



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT (ZBA) MEETING MINUTES

Tuesday, December 3, 2019

New London Town Offices, 375 Main Street

6:30 PM

MEMBERS PRESENT: Douglas W. Lyon (Chair), Frank Anzalone, Stan Bright, Ann Bedard (recused), Katharine Fischer, W. Michael Todd

MEMBERS EXCUSED: Heidi Lauridsen

STAFF PRESENT: Nicole Gage, Zoning Administrator

OTHERS PRESENT: Pierre Bedard, Michael Quinn

1. **Call to Order** – Chair Lyon called the meeting to order at 6:30 pm.

2. **Roll Call** – Chair Lyon called the roll.

3. **Review of Minutes of October 15, 2019**

IT WAS MOVED (Michael Todd) and SECONDED (Stan Bright) to approve the minutes of the October 15, 2019 meeting with one change. THE MOTION WAS APPROVED UNANIMOUSLY.

4. **Case #ZBA19-19 - Variance**

New Parcel ID 045-003-0-0-0. 63 Murray Pond Road

Owner: Quinn Family Revocable Trust, Michael & Frances Quinn Co-Trustees

Applicant: Pierre J. Bedard

ZONE R-2

A variance is requested from the provisions of the New London Zoning Ordinance, Article V, Section C.1 to permit a reduction of front yard setback in order to build a 4-1/2 ft. by 10-ft vestibule.

Pierre Bedard attended the meeting to represent Michael and Frances Quinn. The Quinn family bought the property with the dwelling on it in 2013. The deed describes the property as being a 100'X100' lot. There is ambiguity in the deed record of this lot. The NCR plan #10164 shows the Quinn lot as shown on the town GIS system which had been recently modified from the 100'X100' foot dimension. The result is that the right of way line for Murray Pond Road is closer to the dwelling than the 100'X100' ft. lot which would place the right of way line close to the edge of the traveled way. The result is that the 25 foot front yard setback is very close to the existing house.

The Quinn family would like to build a small vestibule addition to the residential structure. The proposal is to build a 4-1/2 ft. X 10' vestibule/mudroom at their front door. Currently there is little room when entering the front door. The current entrance opens into a small hallway

immediately adjacent to the living room and bottom of stairs. Adding this vestibule will improve access into the structure and be more energy efficient, especially in the winter and inclement weather. The area adjacent to the structure where the renovations will take place is an open porch landing and stairs that extend over the setback line. Landscaping consists of plants and shrubs and natural bark mulch beyond the stairs. Michael Todd asked if the addition of this vestibule would fundamentally change the character of the neighborhood. Mr. Bedard stated no, and he feels that it will improve it.

Mr. Bedard reviewed the five criteria:

1. The variance will not be contrary to the public interest - The encroachment into the setback distance will be reduced from the 25 foot setback to 22.34 feet. However, the distance to the edge of the traveled way of Murray Pond will be over 39 feet.
2. The Spirit of the ordinance is observed - Physical conditions of the property such as the right of way line and the location of the traveled way within the right of way provide a larger buffer to the actual road than the 25 foot setback. The proposed structure has been located to maximize the setback as much as practical given site limitations.
3. Substantial justice is done - It will improve access to the dwelling as well as energy efficiency and the buffer to Murray Pond roadway will be greater than the 25 foot setback by over 50%. Michael Todd asked if the public will gain if we deny this. Mr. Bedard stated he doesn't see that they will.
4. The value of surrounding property is not diminished - the design of the addition will be in keeping with surrounding properties.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship - The property is a pre-existing non-conforming lot. Vehicles passing by the property would visually assume a reasonable front yard given the distance from the traveled way. The proposed use is a reasonable one as this is a very small no-living space addition and a structure to provide an improved, energy efficient entrance to the dwelling. The property cannot be reasonably used in strict conformance with the ordinance and a variance is necessary to establish a reasonable use of it. Most common front yard property lines are located at or near the traveled way. The condition on this property is unique in that the front yard property line is well away from the traveled way. The addition is 4-1/2 feet deep and a smaller structure is not practical.

Frank Anzalone stated this is an R-2 zone so the minimum lot size is 2 acres so they are trying to apply 2 acre zoning standards to a less than 10,000 square foot lot.

Chair Lyon stated he went and viewed the property and it is apparent that there is a lot more than 25 feet from the front of the house to the road. This is a tiny infringement that has no practical relationship to the reason that the ordinance was created. This does not change the character of the neighborhood.

Two letters from abutters were sent in to support granting the variance.

Katharine Fisher asked if this would have an effect on the health and welfare of the public. Mr. Bedard stated he doesn't believe so since the purpose of the front yard setback was so the house was set back away from the road and functionally that does exist in this case.

Ms. Fischer stated with respect to the spirit of the ordinance, the intent is to allow a variance possibility for reasonable use of the property. Mr. Bedard stated as it exists now, it is not practical. This will allow for much better access and doesn't impact public interest to have small encroachment.

With regards to substantial justice, Ms. Fischer asked if the advantage to the Quinn's outweighs any disadvantage to the public. Mr. Bedard stated it is more energy efficient and provides a better entrance. Ms. Fischer stated there is no detriment or benefit to the public.

