TOWN OF NEW LONDON

New London Zoning Board of Adjustment
January 7, 2008

Present: Bill Green (Chairman), Sue Andrews, Laurie DiClerico, Doug Lyon, Michael Todd.

Public Hearing for Donald and Terry Pavlik. Applicants requested an area variance to the terms of Article V, Section C-2 of the New London Zoning Ordinance in order to replace an existing garage and construct a new stoop within the side yard setback requirement of 20-feet. The property is located at 368 County Road in the R-2 zone. Tax map 072, Lot 013.

Bill Green opened the hearing at 7:30 p.m., called the roll and read the Notice of Hearing as posted. Abutters Walter and Rebecca Partridge were also in attendance.

Applicant's Presentation

Donald Pavlik explained that their application for a building permit led them to this zoning process. The existing garage with stone foundation and dirt floor is neither safe nor usable. Their plan is to raze it, and pour a concrete slab and rebuild. The garage will be eight feet high with a four foot pitched roof allowing some dry storage above. It will be clapboard sided—he is not sure at this point whether it will be vinyl sided or wood, but it will be painted the same color as the house. The porch on the side of the house will have a metal roof with a 12:12 pitch to send falling ice and snow off to either side rather than down onto anyone entering or egressing the side door. It will be open with a railing. The three foot square deck on the porch will allow them room for a storm door.

He went on to point out that the lot is 100'x 100' with no access to the Town septic system. Upon purchasing the house, the Pavliks installed a new septic and that precludes their using the back yard for these purposes. The yard there has a 3:1 slope. The garage will be situated at the right rear of the house, will be parallel to the house, but not to the lot line. Thus the rear right corner of the garage will be eight feet from that side line, and the front right corner will be five feet from the side line. The proposed stoop will be 18.9 feet from the side line on one side of it and 19.3 feet from the side line at the other.

Bill Green asked him to review the criteria for granting an area variance.

Donald Pavlik pointed out that

1. The improvements would increase the value of their property, and bring no diminution of value to surrounding properties.
2. It would improve the safety and appearance of the property and thus would benefit the public interest.
3. The special conditions of the property (size, slope) make an area variance necessary in order to allow the development as designed. The same benefit cannot be achieved in any other feasible way.

4. Substantial justice will be done here in allowing owners to use their garage and side door safely and practicably.
5. The use would not be contrary to the spirit of the ordinance. Doug Lyon pointed out that the lot is already non-conforming, and in at least one spot (the rear of garage) applicants will make it less non-conforming.

Open Hearing to Comments/Questions

Abutter Walt Partridge spoke in favor of this application.

Hearing no further comments or questions, Doug Lyon moved to close the public hearing and enter deliberations.

Deliberations

Michael Todd pointed out a discrepancy between the narrative that refers to double hung windows, and the diagram that shows three over three. Donald Pavlik said they haven't picked out the windows yet.

The Board agreed to consider both garage and stoop in reviewing the five criteria for an area variance. They agreed that there will be no diminution in value, that the area variance would not be contrary to the public interest, that special conditions exist on the property-the narrowness and slope, that there are no other reasonable alternatives, that in improving safety and appearance substantial justice will be done, that the lot is already non-conforming and to some extent the application will reduce that amount of non-conformity, and thus would not be contrary to the spirit of the ordinance.

Michael Todd asked how high the structure will be. Donald Pavlik said same as house—16 or 17 feet.

Michael Todd moved to approve the area variance with the condition that there be no addition to height, that applicants not add a second story later on. Applicants were agreeable to this condition, though Board members pointed out were they ever to add on they'd have to return to this Board. Doug Lyon seconded the motion. No further discussion. Motion was unanimously approved.

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Public Hearing for KJAM Realty Trust represented by George Pelletieri and Greg Grigsby of Pelletieri Associates. Applicant requested a special exception as permitted by Article XIII, Section E-1 of the New London Zoning Ordinance in order to cross wetlands with the new driveway. The property is located at 812 Route 103A in the R2 and ARR zones. Tax Map 103, Lot 021.

Bill Green opened this hearing at 8 p.m., and read the Notice of Hearing as posted. Owner Susan Gorgi, Dierdre Sheerr-Gross of Sheerr-Gross & White Residential Architecture, George

Pelletieri and Greg Grigsby of Pelletieri Associates, Peter Blakeman of Blakeman Engineering, and Peter Schauer of Schauer Environmental Consultants, were in attendance.

Applicants' Presentation

Susan Gorgi introduced the proposal, informing the Board that it is the culmination of two year's work by the expert team assembled here tonight. The family is anxious to mitigate the drainage and flooding problems on the property, but have remained extremely sensitive to environmental concerns.

