

Wolfeboro Zoning Board of Adjustment

**April 4, 2016
Public Meeting
Minutes**

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4/12, 2016 4:45 P

Book No. _____ Page No. _____

[Signature]
WOLFEBORO, N.H. TOWN CLERK

Members Present: Mike Hodder, Chairman, Fred Tedeschi, Vice-Chairman, Alan Harding, Clerk, Hank Why and Suzanne Ryan, Members, Chris Franson, Susan Raser, Dave Senecal and Sarah Silk, Alternates

Members Absent: None

Staff: Robin Kingston, Administrative Assistant

Mike Hodder called the meeting to at 7:00 pm in the Wolfeboro Public Library Meeting Room. A quorum was present. Fred Tedeschi will chair the public hearings on the agenda.

TM# 234-16 – Unit 9

Case # 03-SE-16

Owner: Pleasant Valley Lodges Corp.

Applicant: Karen Grogin

Special Exception

1-9 - Unit 9 PVL

Agent: Rick Eaton, Eaton Construction

Alan Harding read the abutter and public notice for the record. A site visit was held prior to the meeting. Minutes were submitted for the file.

Public Hearing for a Special Exception from Section 175-43 A (1) of the Wolfeboro Planning & Zoning Ordinance to remove an existing 5' x 7' deck and stairs and install a new 5' x 27' deck and stairs. This property is located at 1-9 PVL Lane, Unit 9.

Rick Eaton addressed the Board and reviewed the application and plans with the Board as submitted.

Chris Franson asked about the change in the distance to the lake.

Rick Eaton responded the proposed location is approximately 80' from the lake and the existing location is about 81' – 82'. There is DES Approval for this project.

Dave Senecal noted the existing deck was 5' x 7' and the proposal will be no closer than what it was before it will just run across the front.

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

The Board reviewed the 8 criteria required for the Special Exception as follows:

1. Site Suitability: The specific site is an appropriate location for the proposed use or structure:

This includes:

- a). Adequate usable space
- b). Adequate access
- c). Absence of environmental constraints (floodplain, steep slopes, etc.)

The Board agreed this criteria has been met.

2. Immediate Neighborhood Impact: That the proposal is not detrimental injurious, obnoxious or offensive to the abutting properties in particular and to the neighborhood in general. Typical impacts, which extend beyond the proposed site include:

- a. Excessive trip generation
- b. Noise or vibration
- c. Dust, glare of heat
- d. Smoke, fumes, gas or odors
- e. Inappropriate hours of operation

The Board agreed this criteria has been met, will not change or is not applicable.

3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking:

The Board agreed this criteria has been met, will not change or is not applicable.

4. Availability of public services and facilities: That the following services and facilities are available and adequate to serve the needs of the use designed and proposed:

- a. Sewer
- b. Water
- c. Storm water Drainage
- d. Fire Protection
- e. Streets
- f. Parks
- g. Schools

The Board agreed this criteria has been met, will not change or is not applicable.

5. Appropriateness of Site Plan: Consideration shall be given to the following:

- a. Parking Scheme
- b. Traffic Circulation
- c. Open Space
- d. Fencing/Screening
- e. Landscaping
- f. Signage
- g. Commercial Vehicles
- h. Lighting Impact

The Board agreed this criteria has been met, will not change or is not applicable.

6. Immediate neighborhood integrity: That the uses and established use patterns be weighed with recent change trends in the neighborhood.

The Board agreed this criteria has been met, will not change or is not applicable.

7. Impact on property values: That the proposed use will not cause or contribute to decline in property values of adjacent properties.

The Board agreed this criteria has been met, will not change or is not applicable.

8. The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan.

The Board agreed this criteria has been met, will not change or is not applicable.

It was moved by Mike Hodder and seconded by Suzanne Ryan to approve the Special Exception for TM# 234-16-Unit 9 – Case # 03-SE-16 for the expansion of the non-conforming use to permit removal of a 5'x 7' stairs and deck and construct a new 5' x 27' stairs and deck in accordance with 175-43, A, 1 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 this 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 a building permit or Shoreland Permit.
3. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.
4. This Special Exception 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.

All members voted in favor and the motion passed.

