

Wolfeboro Zoning Board of Adjustment

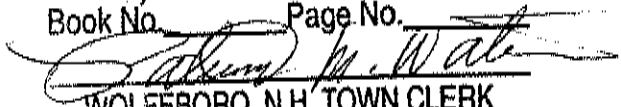
Regular Meeting
May 5, 2014

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Minutes

Book No. _____ Page No. _____


WOLFEBORO, N.H. TOWN CLERK

Members Present: Alan Harding, Chairman, Suzanne Ryan, Vice-Chairman, Mike Hodder, Member, Fred Tedeschi, Member, Hank Why, Member, David Senecal, Alternate and Christine Franson, Alternate

Members Absent: None

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 Conduct of the Meeting and the Rules and the Procedures for the Public Hearings were reviewed. Also noted were Minutes are now being taken at Site Visits and will be submitted with the minutes of the meeting.

Appointments

TM# 182-3

Case # 12-V-14

Applicant: Ruth & Robert Compton

Variance

Public Hearing for a Variance from Article 175, Section 44G2 of the Wolfeboro Planning and Zoning Ordinance to allow for a freestanding residential accessory sign that is 12 sq. ft. instead of 6 sq. ft. This property is located at 20 Martin Hill Road. A site visit was held at approximately 6:15 pm prior to the hearing. Present were Ruth & Robert Compton plus 4 members of the Board.

The applicant is seeking a variance to allow for a sign of 12sq. ft. The sign for this use is permitted under the residential accessory provision of the Sign Ordinance and the sign is limited to not more than 6 sq. ft.

Ruth Compton reviewed the application and the draft copy of the sign as submitted with the Board. The sign will not be lit.

Suzanne Ryan informed the applicant she emailed Mr. Houseman relative to Criteria #4 Special Conditions; asking if any of the signs mentioned in the application were grandfathered or had received a variance. Tumbledown Dick is in Brookfield and The State of NH signs are exempt. She also asked if the area will be cleared so the sign would be visible, if they were not to receive a variance.

Ruth and Robert Compton both responded that one side is owned by the Frederickson's and the other by them and only minimal clearing would take place. They are trying to stabilize their property and would not remove any large trees. Additionally the sign consultant has stated they would need 5" letters to be seen at the posted traffic speed.

Mike Hodder noted the uniformity of sign sizes in the area and the recommendation in the sign ordinance and the Master Plan. The ordinance wants to establish uniformity and aesthetics relative to signs.

Chris Franson asked if they are allowed to have a directional sign at the corner of Routes 109 & 28. Also questioned was the width of the States Right of Way and if the sign would be placed within it.

Rob Houseman stated he does not believe they can legally permit directional signs on the State of NH Right of Way. Additionally the State of NH would most likely claim a 50' right of way, which would be 25' from the center line of the road.

Robert Compton responded there are property pins on their property and the location of the sign will be behind them on their property.

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

The Board discussed the application. Alan Harding noted David Senecal and Christine Franson would not be voting on this application.

Suzanne Ryan reviewed the conditions required for the variance as follows:

1. *The variance will not be contrary to the public interest because:*
The sign does not alter the essential character of the neighborhood.
2. *The spirit of the ordinance is observed because:*
The sign meets all other requirements of the ordinance, how it's going to be affixed to the earth and it will not be lit.
3. *Substantial justice is done because:*
There will be no reasonable gain to the general public by enforcing the ordinance. It could cause some loss to the B & B if there was not a good visible sign at the posted rate of speed on that stretch of road.
4. *The values of surrounding properties will not be diminished because:*
A 2' x 3' sign versus a 3' x 4' sign does not diminish property values.

5. *Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:*

The rate of speed of traffic on Route 109 requires larger letters for higher visibility.

The "Special Conditions" of this property that distinguish it from other properties in the area are as follows:

If drivers brake to read a small sign it could potentially cause accidents and also the neighbor adjacent has a sign of similar type and size.

(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:

(ii) The proposed use is a reasonable one because:

The proposed use does not alter the essential character of the neighborhood.

It was moved by Suzanne Ryan and seconded by Mike Hodder to grant the Variance for TM# 182-3, Case # 12-V-1 as all conditions have been met.

The Board discussed the motion.

It was moved by Alan Harding and seconded by Mike Hodder to amend the motion to include the following conditions:

1. The sign shall not be illuminated.

2. All of the documentation submitted in the application package by the applicant and any Requirements imposed by other agencies are part of the 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 herein shall generally be determining.

3. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay recording fees.

4. This Variance shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the Zoning Board of Adjustment for good cause.

Staff reread the motion and amendment.

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

TM# 133-28

Case # 13-V-14

Applicant: Woodbine Senior Living, LLC

Variance

Agent: Jim Rines, White Mountain Survey & Engineering, Inc.

Mike Hodder read the Abutter and Public Notification for the record. A site visit was held at approximately 6:30 pm. The Board members were present less David Senecal. Additionally, Roger Murray, Esq. representing Single Rose Enterprises, The Lake Wentworth Foundation and Lake Wentworth Association, Jim Brown, of 678 Center Street, Ben Avery, Black Rock Construction, Mr. & Mrs. Fortuna, Abutters and Jim Rines for the applicant.

Public Hearing for a Variance from Article 175.88.4 , Section 175-125 of the Wolfeboro Planning & Zoning Ordinance to allow for a 58 bed Alzheimer's facility and a sister 78 bed assisted living facility with a future single family owner's home. This property is located at Governor Wentworth Highway and Center Street.

The applicant is seeking a Variance to allow for a Senior Living Center to include a proposed 58 bed Alzheimer's facility and a 78 bed assisted living facility as well as a future single family owner's home. The parcel in question, shown as parcel #28 on TM# 133 falls within two zoning districts, the Rural Residential and Rural Agricultural. In addition, the parcel is adjacent to the new Center Street/ Rt. 28 Mixed Use Business District.

Benjamin Avery, Black Rock Construction of Colchester VT addressed the Board and introduced Steve Gaylor and Gloria Brock, Principles of Woodbine Senior Living as well as the Executive Directors of their facilities in Meredith and Rye NH. The proposed Alzheimer's facility is a use that is a growing need in all communities and they feel they can become a valued member of both business and healthcare communities here in Wolfeboro.

Jim Rines addressed the Board and reviewed the application and plans as submitted. The property is approximately 34 acres and the site was considered potentially for the Middle School by the Governor Wentworth School District previously. The topography and wetland delineation shown on the plan was a result of the work back when it was considered for the Middle School and is representative of the site in general. The soil is predominately a glacial outwash, sands and gravel; mapped as a Gloucester Soil and some Lyster Soil (which is the Wetland shown). The property will be serviced by on site well and septic which will require NH DES Approval. In preparation of this hearing a meeting was held with Attorney Murray representing the Lake Wentworth Association, The Lake Wentworth Foundation and Single Rose Enterprises where he expressed some of their concerns relating to phosphorus for any laundry done by the facility. Woodbine Senior Living has agreed to use phosphate free detergents and employ appropriate filtration systems to minimize any potential impacts to the groundwater. Site Plan Approval as well as NH DOT and NH DES approval would also be required for the Entrance, Septic System, Water Supply and Alteration of Terrain. The project will need to comply with the new Storm Water Management Rules just adopted by the town in March. All of those safeguards will need to be employed. This parcel is bisected by the Residential Agricultural and the Rural Residential Zone and abuts the C2WC Zoning District – now the Wolfeboro Center Route 28 Mixed Use Zoning District. Of the 52 parcels that are bisected

by this zone there are only 3 that abut the Wolfeboro Center Route 28 Mixed Use District. Of those three, one is the railroad owned by the State of NH, one is owned by the Town of Wolfeboro and this parcel. Four of the six parcels that directly abut this parcel are non-residential or commercial and four of the six indirect abutters are either non-residential or commercial in use. Generally this is consistent with the character of the neighborhood.

Jim Rines read and responded to the five points required for the Variance as submitted with the application.

Alan Harding noted on the applicant's answers to support the variance request there is a typo under #1 - 3rd paragraph, 6th line "in" should be changed to "no". Additionally #3, 2nd to the last sentence should read, "loss to the public".

Suzanne Ryan asked for clarification of #4 and non-direct abutters and where they are located.

Jim Rines responded the non-direct abutters are zoned commercial and are located across Route 109 and depicted them on the map.

Mike Hodder asked if the Conservation Commission has commented on the application.

Rob Houseman responded they have not and would not until it reaches the Planning Board stage. They have not met since they were noticed about the ZBA hearing.

Fred Tedeschi asked the proposed coverage.