George Pelletieri seconded the statement that this proposal shows a high level of environmental sensitivity. He reminded the Board that the State will be adopting an upgraded Comprehensive Shoreland Protection Act in April (and he was part of the governor's team working on that), and that the Town of New London is considering adopting the same changes. This proposal adheres to the (new) Shoreland Protection Act. Specifically:

- The existing house is 40-feet from the lake. That will be razed and the new house will be almost completely behind the footprint of the existing house. They considered the possibility of raising the design of the house, but that would have presented a larger profile from the lake side. The new house will maintain the current elevation with lower profile. It will blend into the landscape. They also considered the possibility of building the new house slightly south of the proposed area, but that would have impacted the stand of large trees there.
- The old septic system with tanks located within the well radius and leach field that bordered wetlands has been abandoned and replaced with a new state approved system that meets all state and local setbacks. The new leach field, tanks and pump chamber are located further back from the lake and out of the well radius.
- The proposal schedules the majority of work to occur in areas that have already been disturbed in the past.
- Apropos of this application specifically, the new driveway will avoid crossing the wide portion of the forested wetland on the property, and will skirt the edge of the mown wetland. The old crossing will be removed and revegetated with wetlands plantings. Thus while the proposed driveway will impact 2,866 square feet of wetland, it will remove the old impact of 4,509 square feet. Thus there will be a net gain of 1,643 square feet of wetland. In addition the use of retaining walls along the driveway will limit the cut extensions that will occur in the wetland. The proposed location of the new driveway is where it should have been in the first place. This is the way it will be least intrusive. The proposed retaining walls will guide the change of slope as the driveway proceeds toward the lake. They will be able to terrace the slope there, thus slowing down the flow of runoff. The driveway avoids large slope areas.

He said the New London Conservation Commission has reviewed this and approved it. It has gone on to the State as a minimum impact expedited application, and the written approval is pending. During planning stages, the State expressed approval of these changes.

Soil and Wetland Scientist Peter Schauer went into some detail about the way in which wetlands will be addressed in this proposal. The current driveway bisects the large wetland on the

property. There is no culvert but all subsurface drainage resulting in severe erosion problems. They propose removing that material and redirecting the flow into a southerly wetland, allowing greater filtration. From there it will flow off site. The other location of impact is along the edge of the smaller wetland to the north. That area has already been disturbed in the past.

He pointed out that location of an intermittent stream from a culvert on 103A, and the groundwater discharge that occurs there, saying that these improvements will not affect that function.

He pointed out the differences between the mowed wetland or "wetlands emergent" and the forested wetlands. He noted that the soils in these wetlands are poorly drained, not very poorly drained.

In conclusion, he pointed out the public benefit in that they will be impacting 2866 square feet of wetland, but restoring 4,509 square feet. There really is no better or more feasible alternative for locating the driveway.

Sue Andrews asked about just continuing the driveway to the main house from the driveway that goes to the carriage house. Peter Schauer and George Pelletieri pointed out that that would necessitate cutting into a steeper grade there. Peter Blakeman pointed out that by curving the driveway away there, they have reduced the distance required to meet the elevation change.

Doug Lyon pointed out that applicants are really proposing to make a non-conforming lot conforming (with relocation of house). Peter Schauer noted also the drainage improvements and the proposed rain gardens to the north and south of the new house. Dierdre Sheerr-Gross said this application complies with Low Impact Development criteria, though the Town does not require that.

Michael Todd pointed out that the new house will be five feet higher than the current one. Greg Grigsby said it will be less visible from the lake. George Pelletieri referred to the low pitch on the roof. Michael Todd asked how many stories will the house have on the lake side. Two. He asked how many bedrooms it will have. It will have eight. The old house has nine, but less square footage.

He asked about the retaining wall. There will 1100 feet altogether of varying heights. Dierdre Sheerr Gross reminded him that the placement of the retaining wall allows less impact on the wetlands. George Pelletieri reminded everyone that this application complies with LID criteria and the Comprehensive Shoreland Protection Act.

Michael Todd said that considerable foliage will be removed. Bill Green reminded him that the Board is considering the driveway tonight. Michael Todd said they're looking at impact on water quality.

Peter Blakeman said the drainage for the impervious part of the driveway and the house will be picked up by the storm drains and the 12" pipe. He described the 975 square feet of rain gardens, the location of a swale on one side and the possible location of another storm drain.

Michael Todd asked if the pipes will be perforated or solid. Peter Blakeman said they will be solid. Those along the edge of he driveway will be perforated. George Pelletieri added that the drains behind the retaining walls will be perforated. Peter Blakeman said clean groundwater will simply flow over the surface.

Michael Todd asked if there were any comments from the Conservation Commission. He said the zoning regulations require the Board to review those. Peter Blakeman said the zoning ordinance requires applicants to submit plans to Conservation Commission thirty days before applying to the Zoning Board. Sue Andrews, former chair of the Conservation Commission said the Conservation Commission does review these and does have the option of attending the zoning hearing.

