survey. Additionally a survey would be required for a building permit.

Kerry Fox explained the applicant did not really understand where the property lines were in 2011 when the property was purchased and it was not until there was a survey of the property for a garage did the owner understand how the house was set in relation to the property lines.

Fred Tedeschi asked how much wider the deck would be on the side. Kerry Fox explained the deck is presently an 8' deck and the proposed is 10'.

Alan Harding asked the purpose of the deck.

Jim Phillips noted the deck is for enjoyment.

Mike Hodder noted he felt it is inappropriate to ask the applicant why he wants to build a deck. There is a deck no longer existing on the Governor Wentworth Highway side of the property that will be rebuilt shorter and bit smaller according to the plan.

No person spoke in favor or against the application.

Chairman Harding closed the public hearing.

Mike Hodder stated he feels this is an agreeable application. There is nothing of concern in the application. The nature of the neighborhood in that area is a hardship in itself and on May 6, 2013 the Board found hardship for a variance on a property partly based on its area as a whole. These are tiny lots and the nature of the properties of the area are the hardship.

Kathy Barnard noted the house not being centered on the lot and the safety issues along with conditions of no roof or living space should apply. Kathy Barnard also disagreed with Mike Hodder relative to the hardship in the area itself. Also noted were other communities have dealt with the undersized lots being developed within their zoning regulations.

Hank Why noted the larger deck is a much more usable and is a reasonable expansion given safety concerns.

Fred Tedeschi noted he is having a hard time with the expansion of the non conforming use towards the property line. The applicant has the ability to move the deck to the other side. He does not feel the hardship has been shown.

David Senecal agreed with Mike Hodder and commented the ZBA is here to help people rectify situations such as undersized lots. This dwelling was built in 1960 and no one took into account the lot sizes and setbacks. Over time, the setbacks have changed and that causes hardship. The board could tie the setbacks noted on the plan submitted of 12.9', 14.3' and 27.3 to an approval.

Mike Hodder noted the Article 13A, 175-88.1, read the purpose and spirit of the ordinance and noted it is inapplicable to the lots out there.

Alan Harding noted he is having a problem with the hardship and he feels there are alternatives however this application is subjective. The applicant was dealt a rough hand in terms of the zoning that has changed.

It was moved by David Senecal and seconded by Kathy Barnard to approve Case# 05-V-13, Michelle & James Phillips, TM #167-33 for a setback variance. This variance shall be tied to the plans that were submitted with the sidelines setbacks being 12.9', 14.3' and 27.3'. The deck shall not be permanently covered by a roof and no living space shall ever be made of the deck area. All of the criteria have been met. All members voted in favor and the motion passed.

Consideration of Minutes

June 3, 2013

Corrections:

Page 2 – 10th line down change “to” to “the”

Page 3 – 6th line down change “a” to “as”

It was moved by Mike Hodder and seconded by Kathy Barnard to approve the minutes of June 3, 2013 as amended. All members voted in favor. The motion passed.

There being no further business, this meeting was adjourned at 7:46 pm.

Respectfully Submitted,


Robin Kingston
Administrative Assistant