IT WAS MOVED (Michael Todd) AND SECONDED (Frank Anzalone) TO DISCUSS. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Lyon stated they have heard the presentation and he personally went and looked at the lot and believes what is proposed is perfectly reasonable. He drove around the neighborhood and in his judgment; this project is not impacting the public interest and is a minor variation to the ordinance. The spirit of the ordinance has to do with creating front setbacks and when you drive by this property you can see there is a substantial setback despite the small area of the lot. Substantial justice has to do with the impact on the owner versus the impact on the public and there is no impact on the public with this proposal. However, not granting the variance creates a hardship for the owner. The value of surrounding properties won't be affected as the design is in keeping with the neighborhood. The odd shape and size of the lot compared to other lots in the area suggests that it does have unique characteristics. The use being suggested is a reasonable one. For all of these reasons, Chair Lyon is in favor of granting the variance.

IT WAS MOVED (Doug Lyon) AND SECONDED (Frank Anzalone) TO APPROVE THE VARIANCE REQUEST. THE MOTION WAS APPROVED UNANIMOUSLY.

5. Case #ZBA19-20 - Special Exception

New Parcel ID 045-003-0-0-0. 63 Murray Pond Road

Owner: Quinn Family Revocable Trust, Michael & Frances Quinn Co-Trustees

Applicant: Pierre J. Bedard

ZONE R-2

The applicant is applying for a Special Exception, permitted with the review and approval of the ZBA, as specified in the Zoning Ordinance by Article XXII, Section G.3 for a reduction of the depth of the stream buffer described in Paragraph D, Natural Woodland Buffer

Mr. Bedard explained the description is the same as above with the exception that the property was built in 1988 and predates the adoption of article XXII, Streams Overlay District March 13, 2001. This property is located in R-2 residential zoning district. The building and the lot is mostly within the natural woodland buffer of the overlay district. One of the property lines is close to Marvin Brook. Mr. Bedard stated when he looks at the ordinance it says where existing, a natural woodland buffer should be maintained. The definition of a woodland buffer is a forested area, consisting of various species of trees, saplings, shrubs and ground coverings in any combination or at any stage of growth that lies within 150 ft. of the reference line.

Michael Todd noted the only potential hazard created in this case would be potential runoff from the roof. Mr. Bedard stated infiltration trenches off of the drip line will be installed to contain

that. The containment will prevent any adverse effect to the environment. Mr. Todd asked if it would be in harmony with the surrounding area and Mr. Bedard responded yes.

The addition will be an expansion and enclosure of an existing open landing. Currently there is a granite porch with steps about four feet wide.

The use is specifically allowed a special exception and a reduction in the streams buffer is allowed under the ordinance.

The property is connected to the New London sewer system so there is no onsite wastewater and there is an existing well onsite inside the natural woodland buffer.

The use will not be detrimental to vehicular traffic. The work will occur 38 or more feet from the traveled way.

Now that the variance was granted, the special exception conforms to all other requirements of the zoning ordinance.

The use will not be detrimental to the character and enjoyment of the neighborhood. It will be in keeping with the character of surrounding properties.

The proposed structure and use shall be compatible with the spirit and intent of the zoning ordinance. The distance from the proposed structure and private road will be more than 50% greater than the required setback.

Conditions and safeguards - the proposed structure will have infiltration trenches installed to infiltrate runoff from the proposed roof and mitigate storm water from the structure. The project is not large in scope and disturbance of the area will be minimal. The intent of the spirit of the ordinance will not be compromised. The property has existed as a non-conforming structure prior to the adoption of the ordinance.

IT WAS MOVED (Michael Todd) AND SECONDED (Katharine Fischer) TO DISCUSS. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Lyon stated the criteria have been presented and in his judgment, the criteria have all been met.

Katharine Fischer asked if we should make a condition that the structure will be in accordance to the plans. Chair Lyon feels that it is reasonable to grant the special exception with the condition that it meets the criteria established according to the plan.

IT WAS MOVED (Doug Lyon) AND SECONDED (Michael Todd) to grant the special exception assuming that it will be constructed according to the plan. THE MOTION WAS APPROVED UNANIMOUSLY.

6. Other Business

- Nicole Gage provided the Zoning Board with the meeting schedule dates for 2020.

- Bruce Hudson has resigned from the Zoning Board. Steve Root and Lauren Chadwick have been appointed to the ZBA as alternates. Nicole Gage will provide them with all the materials they will need and the schedule of meetings.
- Nicole Gage has permission to put a photo of the Zoning Board into the town report for 2019 if the ZBA is interested. The Board agreed so a photo will be taken at the next meeting.
- Ms. Gage will be preparing binders for all board members. It will include ordinances, rules of procedures, the annual ZBA handbook and occasional articles of interest.
- Amendment Process – The Planning Board has not announced their public hearing date but they are meeting next week and will be reviewing Article XX (Legal non-conforming structures and uses).
- The Board of Selectmen are interested in putting a building inspector on the warrant for March, 2020. This will ensure the local enforcement of the state of New Hampshire building codes. This has been a discussion for many years.

7. Updating Rules of Procedure

Ms. Gage has gone through all the changes and proposals that board members have emailed her as well as provided her own recommendations. She will provide board members with two different copies. One copy has all the insertions and deletions and the other copy is a cleaner version. She checked all statutory references as well as the last amendment version. Each year as we get legal updates, she will check on them to see if any updates need to be made to rules of procedure or any parts of the ordinance.

Chair Lyon asked that the board members to go through the copies and let Ms. Gage know if you have any suggestions or concerns. Ms. Gage noted that legal will be reviewing it so if there are any questions that Board members want to raise, please let her know.

8. Motion to Adjourn

IT WAS MOVED (Katharine Fischer) AND SECONDED (Michael Todd) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting was adjourned at 7:42 PM.

Respectfully submitted,

Trina Dawson
Recording Secretary
Town of New London