

TOWN OF NEW LONDON
ZONING BOARD OF ADJUSTMENT
JUNE 12, 2006

PRESENT: Larry Ballin (Chairman), Russ Cooper, Randy Foose, Bill Green, Caroline Newkirk.

PUBLIC HEARING

Robert and Caroline Bossi requested a variance to the terms of Article XX §B-3-b of the New London Zoning Ordinance in order to enlarge their house on Putney Road. The current structure is non-conforming in that it is within the 50-foot front yard setback from Putney Road. The construction will consist of a 20' by 30' addition on the west side and a 40' by 40' addition on the east side of the existing structure. The property is located in the conservation district, Tax Map 011-002-000.

Larry Ballin opened the public hearing at 7:30 p.m., called the roll, read the notice of hearing as posted, and announced that the hearing would be recorded. He informed the hearing that an error in property owner's name occurred in the notice which was published in the *Intertown Record*, and he confirmed with the applicants in attendance that they had been notified of the error, and they agreed to proceed with the hearing.

Prior to the hearing, ZBA members received copies of the applications for variance and for building permit, copy of the plat for the Bossis' 12.5 acre lot located at the end of Putney Road (where the Town's Class VI or right of way begins), and several hand-drawings of the proposed construction. At the hearing, members received a narrative from Rob Bossi further describing the lay of the land which consists primarily of southeast facing slope, with the exception of some flat area where the existing house is located, and some flat area further back at the top of the hill. In the narrative he cites the extensive excavation that would be required to build at the top of that hill, and the difficulties abutters have had in drilling a well on their own property which abuts that flat top of the hill site. He included an estimate for construction of a driveway to that point. He also noted that within the past ten years, they have installed a new furnace in the existing house, and have received approval for a new leach field there—expenses which they would like to not have to duplicate in another location.

During his presentation at the hearing, Rob Bossi provided some photographs of the property and existing structure. He pointed out that locating the construction further downhill is not an option as runoff down the hill to its base every spring causes the field there to be saturated. On the other hand, pushing the house further back from its current site would require a huge amount of excavation into the hill itself. The remaining two options for construction are the top of the hill or on the location of the existing structure. He elaborated on the difficulties the top of the hill site would present, including cost of constructing and maintaining a drive up that steep (20%) slope, and noted that abutters to that top of the hill site—the Yuskitis', have had to drill two wells and still do not have adequate water supply. Despite the better view from the top of the hill, the Bossi's would prefer to build down by the road. That would obviate the expense of drilling a new well, having a new leach field, etc., in a different location.

Russ Cooper asked him to clarify how they are going to lay out the new additions. Rob Bossi said the existing cape sits square to the road. The two new additions, one on either side of that, will be set back about 20-feet from the façade of the existing cape. In other words, the new additions will be set back 35-feet from Putney Road, though he said an old stone wall built years ago by the Putneys injects some confusion into the question of where the road really ends, and where the Town's right-of-way (the Class VI road) begins. Peter Stanley confirmed that they have found the bounds, and verified the location. Rob Bossi added that it appears that there has been extensive excavation around the current house's site over the years, in order to make that spot flat.

Larry Ballin asked for input from the Town. Peter Stanley agreed that this is a challenging site. The area below the house is all wetland, and uphill is not an option as it gets steeper as you go up. Any different location for the construction would increase the cost. He said the town does not have an objection to this proposal.

Larry Ballin noted also that relocating the house would increase incursion into conservation land. Peter Stanley agreed, pointing out that this proposal is not for a new home; this is already an established home site.

He went on to remind the Board that the two criteria to find hardship for an area variance are: (a) a special condition of the property makes the variance necessary in order to allow the applicant to construct a development as designed, and (b) the applicant cannot achieve the same benefit by some other reasonably feasible method that would not impose undue financial burden.

Larry Ballin said the Board does not usually use financial hardship as a real benchmark; however, the site's location within the conservation district should be considered. He asked if the Conservation Commission has looked at the application. Peter Stanley said it has not, and ZBA members agreed that this would not come under that Commission's purview. Larry Ballin pointed out that the spirit of the conservation zone would seem to be better served by keeping the house where it is. Peter Stanley added that zoning in the area is 25-acre. There can be no development on the other side of the road, thus this construction would not infringe on the spirit of the ordinance to keep things separated.

Russ Cooper asked if there are any houses past this one. No, the Bossi's nearest neighbor is Sam Bucklin on Morgan Hill Road.

At the Board's request, Rob Bossi reviewed the five criteria for granting a variance, and explained how this proposal meets those.

