

Wolfeboro Zoning Board of Adjustment
Regular Meeting
January 6, 2014
Minutes

RECEIVED AND RECORDED
1-15, 2014 12:46 PM
Book No. _____ Page No. _____
1st Patricia M. Waterman
WOLFEBORO, N.H. TOWN CLERK

Members Present: Suzanne Ryan, Vice-Chairman, Steve McGuire, Clerk, Kathy Barnard, Member, Mike Hodder, Member, Fred Tedeschi, Alternate and Hank Why, Alternate

Members Absent: Alan Harding, Chairman (excused) and David Senecal, Alternate (excused)

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

Suzanne Ryan 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 Hearings were reviewed.

Appointments

TM# 187-5

Case # 01-V-14

Applicant: Chris & Cindy Patten

Variance

Public Hearing for the a Variance under Article XII, 175-80, Section A2 of the Wolfeboro Planning & Zoning Ordinance to permit the construction of a two vehicle garage with connecting structure closer than the 20 foot sideline setback. This property is located at 395 North Main Street

Steve McGuire read the Abutton and Public Notification for the records. A site visit was held at approximately 4:05 pm prior to the hearing.

Fred Tedechi was seated for Alan Harding.

The applicant proposes to construct an attached garage to the rear of the existing garage. The house has the appearance of a two-car garage however, the bulkhead access to the basement is contained in one of the garage bays. The proposed garage would be accessed through the existing garage and provide for through access to the rear of the lot if necessary. The recent zoning changes to setback zoning (increased to 20') interfere with this construction. The side setback was 10' and the proposed garage would be 13' feet from the side property line.

Chris Patten addressed the Board and reviewed the application and plan as submitted.

Kathy Barnard asked for the septic location. Suzanne Ryan asked the total lot coverage.

Chris Patten noted the septic location on the submitted plan and responded there is approximately 2,000 sq ft in building coverage and the driveway and parking take up some more.

Rob Houseman noted it is below 15% in total lot coverage.

Suzanne Ryan asked Rob Houseman what the purpose of the increase in the setback was.

Rob Housman responded the zoning had a tiered standard. Post 1988 lots had a different standard than older lots. The purpose is for uniform design and layout. There is a code issue and properties need to have 20' between structures for fire protection. In this case at the time of the zoning ordinance it gave unfair advantage to older lots regardless if they were larger

Fred Tedeschi asked if the bulkhead could be moved.

Chris Patten responded that would be the least desirable. They could give up the bulkhead and build a new one at an expense that is to large for him to do.

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

The Board deliberated on the application and discussed the following points.

1. The Variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed.
3. Substantial justice is done
4. The values of the surrounding properties will not be diminished.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the Special Conditions of this property that distinguish is from other properties in the area.
 - (A). No fair and substantial relationship exists between the purposes of the ordinance applicable to the application and the specific application of that provision to the property.

Mike Hodder found the application sound on all five points. It will not be contrary to the public interest or the spirit of the ordinance. The ordinance calls for a location in town which can include bed and breakfasts and home occupations. The applicant is attempting to build something behind his structure which will not be visible from the street. It will not interrupt the streetscape. The town gains nothing by having the applicant adhere strictly to the setbacks and loses nothing by giving a variance. There should be no diminution in surrounding property values. The two abutters attended the site visit raised no objections. There are clearly special conditions, a large one being the bulkhead. The application does not violate the intent of the ordinance, the use is reasonable, and this is the only place on the property the applicant can do

what he would like to do with his garage situation especially giving the location and placement of the septic tank and leach field.

Kathy Barnard agreed all five points have been addressed and met and pointed out the septic system also determines the location of the addition. The addition keeps the same streetscape as it is to the rear. The bulkhead is an unusual situation and is impractical to relocate.

Fred Tedeschi agreed and added this does not intrude into the lot coverage restrictions and the building is being moved 3' feet over which demonstrates the applicant is coming more into conformance with setback.

Steve McGuire and Hank Why both agreed with what had been said.

It was moved by Kathy Barnard to grant the variance for the side setback, Case # 01-V-14, TM# 187-5, Chris and Cindy Patten with no conditions except to comply with the site plan submitted. Steve McGuire seconded the motion.

Suzanne Ryan asked about screening as the large tree is being taken down.

The applicant responded he is not planting another large tree.

Suzanne Ryan suggested screening similar to what is there currently there.

Mike Hodder, Steve McGuire, Kathy Barnard and Fred Tedeschi disagreed.

All members voted in favor of the motion. The motion passed.

TM# 132-11(2)

Case # 02-SE-14

Applicant: Pass-A-Grille Realty Company, Inc.

Special Exception

Agent: Paul Pudloski, Esq.

Public Hearing for a Special Exception from Article 175, (proposed amendment) Center Street/Rte 28 Mixed Use Business District to the Wolfeboro Planning & Zoning Ordinance to allow for the operation of Arboricultural Services. This property is located at 637 Center Street (Lot 2).