Jim Rines responded he does not have one yet however the area that is disturbed is less than 10 acres and the entire site is 34 acres. Less than 30% would most likely be disturbed. They would have to comply with the current standards.

Fred Tedeschi noted the applicant is looking to move the commercial line from one side of the property to the other.

Chris Franson commented the Planning Board determined early on not to include this parcel in the rezoning because they felt Route 109 was a natural break point and the rest is residential and most of what was agreed for the Center Street zoning was the gateway image. These types of facilities are allowed in other places/zones in town.

Suzanne Ryan commented this use would be characterized as a commercial use.

Jim Rines also noted this is a for profit venture.

Chris Franson noted she would characterize this project as a hospital or such.

Jim Rines rebutted Chris Franson's comment and pointed out the other properties across Route 109 and Route 28 that are commercial in that specific area.

Chris Franson stated it was a lot of things such as the water usage and that is why laundry facilities, hotels and the like were not included in the Route 28 rezoning. They looked at this as how they related to the lake. They looked at what is compatible and was part of the greater scheme.

Jim Rines noted the commercial uses are closer to the lake than what this applicant is proposing. Also new uses could come in that would be closer to the lake and more intense than what is being proposed here.

Suzanne Ryan asked if it were to be used as residential purposes, how many units could go there.

Rob Houseman responded the Net Development Calculation would be the underlying zoning with approximately 6 units.

Suzanne Ryan stated that with this proposal there could be 136 beds and if were under residential it could only have 6 units.

Mike Hodder noted when the Planning Board drew the line for the rezoning it was really to protect the watershed area, what was running into the lake and the Gateway appearance of Route 28 and Route 109. One of the abutters is the Conservation Commission's Wolfeboro Land to protect the stretch of Willy Brook. When you look at a 78 bed facility and another additional 58 bed and a single family home as well as parking and traffic, two septic systems working to handle the load of the two facilities, this is close to the wetlands. He asked how under point #1 and #3 the applicant will protect the Town's interest in maintaining the water quality of Lake Wentworth, Willy Brook and the future water quality.

Jim Rines responded the facility is committed to using no phosphorus products and for the leach fields and nitrates, they are obligated to comply with nitrate setbacks at the state level. How much sewerage you put in the ground dictates how far from the boundary line you have to be with a leach field. The down gradient is the greatest amount, your side gradient is $\frac{1}{2}$ of what the down gradient is and the up gradient is $\frac{1}{4}$ of the down gradient. The Alzheimer's Unit is the key aspect of Woodbine Senior Living and the assisted living is typically permitted with it. What will be built as soon as they were able to obtain permits is the Alzheimer's Unit. The Assisted Living would be need and market driven. In terms of the gateway, this will not be visible to Route 28 and coming from Route 109 E, it will be difficult to see at least 6 months of the year if not the entire year. For the past 50 years, NH has used the same criteria the United States has used for septic's and separation from water tables and wells and things like that. NH has high

standards and the criteria this will be designed under and the additional precautions they have agreed to employ is how this will be protected. This hydrologically is 2,000' from Willy Brook and the permitted uses in the rezoned area are hydrologically half that distance.

Mike Hodder commented that a 78 bed facility is larger than Bartlett Tree Service.

Jim Rines responded that is correct however the storm water runoff would be more intense than this use because of more impermeable service and they do not have to comply with the regulations this project will have to comply with.

Mike Hodder asked about storm water management provisions.

Jim Rines responded they will have to comply with Alteration of Terrain and Storm water Regulations. Parking was shown and depicted on the plan.

Alan Harding asked if there is a Purchase and Sales Agreement on this property and if there is a Certificate of Need.

Gloria Brock, Woodbine Senior Living responded a Certificate of Need is required for a hospital or a skilled nursing facility, this is considered a Residential Community and there is no Certificate of Need required. To clarify is 58 Bed Alzheimer's facility and a 78 Assisted Living.

Suzanne Ryan stated there will be increased traffic.

Jim Rines responded he did not imply there would not be an increase of traffic. The traffic on Route's 109 and 28 will increase.

Suzanne Ryan stated this will place a demand on town services, not water and sewer but Police, Fire and Ambulance services.

Gloria Brock stated she understands the ambulance service is 100% paid for by the entity that calls for service. The number of calls monthly is estimated 3-4 times per month an ambulance may visit the facility. The Rye and Meredith facilities average 4 per month.

