

TOWN OF NEW LONDON  
ZONING BOARD OF ADJUSTMENT  
JUNE 16, 2008

PRESENT: Willam Green (Chairman), Laurie DiClerico, Sue Ellen Andrews, Doug Lyon, Peter Stanley (Zoning Administrator).

PUBLIC HEARING

Walter and Rebecca Partridge requested a variance to the terms of Article V, Section C-2 of the New London Zoning Ordinance to allow a proposed new garage to be situated eight feet from the side yard property line; that is, twelve feet less than the side yard setback requirement, or seven feet less than the variance granted at a November 5, 2007 Zoning Board of Adjustment hearing.

Bill Green opened the Hearing at 7:35 p.m., called the roll, read the Notice of Hearing as posted, and announced that the Hearing would be tape recorded. Applicants Rebecca and Walter Partridge, and abutters Don Pavlik and Louise Carey spoke at the hearing.

Applicant's Presentation

Walter Partridge reminded the Board that on November 5, 2007, it granted the Partridges a variance in order to allow them to construct their new garage fifteen feet from the side yard setback. At that hearing, the Board learned that the small size of the lot, the topography there and the location of the septic system leach field prevented applicants from constructing the garage any further to the right.

In preparing to go forward with their project, the Partridges found that the side property line is actually five or six feet closer to their home than they'd thought. If they proceed to construct the garage in accordance with the variance granted—that is, fifteen feet from the side line, it would then have to go past the retaining wall of their septic system, and be well into the leach field. Thus, they are here tonight requesting an amendment to that variance, to allow them to construct the garage eight feet from the (newly discovered) side property line. He clarified that nothing has changed about the construction itself—that is, it will be the same size, style, and in the exact same location on the lot as described at the previous hearing. The distance between the proposed garage and the back and front boundaries, between the proposed garage and the neighbor's house, and between the proposed garage and their own (the applicant's house) have not changed. It is the location of the side property line that is different for this hearing.

Doug Lyon asked to confirm that the back line setback is not an issue. Walter Partridge confirmed that. The issue is that at the last hearing, the Board agreed to allow a fifteen foot side line setback—a variance from the twenty foot required. Now applicants are back, having found that that variance is not enough. Bill Green asked to confirm that the new proposal is seven feet off from the variance granted on November 5. Walter Partridge confirmed that.

Doug Lyon asked the abutter to that side property line if she had objections. Louise Carey said she does not have an objection to the location of the proposed garage. She said her only question is if and when she wishes to sell her house, will this variance make a difference in her deed. Doug Lyon said it would not affect her deed, but anyone who buys her property must be aware of the variance. The change will be permanent.

Peter Stanley asked to confirm that they have found the back property line all marked by pipes, and that they found the front boundary in the driveway—so they know where those are. Walter Partridge agreed that the back line is marked with pipes, and that they have one granite post on the front boundary. Peter Stanley recommended that property owners clear around the boundary markers so that they can be easily seen all the time.

He asked Walter Partridge about the overhang on the proposed garage, pointing out that the setback variance, if granted, must be measured from that, and not from the foundation of the garage. Walter Partridge said that the eaves will be eight-inches wide, and the eight feet will be measured from the edge of the eave, that is from the drip line. They plan to put the concrete slab nine feet from the side line. He pointed out that at the time of the first hearing, he did not understand that they must begin measuring from the drip line, so in that sense, if this variance is granted, the construction will be more in conformance with it than the original proposal would have been.

Abutter Don Pavlik reminded the Board that he has a similarly sized lot, and that it had previously granted them a variance allowing a five foot setback to that side property line. He added that he, too, began measuring the setback from the drip line of his twelve-inch wide eaves. He strongly supported the granting of this variance.

Hearing no further comments or questions, Doug Lyon moved that the Board close the Public Hearing, and enter deliberations. Laurie DiClerico seconded. No further discussion. Motion unanimously approved.

### Deliberations

Doug Lyon reviewed the five criteria that must be found to exist before the Board can grant an area variance, noting that applicant went through these at the November hearing, and there was lengthy discussion regarding those at that hearing. .

1. The value of surrounding properties will not be diminished. He observed that prior to the enactment of the zoning ordinance, a series of three small lots were created in this location. They are all similarly sized, and all of them have difficult boundaries. At the November hearing, it was determined that the variance would not diminish surrounding property values. He reminded everyone that at that Hearing, the Board observed that the variance had the support of all the neighbors.

2. For the same reason, he said the variance will not be contrary to the public interest. The properties will actually be improved by virtue of the work that is going to be done.
3. He pointed out that the small size of the lot, the fact that it is not served by town sewer and thus must have its own septic and leach field, limit the locations for a garage that would be large enough to be useful. The same benefit cannot be achieved by some other reasonable manner. He recalled that applicant has looked at a variety of possible locations for a garage on this lot, and all were blocked by the small size of the lot, the topography and the necessity and location of the existing septic and leach field.
4. Substantial justice will be done in granting the variance, as it will allow applicants to build a garage large enough to be useful. He observed that the existing garage that is to be replaced is not large enough to allow a single car.
5. The variance will be consistent with the spirit of the ordinance. He noted that the three lots in this location, including the applicants', existed prior to the enactment of the zoning ordinance. He said that the idea of the zoning ordinance is to allow reasonable boundaries for various properties.

He concluded his remarks by reiterating that he is comforted by the support of the neighbors for granting this variance. Subsequent owners of these properties will be aware that the setback has been adjudicated by this Board.

Bill Green agreed with those conclusions, adding that the topography of this property—that is, the slope between the side line and the leach field further limit the garage to the proposed location.

Laurie DiClerico and Sue Ellen Andrews agreed.

Doug Lyon moved to grant the area variance as requested. Laurie DiClerico seconded. No further discussion. Motion unanimously approved.

#### Minutes June 9, 2008

The minutes were amended to indicate that the Hearing opened at 7:30 p.m., not 7:30 a.m. Minutes were unanimously approved with that amendment.

The meeting adjourned at 7:55 p.m.

Respectfully submitted,  
Sarah A. Denz  
Recording Secretary