Steve McGuire read the Abutter and Public Notification for the record. A site visit was held at approximately 4:25 pm prior to the hearing.

Hank Why was seated for this hearing.

Suzanne Ryan, Mike Hodder and Kathy Barnard conducted a site visit.

The applicant is seeking a Special Exception to allow for arboricultural services as provided for in the pending zoning change known as Center Street/Route 28 Mixed Use Business District. This is replacing the current C2 District. The proposed ordinance is more restrictive than the existing ordinance; therefore, the applicant must comply with both ordinances.

Paul Pudloski, Esq. addressed the Board and reviewed the application and plans as submitted. An entire site plan was also submitted for the Board's reference. This is a change of use and there will be no building changes. The applicant will be before the Planning Board for Site Plan Approval on 1/7/14.

Bartlett Tree Service is looking to relocate their existing business which is located 1/10th of a mile from the proposed site. They are a year round company with nine employees. Kirk Titus is the manager of Bartlett Tree. All services conducted by Bartlett Tree are done off site. There will be no onsite, manufacturing, fabrication, or retail sales. There will be no changes to the building. The use of the building will meet all setback and height requirements. Trucks are used off site and make typically one round trip a day leaving at approximately 7 am and returning around 5 pm, Monday through Friday. There is occasionally Saturday work from approximately 7 am to noon.

A Securall Storage Building (safe storage vessel) will be used to store chemicals/pesticides. This will be located outside of the main building. The storage is inspected by the State Pesticide Control Board annually.

Kirk Titus explained this is 5' x 10' storage container with a total of 30-40 gallons of chemicals/pesticides in the storage area.

Mike Hodder asked if fertilizers are stored on site.

Kirk Titus responded presently they are stored inside and will be stored inside the new building. A copy of the chemical storage vessel was submitted.

There will be 17 on site parking spaces. The entrance will be narrowed to 40' and a substantial amount of pavement will be removed. A new septic be built. A new well will be installed. They will both be shared with the abutting property. There is also a new storm water drainage plan. There will be a security fence along the side and rear of the property. There will be new lighting that complies with The Dark Sky Ordinance. The Change of Use would not diminish the value of surrounding properties. There are businesses to the front and sides of this property.

Bryan Berlind, Land Technical Services reviewed the site plan that was submitted.

The Public Hearing was opened.

Roger Murray, Esq. representing the Lake Wentworth Foundation and the Lake Wentworth Association addressed the Board. The Foundation, through Single Rose Enterprises owns the abutting property to the side and to the rear. This area was identified by the Lake Wentworth/Crescent Lake Watershed Management Study as an area of concern because of the storm water issues. They believe the proposal before the Board tonight is positive and will go a long way to addressing those concerns. Further, this proposal clearly falls within what the Planning Board was intending with the change in the zoning.

Mike Hodder asked about the easement of Lake Wentworth Foundation.

Roger Murray explained they had talked with Tom Trites about putting in a best management practices. They have a signed agreement to grant an easement for the protection of Fernald Brook and will allow for the best management. Additionally there is also a grant with the Town.

Rob Houseman explained they have been informed they are eligible for a grant and Lake Wentworth Foundation is funding the improvements less the grant money they are expecting. They are expecting about \$145,000 to address four different water drainage areas. This will also address the water quantity and quality issues. The design the applicant is proposing tonight not only addresses the storm water from their site but the storm water from above properties. This application is an improvement for the drainage issues.

There was no further comments from the public and the public hearing was closed.

The Board deliberated the application.

The Board agreed on the following.

1. The site is suitable. There is adequate access, usable space and they have addressed any environmental constraints.
2. The neighborhood impact will be minimal or less than what it was.
3. There will be no undue nuisance or serious hazard to pedestrians.
4. There are appropriate public services existing on site.
5. This is a reuse of a building. It will be improved and have a positive impact.
6. It is fortunate that a concerned, national company such as Bartlett is taking over this building.
7. There will be no negativity as for property values. There will most likely be a positive impact.
8. This application is consistent with the Spirit of the Ordinance and the intent of the Master Plan.

The Board agreed the applicant has done a very good job with the application, addressing the storm water issues and improving the gateway to town.

It was moved by Steve McGuire and seconded by Kathy Barnard to approve Case # 02-SE-14 SE, TM# 132-11(2) having met all of the suitable criteria, 1-8. Additionally the following conditions shall apply:

1. 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, or 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 herein shall generally be determining.
2. The application, as submitted to the ZBA, does not satisfy all applicable requirements for the Site Plan Review application.

It was moved by Mike Hodder and seconded by Kathy Barnard to amend the motion to include:

3. The approval is contingent upon site plan approval by the Planning Board on January 7, 2014.

All members voted in favor of the motion. The motion passed.

Consideration of Minutes:

7 October 2013

The Board decided to table consideration of the minutes until the next meeting.

There being no further business, this meeting was adjourned at 8:10 pm.

Respectfully Submitted,


Robin Kingston
Administrative Assistant