They have not seen a large increase in traffic for Meredith and Rye. She does not believe they really see any increase at all There will be staff coming in for 3 shifts 7 am, 3pm and 11 pm, depending on the staff, 8-10 employees. Family visits are varied throughout the day and not as frequent as you would hope. In the communities they have facilities in; it has never changed to traffic pattern in the community.

Suzanne Ryan asked where the residents go when they are beyond the expertise of care, will they go to Carroll County Nursing Home?

Gloria Brock responded they keep their residents through Hospice unless the State deems skilled nursing is required, such as a vent, permanent IV or a feeding tube. Their residents are not sick, they are older, aging and maybe somewhat frail and may have some diagnosis that require some attention but they are people that need a place to live where they can have choices the rest of us have in our homes. They just need some assistance to make those choices. That is what they are creating in this one story, very aesthetic building. The entire goal in bringing a community like this to the area is to keep the residents out of nursing homes because they were never created to be a place to live, they are a clinical model. This facility is a social model with a clinical piece. This does not appear to have a negative affect especially with them adhering to all the regulations. This is positive for the community and adds quality of life, the ability for children and adolescents to interact with different generations because they incorporate them into the community in their activities and programs. She cannot imagine a better way to use a property like this to enhance the quality of life of the people they service and the residents of the town they live with. There will be RN's on staff and every resident will have a physician in which the RN's will work with. There is no requirement for medical directors in the assisted living or Alzheimer's communities. Many of the MD's will make house calls. Hospice patients will be integrated as they get to stay in their apartment for the rest of their life.

Suzanne Ryan asked Rob Houseman with all the elderly care communities within the town, are they overly filled or under filled.

Rob Houseman responded there is market rate and subsidized. There is a waiting list for the subsidized senior living. There is Sunbridge, which is a nursing home. Taylor home is a function of a continuing care facility but they do not have the continuing care element here, they would need to go to Laconia for the next level of care or to Forest View Manor in Meredith. There is also Sugar Hill.

Gloria Brock responded they have done an analysis and there are a very few Alzheimer's specific beds or units in a 30 mile radius of Wolfeboro that are secure and the staff is trained to care for Alzheimer's patients. The residents normally come from the community and there are people that live and work in this area that bring their parents closer to live near them and there are some from out of state.

Amanda Cook, Executive Director, Forest View Manor a 76 bed assisted living/Alzheimer's Care Facility in Meredith addressed the Board. The 90% of residents are from the area including the Wolfeboro area; about 10% are from out of state. Their beds are full with a waiting list. There are people from the Wolfeboro area and they have had 3-4 referrals from Huggins Hospital since January 2014.

Fred Tedeschi noted in the zoning across the street allows housing for the elderly served by town water and sewer. He assumes there was a reason to include town water and sewer.

Jim Rines responded there is a demand on the services and sewer is having its own problems. This is the parcel that would be most compatible with their type of program and provide for the service they need.

Gloria Brock also responded they are very contentious of water protection and quality and they have been dealing with that in both the Rye and Meredith communities. They have said whatever the town requires to protect the water resources they are committed to abiding by those regulations and requirements. They want to enhance the quality of the community and in no way want to harm it.

Chairman Harding opened the Public Hearing.

Opposition:

Jim Brown, 678 Center Street addressed the Board. His concerns are groundwater and draw on the groundwater and discolored water and the septic systems, industrial in size with cleaning agents and all sorts of things going into the groundwater. There are studies around the nation about what is in the groundwater. Antibiotics, painkillers, cleaning agents, antibacterial agents all filter into the groundwater. With facility of this size there is no way to avoid it. His property is across the street and they have great water right now and he does not want to have to worry about filtration systems. Of all the businesses around them they are not 24/7 with people coming and going, people outside smoking and talking. The only 24 hour business is 7-11 and there is only noise in the summer with kids on weekends. There is concern with light pollution. There would only be 6 homes if residential. If something like this goes in, their property values will go down. The properties across Route 109 are conservatories; no one is going to build there. It should be for residential purposes. The Town's electrical grid is having problems and they are starting to get brown outs. This facility would use more electricity than 6 homes. This is not the proper place for this facility. He also asked if these other facilities are on town water and sewer. Mr. Brown depicted his property on the map.