1. There will be no diminution in value of surrounding properties. The site is surrounded by conserved land, and wetland, and these improvements will add to the town's tax base.
2. The granting of the variance will be of benefit to the public interest. He said that for several years now, this house has been a postcard. The proposed additions are in keeping with the cape style of the house, and will improve the site. He added that they will maintain the field, and the footpath there to Pingree field. Hikers do park at the end of Putney Road there, and they are greeted kindly.
3. Denial of the variance would result in unnecessary hardship to the owner. He reiterated that the only other options for building would be back into the hill, requiring extensive excavation of the hill, or up on the top of the hill, resulting in huge expense in construction and maintenance of a driveway.
4. The Board said they will determine the issue of substantial justice during its deliberations.
5. The contemplated use is in keeping with the spirit of the ordinance. The Bossi's have anticipated building here for twelve years, and they have looked at all aspects. Their goal is to not interfere with the surrounding conservation land.

Hearing no further questions or comments, Russ Cooper moved to close the public hearing and enter deliberations. Bill Green seconded. No further discussion. Motion unanimously approved.

Russ Cooper said he feels this proposal meets the spirit of the ordinance, and he referred to Peter Stanley's description of the surrounding conservation land. Bill Green agreed that this would be a reasonable use of the property, as did Randy Foose. Caroline Newkirk said that special conditions exist here which would recommend granting the variance.

Randy Foose moved to grant the variance. Bill Green seconded. No further discussion Motion unanimously approved.

PUBLIC HEARING

William Faccone representing Judith Curtis, requested a variance to the terms of Article VI §C-1 of the New London Zoning Ordinance, in order to move an existing, non-conforming structure (a garage) located at 385 Seamans Road, further back onto the property, and turning it 90-degrees. The relocation would reduce the building's infringement into the 50-foot front yard setback, but would not change its non-compliance with the 25-foot side yard setback requirement. The property is in the ARR zone.

Prior to the hearing, members received copies of the application and building permit, and a to-scale drawing showing the current and proposed location of the garage.

Larry Ballin opened the public hearing at 7:45 p.m., called the roll, read the notice of hearing as posted, and announced that the hearing would be recorded.

William Faccone said that right now, the garage is only 6-feet from Seamans Road, and it is nearly impossible to gain access into it, and once in, it is near impossible to safely back out of it onto Seamans Road. What the applicant proposes is to maintain the same distance from the side line (about 10-feet), but push it back to a location 50-feet from the road, and turn it 90-degrees to allow owner to both drive in and back out of it from her own semi-circular driveway. He said that both he and Peter Stanley have gone around the property several times to try to relocate the structure in a way that would improve the distance from the side line, but septic systems, gradations, and other factors came into play. He added that they will be relocating the same structure—no change in size or shape, and putting it down on a concrete form.

Larry Ballin asked to confirm that the relocation will bring the building into compliance with the required set back from Seamans road, but will maintain the same distance from the side line (the boundary with Colby Sawyer College property) that it has now. Correct.

He asked to confirm that there will be no change to the side. Yes, it will be the same building. William Faccone said that another option would be to add a bay onto the back of the current garage, and have two doors allowing the owner to get in and out by driving through, but that would not be the more practical solution.

Peter Stanley verified that the location of the septic system precludes moving the garage behind the house. He noted that the house is legally set back from the back property line, but there is no way to achieve that with the garage unless they built a new septic system. He added that this would improve safety.

Hearing no further questions or comments, Randy Foose moved to close the public hearing and enter deliberations. Bill Green seconded. No further discussion. Motion unanimously approved.

Larry Ballin said this seems like a reasonable request given the traffic on Seamans Road and the nature of the lot. He suggested the applicant review the five criteria for a variance.

William Faccone reviewed:

1. There will be no diminution in value of surrounding properties. The property is surrounded by Cleveland and Colby Sawyer land—no houses. The value of the Curtis's house would be increased by this improvement.
2. The variance will benefit the public interest by improving safety both for the owner and for travelers on Seamans Road.
3. Denial of the variance would result in unnecessary hardship to the owner. There is no other location on this lot that would both be in compliance with all setbacks, and allow the applicant to access her garage safely.
4. The Board will determine whether substantial justice will be done by granting this variance.

5. The proposed use is not contrary to the spirit of the ordinance. Applicants have done what they can to comply with the ordinance. The relocation will bring the garage into compliance with the front yard setback.

Russ Cooper moved to grant the variance. Randy Foose seconded. There was no further discussion. Motion unanimously approved.

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Motion made, seconded and unanimously approved to accept the minutes of May 22, 2006.

Meeting adjourned at 8 p.m.

Respectfully submitted,

S.A. Denz
Recording Secretary