TM# 231-55

Case #05-V-2016

Applicant: Charles Mock Trust 1996

Variance Article 175-70 (A) 2

243 South Main Street

Agent: Michael Browher, Browher Construction

Alan Harding read the abutter and public notice for the record. A site visit was held prior to the meeting. Minutes were submitted for the file.

Public Hearing for a Variance from Article 175-70-A 2 of the Wolfeboro Planning & Zoning Ordinance for a 2 foot proposed setback from the property line. Expansion of non-conforming structure (10' setback required). This property is located at 243 South Main Street.

Charles Mock addressed the Board and explained the home was purchased in November 2015 and it was after they realized the cottage was in bad shape. The application and plans were reviewed with the Board as submitted with the application by Cindy Fogarty, Mr. Mocks daughter.

Michael Browher addressed the Board. Presently the attic area is finished however cannot be considered living area as there is no window giving way to a second means of egress and the stairs are unsafe. The plan is to square off the cottage. The encroachment is 8' into the setback (2' from the property line). Wolfeboro's setbacks go by overhangs and the existing overhang is only 3" from the property line. The proposed addition will be more conforming. Additionally they are trying to save the historic value of the structure.

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

The Board deliberated on the application. If approved this variance would eliminate the variance for commercial operation on this property.

Suzanne Ryan commented the Retail Shop was never used and the bunkhouse use was abandoned.

The Board agreed to re-open the public hearing for specific questions to the applicant.

The Board asked if the use has been abandoned.

Cindy Fogherty stated the bunkhouse has been used for years. There is heat and water as well as a kitchen and bath, fireplace and hardwood floors. The use has not been abandoned. As far as they can tell and the evidence that it shows.

The Public Hearing was closed.

Suzanne Ryan commented this is not owner occupied and is not a bunkhouse.

Mike Hodder commented this is their property and they are using it as such. The focus is also not on the use with this application it is on the variance and setback.

David Senecal commented this is non-confirming structure, presently existing and constitutes a dwelling unit. They are dealing with the expansion of the footprint and expanding the building not the use.

Sarah Silk agreed they are looking at the expansion of the building.

Suzanne Ryan stated she is looking at the use and dimensional variance being tied together

The Board reviewed the 5 criteria required for the Variance as follows:

1. The variance will not be contrary to the public interest.
Suzanne Ryan felt this was not met. The remainder of the Board felt it was met.
2. The spirit of the ordinance is observed.
The Board felt this criteria was met.
3. That substantial justice is done.
Suzanne Ryan did not feel this criteria was met. The remainder of the Board felt this criteria was met.
4. The values of surrounding properties will not be diminished.
The Board agreed this criteria was met.
5. Literal enforcement of the provisions of the ordinance would result in and unnecessary hardship because: The Special Conditions of this property that distinguish it from other properties.

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

- (i) 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.
- (ii) The proposed use is a reasonable one.

Suzanne Ryan felt this criteria was not met as egress can be added by building up and adding a window and it can be used for a retail operation. There are reasonable uses as it sits and the variance does not enhance it at all and she sees no hardship. The remainder of the Board agrees there is a hardship as this is an older property and predates zoning and setbacks. Special Conditions do exist and the use is reasonable.

It was moved by Fred Tedeschi and seconded by Mike Hodder to grant the variance request for a Variance on Case # 05-V-16, TM # 231-55 for a Variance from Section 175 A (2) from the Wolfeboro Planning & Zoning Ordinance to permit the construction of and approximately 10' x 10' addition to an existing structure within the 10' setback requirement.

It was moved by Mike Hodder and seconded by Fred Tedeschi to amend the motion to include the conditions as proposed in the Planners Review, dated March 28, 2016, numbers 1-6 as follows:

- 1. The approval to permit the encroachment into the side setback, subject to a Special Exception for the expansion of a nonconforming use (a second dwelling on a lot)*
- 2. 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, 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 application, as submitted to the ZBA, does not satisfy all applicable requirements for a building permit or Shoreland Permit.*
- 4. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.*
- 5. 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.*
- 6. This Variance approval supersedes all previous actions by the Zoning Board of Adjustment.*

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

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

TM# 231-55

Case #04-SE-2016

Applicant: Charles Mock Trust 1996

Special Exception

Agent: Michael Browher, Browher Construction

Alan Harding read the abutter and public notice for the record. A site visit was held prior to the meeting. Minutes were submitted for the file.