Tom Fortuna, 9 College Road addressed the Board and stated he shares the same concerns as Mr. Brown. He shares a common boundary with the proposed project. His property was depicted on the map. He has concern for his well and the wells in the area. His well runs low and they have to be careful as to how much water they use. Too many flushes in the course of a day and they are out of water so he has concern with this being 200 yards from him. He is located on a 6.7 acre lot and has 2 houses which have been there for 100 years. The total square footage is about 3,000 sq. ft. He cannot build another house on the property because they are limited to 5 acre lots in that area. He found he is already in violation with two houses on one lot and if one house were to burn

down he could not rebuild it because of the 5 acre restriction even though they are talking about 3,000 sq. ft. and three people. They have they have certain densities they are obliged to live with and he has no problem with that but he does have a problem with 135 people being allowed to live 100 yards off his back boundary. That seems unfair to him. Two to three houses could be built along his back boundary someday but what he does not expect is 135 people and maybe 30-40 more working and visiting them. He does not want to see 170 people in his backyard. He asked that the existing zoning ordinances be upheld and enforced and this not be allowed.

No Objection:

Roger Murray, Esq. representing Single Rose Enterprises, The Lake Wentworth Foundation and The Lake Wentworth Association addressed the Board and explained he is not speaking in opposition but with concerns relative to the intensity of the use. Jim Rines and Ben Avery met with him and explained the proposal. There have been emails back in forth with Ben Avery and their concerns are drainage, storm water, impervious surfaces, sewerage disposal and lighting. These will also be addressed as part of the Planning Board Site Review. The particular concern that relates to the proposal is having laundry facilities on the property. Phosphorous is a large concern would ask the ZBA to impose a condition that all cleaners and detergents be non-phosphorous which Woodbine has agreed to. A facility like this will generate a large laundry load. Also, there be a wastewater filtration system in which Woodbine has already agreed to.

Fred Tedeschi asked if there is a forever conservation easement.

Attorney Murray explained the two parcels, slightly in excess of 26 acres are held for conservation purposes.

Rob Housemen asked if there is a permanent Conservation Easement on those parcels.

Attorney Murray responded they are being held for Conservation purposes.

Fred Tedeschi asked about it being sold.

Attorney Murray stated there has been a vote not to sell it. When you're a Conservation Organization you cannot take your conservation land and turn it into a gas station.

Chris Franson stated basically this property is bound on two sides by conservation land.

Rob Houseman asked Attorney Murray if he could state unequivocally there is a Conservation Easement on the two parcels.

Attorney Murray responded no, they are being held for Conservation purposes. When a Conservation Organization holds property for Conservation Use they do not have an

Easement on it. There is no intention of selling and if they ever went out of business it would go to another conservation organization.

Andrea Dudley, 74 Moose Point Road and a Trustee of the Lake Wentworth Foundation addressed the Board. Conservation Organizations that own property cannot hold a conservation easement but there is now intent to sell the property that would turn it back to public use. She noted concern with the number of beds in this proposed facility versus single family home. There is concern with runoff and water usage. She asked who stands behind this proposal, are they owners of the property and will they protect to community.

Richard Masse, 74 Moose Point Road addressed the Board and noted concern with the volume of groundwater being taken and asked if there is an estimate on how much water is taken from the ground daily.

Rebuttal -

Jim Rines addressed the Board. Speaking to the concerns of well draws, Mr. Brown has a deep well and Mr. Fortuna's sounds like a dug well if it runs dry. The well draw calculation according to state tables is 135 per day per bed, which calculates to the 18,000 gpd. range. If only the for the Alzheimer's facility it would be in the 8,000 gpd. range. Lighting needs to comply with Wolfeboro's Dark Sky Ordinance. They have put lights on timers at night in other facilities to address light pollution concerns. If there were 6 residential homes, there would be no control over them because they would not have to go through Site Plan Review. Because these are large lots they are not limited to 3 people in a home, you could have a 6-8-10 bedroom homes pretty comfortably and have no control over how they use their property. This parcel could be a farm and you could have farm animals and all of the animal waste which would be going to the watershed. As for the electrical grid concern, this is the first he has heard of it. If there are problems, no matter where it were located in Wolfeboro there would be a concern, permitted or not.

Gloria Brock addressed the Board and addressed lighting. The lights are blackened out and downward directed. There would be no light going away from the parking area. Lighting is required to keep staff safe.

Chris Franson asked about the light from the various rooms that seems to have the biggest impact on neighborhoods.

Ben Avery stated it is clear from the technical review the assisted living unit would not be compliant with the height restriction in the area so they know it will be less than 78 beds.