Referring back to the plan, she suggested that if the house were slightly smaller, the place where the driveway goes into the garage would not impact the wetland. Peter Blakeman said the curve of driveway shown on the plan is the minimum radius that would allow a vehicle to turn there. Susan Gorgi said the house is larger as the family has in-laws residing there in the summer. Bill Green added that the wetland there has already been disturbed in the past.

Sue Andrews said she does see a gain in this plan. George Pelletieri said they are gaining 57% of wetlands on the property.

Michael Todd asked about the path north of the 64 square foot wetland, and asked if it would be an option to have the driveway there. George Pelletieri said that would cross a wetland and would not allow adequate turning radius. Three would be a 15% grade to the house there. To get a 12% grade, they would have to cut into the higher value wetlands.

In response to Bill Green's request, George Pelletieri reviewed the criteria for a special exception as listed in Article XXI, Section G of the New London Zoning Ordinance. This lengthy narrative is included in the application packet.

Open Hearing to Comments/Questions

Hearing no further comments or questions, Doug Lyon moved to close the public hearing, and enter deliberations. Sue Andrews seconded. No further discussion. Motion unanimously approved.

Deliberations

Doug Lyon reviewed the three criteria necessary to grant a special exception.

1. The use (crossing wetlands) is one that is ordinarily prohibited in the district.
2. The use is specifically allowed by special exception under the terms of the ordinance.
3. The use does meet the conditions specified in the ordinance for granting the special exception.

He concluded that as all three are met here, the Board must grant this special exception. He added that he sees a net positive gain here in reduction of erosion, improvement of septic system, net gain in wetlands, improved drainage, and the meeting of LID criteria.

Michael Todd referred to the Master Plan, and its concern for waterfront housing, so that values are protected and water quality maintained. He noted that Lake Sunapee is a potential drinking water source, and that New London has been described as a mecca for those enjoying water recreation. He said New London is considering adopting the Comprehensive Shoreland Protection Act, and already has a Shoreland Protection District. He concluded by saying that he feels the Zoning Board has the right to ask for a second opinion. The Board has thirty days before it must render a decision

Susan Gorgi asked from whom he would like another opinion. Michael Todd said he would like one more professional opinion on whether or not this proposal is the most reasonable for this property. Sue Andrews said it already shows a net gain in wetlands and shore setback.

Michael Todd moved that the Board take this application under review and issue its written decision within thirty days. There was no second to the motion

Doug Lyon moved that as the application meets the three criteria specified for granting a special exception, that the Board grant this request. Laurie DiClerico seconded. No further discussion. Motion approved in a vote of four to one.

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Public Hearing for Curtis and Kristen Lindamood Applicants requested an area variance to the terms of Article VI, Section C-1 of the New London Zoning Ordinance in order to construct a 10' by 54' deck on their existing home, with less than the required front yard setback of 25-feet.The property is located at 23 Heath Lane in the ARR zone. Tax Map 042, Lot 001.

Bill Green opened this hearing at 9 p.m., and read the Notice as posted.

Applicants' Presentation

Curtis Lindamood pointed out that Heath Road was put in after the house was built, and renders the easternmost corner of the house right on the 50-foot setback form the road. They are proposing to construct a deck the full length of the house, and ten feet wide. That would bring the corner of the new deck to 47.5 feet from the road. They would prefer to not make the new deck only eight feet wide, or any shorter than the full length of the house. They are considering making it into a farmer's porch at some point in the future. In response to question from the Board, the said that angling the deck at the end is an option, but they would then feel obliged to angle it at the other end as well, and the total would nto be as aesthetically pleasing. They would prefer to keep the deck flush with the façade of the house.

No abutters or other interested parties attended this hearing. Hearing no further comments or questions, Doug Lyon moved to close the public hearing and enter deliberations. Laurie DiClerico seconded. No further discussion. Motion unanimously approved.

Laurie DiClerico pointed out that the uniqueness of this property is the proximity of the road that was built after the house. Sue Andrews said she sees no problem with this area variance. There is no negative impact.

The Board reviewed the five criteria for an area variance.

1. There will be no diminution in value of surrounding properties.
2. The area variance would not be contrary to the public interest.
3. Special conditions exist on the property in that the road constructed after the house encroaches on the property's right of way. There is no other financially feasible alternative that would allow an aesthetically pleasing deck (one that would not be cut in at each end), and retain the potentiality for a farmers porch in the future.
4. In allowing this area variance, owners' use and enjoyment of property will increase and substantial justice will be done
5. Allowing the area variance would not be contrary to the spirit of the ordinance.

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Other Business:

The minutes of November 5, 2007 were unanimously approved as drafted.

Meeting adjourned at 9:30 p.m.

Respectfully submitted,

Sarah A. Denz
Recording Secretary