Public Hearing for a Special Exception from Article XXI, Section 43-A 2 of the Wolfeboro Planning & Zoning Ordinance to permit restoration of a guest cottage and addition of guest area; total square footage of expansion would be 103.75 square feet. This property is located at 243 South Main Street. A site visit was held at approximately 6:40 pm prior to the hearing.

Michael Browher addressed the Board and reviewed the application and plans as submitted.

Cindy Fogherty, Mr. Mock's daughter addressed the Board and stated the wish to use the cottage as it was intended and they feel they meet the requirements.

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

Suzanne Ryan commented she felt the ZBA cannot look at a new Special Exception criteria and she does not see a second dwelling currently as a use by Special Exception. Additionally she feels the use has been abandoned.

Dave Senecal disagreed with the use being abandoned and commented there is a newer electrical service and water in building with water and sewer charges being billed to the unit. If there were no water meter, and the electrical service was disconnected that would show abandonment. This is not the case.

Suzanne Ryan agreed with the explanation.

Sarah Silk asked about storm water drainage and noted a problem in the area. This is a small addition and should not be a concern.

Dave Senecal stated when applying for a building permit that would be part of the process.

The Board reviewed the 8 criteria required for the Special Exception as follows:

1. **Site Suitability:** The specific site is an appropriate location for the proposed use or structure:
This includes:
 - a). Adequate usable space
 - b). Adequate access
 - c). Absence of environmental constraints (floodplain, steep slopes, etc.)

The Board agreed this criteria has been met.

2. **Immediate Neighborhood Impact:** That the proposal is not detrimental injurious, obnoxious or offensive to the abutting properties in particular and to the neighborhood in general. Typical impacts, which extend beyond the proposed site include:
 - a. Excessive trip generation
 - b. Noise or vibration
 - c. Dust, glare of heat
 - d. Smoke, fumes, gas or odors
 - e. Inappropriate hours of operation

The Board agreed this criteria has been met, will not change or is not applicable.

3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking;

The Board agreed this criteria has been met, will not change or is not applicable.

4. Availability of public services and facilities: That the following services and facilities are available and adequate to serve the needs of the use designed and proposed:

- a. Sewer
- b. Water
- c. Storm water Drainage
- d. Fire Protection
- e. Streets
- f. Parks
- g. Schools

The Board agreed this criteria has been met, will not change or is not applicable.

5. Appropriateness of Site Plan: Consideration shall be given to the following:

- a. Parking Scheme
- b. Traffic Circulation
- c. Open Space
- d. Fencing/Screening
- e. Landscaping
- f. Signage
- g. Commercial Vehicles
- h. Lighting Impact

The Board agreed this criteria has been met, will not change or is not applicable.

6. Immediate neighborhood integrity: That the uses and established use patterns be weighed with recent change trends in the neighborhood.

The Board agreed this criteria has been met, will not change or is not applicable.

7. Impact on property values: That the proposed use will not cause or contribute to decline in property values of adjacent properties.

The Board agreed this criteria has been met, will not change or is not applicable.

8. The proposed use or structure is consistent with the spirit of the ordinance and the intent of the Master Plan.

The Board agreed this criteria has been met, will not change or is not applicable.

It was moved by Suzanne Ryan and seconded by Mike Hodder to approve the Special Exception with the Planner's five criteria for Case # 04-SE-16, TM# 231-55, from Article XXI, Section 43 A (2) for Charles Mock Trust to the cottage.

Conditions:

- 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, 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 a building permit or Shore land Permit.*
- 3. This approval is subject to the receipt of a Variance and any conditions attached thereto.*

4. The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.
5. This Special Exception 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.

All members voted in favor and the motion passed.

TM# 117-14

Case #06-V-16

Applicant: Craig Boronow

Variance

35 Westwood Drive

Alan Harding read the abutter and public notice for the record. A site visit was held prior to the meeting. Minutes were submitted for the file.

Public Hearing for a Variance from Article 175-124 of the Wolfeboro Planning & Zoning Ordinance for the construction of a single story garage attached to the existing dwelling. This property is located at 35 Westwood Drive.