Mike Hodder noted concern as to how he can consider and application when they do not have an accurate number if they are talking about fewer beds.

Jim Rines responded the application was made with the numbers and as the grade and height was looked at it became clear it would be fewer beds. This has been noticed for the worst case. If the ZBA were comfortable with the worst case numbers then it should be more comfortable if it were less. As for the main house it was included in the application as part of full disclosure.

Gloria Brock spoke to the medical waste. This is not like a hospital or nursing home. Shots and medical waste has to be handled and disposed of appropriately and is regulated and is disposed of outside the community. This includes waste materials for residents that are incontinent and may need assistance in those areas. The cleaning products are all phosphorus free and as much as possible they use green products. They most products from ECO Products. They provide Hospice palliative care, equipment and oral pain relievers. There is no clinical or medical activity that they provide for Hospice. If a resident were on a vent, permanent IV or feeding tube then they would need to be placed in a different facility.

Mike Hodder asked about antibiotics passing through the urine and not all being filtered through the septic system.

Gloria Brick discussed the ownership being Woodbine Senior Living; they have it under contract and want to be a part of the community. The residents go to bed about 7:30 – 8:00 pm at night and do not wake up until late. The Buildings are set up to have a lot of natural light in them. They will have heat, AC and generators and the light and electrical is what is used.

Jim Rines noted to two outdoor courtyards in the center of the buildings. This tracks with the natural light component. It is a one story building and the roof overhangs the exterior walls.

Chris Franson asked about how many windows there will be.

Gloria Brock also responded all residents' rooms have windows and they provided blinds and shades for their residents.

Ben Avery noted the site has a very low aesthetic impact and that is one of the reasons this site was selected. There is a cleared open field, there will be no big impact to the forestation there. There were other sites looked at not on town water and sewer but this was the best fit. Both the Meredith and Rye facilities are on well and septic.

Gloria Brock stated she believes a community needs to weigh the balance as to what a community like theirs will bring to the Wolfeboro Community. There are some concerns of which cannot be completely appeased. Anything and everything that can be done to minimize impact will be done.

Jim Brown reiterated his concerns and has concerns with staff, families and residents taking and using antibacterial soaps, antibiotics and other medications getting into the groundwater. This is in a concentrated area.

Alan Harding asked if the Septic System Approval from the State of NH takes into consideration the nature of the business.

Rob Houseman responded he is not sure he can answer that tonight. He noted two questions he would seek answers to. The first being the Electric System – he understands it has been upgraded from 4 KV to 12.5 KV throughout most of the town and that should address all of the load issues. He would confirm that is resolved. The second question is NH DES standards for septic. He does not know if there is any different treatment for a facility. A facility of this size would require a PE or an Engineers Stamp, not just a septic designer.

Jim Rines responded that under the Admin Rules, any system greater than 25,000 gpd has to be designed by a licensed engineer who is also a licensed Septic System Designer. It cannot be a single large field; it has to be broken into multiple fields as soon as you exceed 5,000 gpd. Medical waste has drug effluent has no administrative rules however he can do some research to see if there are any systems that address it. Additionally, Jim Rines offered Woodbine wants to be in this community and the critical portion is the Alzheimer's unit and if the Assisted Living portion means the difference between approval and denial they would be willing to accept a reduced number or the assisted living removed.

Alan Harding asked how the bed number was determined.

Gloria Brock responded that with this type of residence there is a number that is conducive to the quality of life they require for their community. If you get larger than 56-60 beds it becomes too big. The residents become lost in an environment where they cannot have the comfort, safety, peace and serenity that is required when you have a disease where you cannot remember a minute forward or a minute back

Suzanne Ryan asked if this were reduced to only a 58 bed facility would the abutters have a different view.

Mr. Brown responded there would still be a change and it will have an effect on the abutters and would not be in favor of this.

Gloria Brock informed the Board it would take 12-24 months to fill occupancy because of the pace and then they would evaluate when the assisted living portion may be constructed.

Mike Hodder asked if the applicant amends the application to 58 beds, and should this pass and the applicant then wants to then add 78 beds as assisted living in the future, what the procedure would be.

Rob Houseman responded it would be exactly the same as tonight. Also there is a time limit on a variance from date of approval or further extended by ZBA for good cause. The single application for consideration is the entire package, a 58 Alzheimer's and a 78 Bed Assisted Living Facility. If the 58 bed Alzheimer's unit be constructed, this would in his opinion be considered vesting of rights and validated beyond the two year window. The threshold for vesting is 51 % of improvement in the ground or 51% of the expense.

Jim Rines stated they are not making the offer on reducing the number of beds under duress.

Tom Fortuna asked Mr. Houseman for a rough idea of average occupancy per house in this area.

Rob Houseman responded the US Census data reports 3.2 persons per household.

Mr. Fortuna stated the way the area is zoned they could have 6 houses on that property with approximately 4 persons per house they could expect 24 people so he would not be in favor of a 58 bed facility and is not in favor of this proposal even at a reduced size.

Kathy Eaton, property owner and resident of Trigg's Island and property owner on Route 109 addressed the Board. The location seems like a logical one and would be a nice use of the property. Unlike Sugar Hill she does not think you will see all the lights. She has a lot of faith in NH and the Planning Board in protecting Lake Wentworth. This is a good opportunity for the town. It is a business bringing jobs into town and may bring back some young people into the work force and will be and good for other businesses in town, will pay taxes and business profits taxes to the state and looks to be the kind of facility that would benefit all.

Jim Brown urged the Board to consider property values of the abutters.

Gloria Brock noted they have many properties, one in Pennsylvania (Alzheimer's specific), two in New Jersey (1 is Alzheimer's specific and 1 is Assisted Living) the property in Meredith and the one in Rye and none have negatively affected the property values in the communities they are in.

There being no further comments Chairman Harding closed the Public Hearing. .

The Board deliberated the application.

Hank Why noted it is a dramatic increase in density yet he is assuming the property can handle the design. The electric company will meet the load and feels the application should take its course through the Planning Board.

Fred Tedeschi noted concerns about moving the lines of the zoning districts that were well thought out over a period of time; commercial intrusion into a residential area. Although this is an excellent use and would like to see it in the town he does not feel this is the right place for it.

Suzanne Ryan noted she does not think it meets all of the five criteria, some but not all. The Variance would be contrary to the public interest because it does alter the essential character of the neighborhood; it would put a strain on police, fire and ambulance services. The Spirit of the Ordinance is not observed, it will alter the essential character of locality as pointed out it is a commercial use and although zoned commercial across the street it is used primarily as conservation; it is a prohibited use which is not specified anywhere in the ordinance as a usable use; it will affect the abutters; there are alternative uses that are delineated in the zoning ordinance for which she has named some and will not be voting in favor of the application.

Mike Hodder comment it is not contrary to the public interest. It does not alter the essential character of the neighborhood as there are commercial uses all around, across the street, on Center Street and down the road on Route 109 E. It does not threaten public health, safety or welfare or injure public rights. It is a benefit to general health, safety and welfare. It's located on two numbered highways which guarantees access to the site. The Spirit of the Ordinance is observed because they are asking for a variance. Substantial Justice is done because the town at large benefits, although the abutters may feel that they are injured. The values of surrounding properties he suspects will not be diminished. Unnecessary hardship has been shown as the lot is divided in two by two different zoning districts, each one carrying its own restriction and abuts a third zoning district. Strictly applying the ordinance to the project on the Rural Residential District of the property they can build a single family home and on the Rural Agricultural portion they can build a single family home, a farm, a veterinary hospital and the only use in common between those two districts is a single family home. Any other use would require a Special Exception or a Variance. The testimony heard regarding water usage, electrical usage and medical waste into the water system are concerns but he does not think they are sufficient to make him vote against the application.

Alan Harding commented he has spent his entire professional career scoping out people and their motives and trying to size them up as to whether they are telling him what they really mean. He is impressed with the people who have presented their case tonight. They seem to have passed the test of time in other communities and he sees no reason why he can say this should not be passed. The issue with respect to the abutters and their fear of property values is analogist to the university expanding their facilities and encroaching in on a neighborhood. It is not uncommon for parents and other interested

parties to purchase properties that are seemingly affected. He has seen this at St. Lawrence University in Canton, NY and other places so he does not believe that is an issue. The greater good here is to the Wolfeboro Community, the taxes that will be paid, and the people that will be employed. Mr. Rines has put together another good if not excellent application that makes sense for the community.

It was moved by Alan Harding and seconded by Hank Why to approve the application as submitted with the following conditions: 1. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of the 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 herein shall generally be determining. 2. The application, as submitted to the ZBA, does not satisfy all applicable requirements for Site Plan Review application. 3. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay recording fees. 4. This variance shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinance or by the Zoning Board of Adjustment for good cause.