Craig Boronow addressed the Board and reviewed the application and plans as submitted. The area between the garage and dwelling is not a breezeway. It is a 4' section space to allow for a stairway to reach the dwelling and to preserve the window in the dwelling for lighting. The well and septic are a constraint on the property as well as the steep grade on the side and towards the rear. There was an existing porch that had been removed. The abutters have been shown the plan and Craig Boronow noted they did not have a problem with it. A letter from the selling Realtor was submitted and is part of the application stating there would be no diminution of property values.

Chris Franson asked about the possibility of a detached garage towards the rear of the property.

Craig Boronow depicted on the plan the wellhead, septic area and steep slope, which make it not a feasible area.

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

The Board deliberated on the application and the criteria required for the Variance.

1. The variance will not be contrary to the public interest.
Suzanne Ryan felt this was not met. The remainder of the Board felt it was met.
2. The spirit of the ordinance is observed.
The Board felt this criteria was met.
3. That substantial justice is done.
Suzanne Ryan did not feel this criteria was met. The remainder of the Board felt this criteria was met.
4. The values of surrounding properties will not be diminished.
The Board agreed this criteria was met.

5. Literal enforcement of the provisions of the ordinance would result in and unnecessary hardship because: The Special Conditions of this property that distinguish it from other properties.
(B) Owing to the Special Conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use.

The Board agreed this criteria was met.

It was moved by Suzanne Ryan and seconded by Mike Hodder to approve Case # 06-V-16, TM# 117-14 a Variance for a 20' x 24' garage with a 12'x4' area for the stairs in accordance with a plan dated 10-27-2015 subject to the following conditions:

1. *The approval is for the construction of a garage and breezeway, as shown on the survey plan.*
2. *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, 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 application, as submitted to the ZBA, does not satisfy all applicable requirements for a building permit or Shoreland Permit.*
4. *The Notice of Decision shall be recorded at the Carroll County Registry of Deeds and the applicant shall pay all recording fees.*
5. *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.*

All members voted in favor. The motion Passed.

Consideration of Minutes:

March 7, 2016

Amendments:

Page 1 – Members absent – change (retired from the Board) to excused absence after Alan Harding

Page 2 – 1st paragraph – change the Hospital Community Aid Association which is a separate 501C3 Organization separate from Huggins Hospital and Sarah Silk feels there is no conflict of interest.

Change Public Hearing opened to Re-Opened

Page 5 – 5th paragraph from the bottom – add Meeting Minutes after February 1, 2016

3rd paragraph should read – Sarah Silk responded to Mike Hodder asking her at the meeting what her specific wording was. She is set to vote on approval with the idea the Board can make amendments in the future, particularly referring to insertion of the wording “whole Board” meaning all members and alternates.

It was moved by Suzanne Ryan and seconded by Fred Tedeschi to approve the minutes of March 7, 2016 as amended. Fred Tedeschi, Suzanne Ryan, Hank Why, Chris Franson, Susan Raser and Sarah Silk voted in favor. Mike Hodder, David Senecal and Alan Harding abstained due to their absence. The motion passed.

1 February 2016

Sarah Silk stated she did not get a chance to listen to the recording and will not be voting on the minutes even though they received a note from Robin Kingston; she is still certain of what she said.

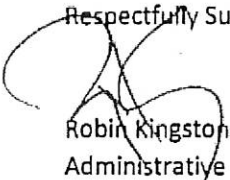
Page 2 – 3rd Motion from the bottom add “seconded by” before Mike Hodder.

It was moved by Fred Tedeschi and seconded by Hank Why to approve the minutes of February 1, 2016 as amended. Fred Tedeschi, Mike Hodder, Suzanne Ryan, Alan Harding and Chris Franson voted in favor of the motion. David Senecal abstained as he was absent from the meeting. Sarah Silk abstained. The motion passed.

Suzanne Ryan asked for a document of an older overview of the process of the Rules of Procedure be distributed to the Board. Fred Tedeschi will have it distributed.

There being no further business this meeting was adjourned at 9:21 pm.

Respectfully Submitted,



Robin Kingston
Administrative Assistant