Discussion:

Fred Tedeschi commented he does not feel the Spirit of the Ordinance is not observed. When looking at the types of uses that are permitted in this zoning district as compared to other districts where this type of intensity would be permitted, this does not meet the Spirit of the Ordinance.

Chris Franson commented that the words that struck her were “violate the basic zoning objective”. When you read the Statement of Purpose for the different zones they are violating the basic zoning objective.

Hank Why, Alan Harding and Mike Hodder voted in favor of the motion. Suzanne Ryan and Fred Tedeschi voted in opposition. The motion passed.

Rob Houseman addressed the Board and recommended as it was a three to two vote and there is a 30 day window of appeal for the approval of the application, the Board exercise its discretion and not discuss this matter before the appeal process is over.

Election of Officers

It was moved by Mike Hodder and seconded by Suzanne Ryan to nominate Alan Harding to continue on as Chairman. All members voted in favor. The motion passed.

Alan Harding stated he has two years left on his term and he will be pleased to act as Chairman for the next year however the ZBA should start thinking about transition to the

next Zoning Board of Adjustment, board makeup. Continuation is important and experience is important and it is only to be learned by doing. He will accept the position of Chairman for the current year.

It was moved by Alan Harding and seconded by Hank Why to have Mike Hodder serve as Vice-Chairman and Fred Tedeschi as Clerk. All members voted in favor. The motion passed.

Consideration of Minutes:

Chris Franson asked how picky the Board is with typos in the minutes.

Rob Houseman responded staff will receive them if they do not alter the content.

Corrections:

Page 4 – 1st line second word - Change Francine to Franson

Page 5 – 6th line – add “with the following conditions”, after Christian Bible Church

Page 10 – 2nd paragraph, 2nd sentence – add the word “poor” before the word current – Making the sentence read “No site visit was held due to the site being inaccessible and poor current ground conditions.”

It was moved by Mike Hodder and seconded by Fred Tedeschi to approve the minutes of 7 April 2014 as amended. All members voted in favor. The motion passed.

Other Business:

Suzanne Ryan reported Mike Hodder and she attended the Office of State Energy and Planning Seminar and she found it productive. She asked that copies of the handouts she has be distributed to the Board members.

Mike Hodder agreed and suggested board members to go the OEP website, under conference they can download the information. The one on Telecommunications and Cell Phone Towers – RSA 12K has been completely redone and it takes away a great amount of control the towns had. Also, the Legal Update has outstanding info on the Spirit of the Ordinance and things other things the Board wrestled with tonight. It has also been updated as a result of 2013 Supreme Court Decisions.

Suzanne Ryan submitted the email between herself to Rob Houseman and his response back on the Pollini property.

Staff requested any type of information relative to an application a Board member wishes to include in the record of a particular application, be submitted while the Board is hearing and or discussing the particular application so it becomes part of the record at that time and not added later.

There being no further business, this meeting was adjourned at 10: 18 pm.

Respectfully Submitted,

A large, stylized handwritten signature in black ink, appearing to read 'RK', is written over the typed name and title.

Robin Kingston
Administrative Assistant

attachments: Site Visit Minutes – TM# 182-3 & TM# 133-28

5-5-2014

ZONING BOARD OF ADJUSTMENT
WOLFEBORO, NH

SITE VISIT(S) RECORD
MIKE HODDER, CLERK PRO TEM

① Case 12-V-14

TM 182-3

RUTH & ROBERT COMPTON

20 MARTIN HILL RD.

6:18 - 6:20

4:47 PM

~~4:57 PM~~

ATTENDING: HODDER, HARDING, RYAN, WHY, TEDESCHI,
FRANSON FOR ZBA SENECAL abstr
RUTH COMPTON, ROBERT COMPTON FOR APPLICANT

② Case 13-V-14

TM 133-28

WOODBINE SENIOR LIVING, ROBERT & JOHN POLLINI REV. TRUSTS

RTES: 109E & 28N.

6:30 PM ✓

ATTENDING: HODDER, HARDING, RYAN, WHY, TEDESCHI, FRANSON -2B1
SIM RIVES FOR APPLICANT

Several questions asked

Roger Murray Single Rose Enginering, Lake Umbagog
Jim Brown / 6751 Center St.
Ben Avery - Blechrock Construction
Tom Fortuna - abstr