



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
March 11, 2015**

PRESENT: Bill Green (Chair), W. Michael Todd, Paul Vance, Cheryl Devoe, Ann Bedard and Frank Anzalone (Alternate).

STAFF: Lucy A. St. John, Planning and Zoning Administrator.

ALSO PRESENT: Everett Pollard (Northcape Design), Chris Leister (Hogg Hill Design), Brian Byrne (owner) and Attorney Robert Dietel (Attorney from the offices of Gallagher, Callahan & Cartrell)

Call to Order:

Chair Green called the meeting to order at 6:30pm. He called the roll and welcomed new alternate, Frank Anzalone. He announced that this is a continuation from the Feb. 12, 2015 public hearing.

Approval of Minutes

- IT WAS MOVED (Michael Todd) AND SECONDED (Cheryl Devoe) to approve the minutes of November 20, 2014, as circulated.
- IT WAS MOVED (Paul Vance) AND SECONDED (Cheryl Devoe) to approve the minutes of February 12, 2015 with a correction on page 7, that the motion regarding the well include the specific Zoning Ordinance provisions, Article XVI, Shoreland Overlay District, C. and G. 2.b. THE MOTION WAS APPROVED UNANIMOUSLY.

Variance and Equitable Waiver of Dimensional Requirements Applications for Brian Byrne.
Property located at 1891 Little Sunapee Road. Tax Map 043-026-000. Owner, Brian Byrne.

Overview- Chair Green reviewed the discussion and action items from the February 12, 2015 meeting, including that the public hearing was continued to the March 11, 2015 to discuss the variance to reduce the setback for the garage structure and for the applicant to provide a response to meet the criteria for consideration of granting an equitable waiver of dimensional requirements.

Presentation by Owner's Representative- Everett Pollard introduced Chris Leister, Attorney Robert Dietel, and Brian Byrne. He and Attorney Dietel provided a brief history of how this situation came to their attention.

Mr. Leister explained that he earned the boundary issue when the State Dam Inspector was at the State property (abutting lot), and noticed the new wellhead. This was in late October/early November. Someone from the State contacted the head of the NHDES Subsurface Division, Rob Tardiff, who then contacted Mr. Leister to inform him that the setback had been violated. The well installation had already been completed, and the propane tank and generator were installed by that time.

It was also discussed that the Town's tax maps and abutters list, included a mailing address for the State property to be State of New Hampshire, 8 Eastman Road, Enfield NH, and that the NHDES Dam Bureau was not specifically noticed; thus, there was some delay in the State becoming aware of the situation. Mr.

Leister said the address to which the abutter's notice was sent was not accurate. It was noted that the State Dam Bureau is not listed as the abutter.

Attorney Dietel referred to the letter dated Feb 3, 2015 addressed to Lucy St. John, Planning and Zoning Administrator from James, W. Gallagher, Chief Engineer, NHDES. In the letter it states, that DES wished to go on the record as having no objections to the granting of these two variances.

Mr. Pollard said this issue came about because of an innocent mistake and reliance upon the Town's tax maps.

Attorney Dietel explained that the owner did not request a formal survey, as he relied on Town records, primarily the tax maps, which is common practice. They are looking at an application that does not require a survey. They relied on tax cards and records and public documentation to prepare a plan. He added that he looked at the deeds and perhaps the reason the tax records are off is due to the fact that the deeds have a strange, ambiguous beginning referencing the "side of the highway." He suspected that the deeds initially had a poor description of the property in the 1940's and 1950's which was carried on in the various deed descriptions over the years, which would explain why the town's tax records are off now. There is no dispute that an error was made; however, it was a good faith error. There was no intent to deceive but rather a mistaken calculation made in good faith.

Public Hearing Opened:

Everett Pollard reviewed the details outlines in the application for equitable waiver of dimensional requirements.

- ✓ Mr. Pollard said he didn't think #2 on the request was applicable because the violation hadn't existed for 10 years or more.
- ✓ Mr. Pollard stated that what was done was not a nuisance nor would it diminish the value of the other properties in the area. There are over 100' of forested land between the closest abutter and the attached garage. They have no plans to develop or deforest the adjacent area. They have a letter of support from the State in this regard stating that they are OK with this.
- ✓ Mr. Pollard said with regard to criteria #4, the public would not be harmed by the modification and noted that substantial buffers remain. The cost to remove and/or rebuild would be significant and greatly outweighs any minimal impairment of the public interest.

The Board commented and asked questions:

Bill Green:

- ✓ Did not think the distinction between the front and side-yard was needed for the equitable waiver. He thought it was a moot point.
- ✓ Did not think anyone looked at the tax map and read the deed simultaneously. If that had happened, the applicant and his representatives would not be here at the Zoning Board. Additionally, some of the bounds were found, but not all of them. If all the bounds had all been found, there would not be an issue. Board members can discuss who did or didn't do the right thing for a long time. The applicant will still be where he is at the end of that conversation. Does this meet the merits of an equitable waiver? Chair Green said he recalls having a couple of these cases come before the ZBA during his lengthy time on the board, but it was not a common occurrence. It happens through one error or a series of errors. Chair Green did not discern any intent in this case, but rather a series of errors.

Ann Bedard:

- ✓ Asked what is considered the front yard and the required setback (25 or 20 feet).
- ✓ Asked what is considered the front and what is considered the side?
- ✓ Asked what direction the house faces?
- ✓ Asked about the stone wall included in the deed description. Ms. Bedard said the deed notes that the stone wall was at the front of the property.
- ✓ She could not imagine how the owners got into this predicament considering it was a small building lot.
- ✓ She asked how the applicant's representative went about measuring to site the house. Mr. Pollard said he was the one who sited the house.
- ✓ Felt the equitable waiver should only be considered if the Board is going to place conditions on the approval.
- ✓ Asked if the site designers looked at a deed to determine where things would be situated.
- ✓ Inquired as to what the building permit application showed as the front property line. Ms. St. John responded that the building permit showed the property lines, on what is now shown as the "incorrect" plan.

Michael Todd:

- ✓ Asked about the four (4) courses and distances called out in the deed and why the discrepancies did not get the site designer's attention. He asked why there was no right angle turn referenced in the deed, which would signify it being a four-sided property shape.
- ✓ Asked if the site designer had read the disclaimer on the GIS and Tax map. It reads: "data shown on this map is shown for planning and informational purposes only. Municipality and CAI Tech are not responsible for any other purposes for misuse and representation of that map." Mr. Todd noted that the Town's tax map is not a boundary line survey.
- ✓ Referred to the plan that was presented to the board, prepared for Northcape Design. On it, the northwest setback is labeled the "front" setback. The southeast and southwest setbacks are labeled "side-setback." There is no setback labeled "rear" and the ordinance specifies that there needs to be a rear setback.
- ✓ Questioned Mr. Pollard's statement that he had not seen a deed, when a copy of the deed is included in the property account file.
- ✓ Asked Mr. Leister, who sited the septic system, how he knew where to look for the pins to delineate the four corners of the lot? The answer to this question is important to address "1B" of the criteria, showing that proper inquiry was made. Mr. Leister said there are two pins represented by lines on the diagram. Mr. Leister showed the point on the road and on the lake and drew what they had on the tax map and laid the map on the property and it fit. Mr. Todd said the deed references: "SW 238' degrees which does not change. He said the site designers should not consider the highway or "the road." Mr. Todd suggested a mirror inquiry should have been made.

Paul Vance:

- ✓ Asked if what was considered the front yard was actually the front yard, would the house have qualified under the old map? Mr. Everett answered that it did and Ms. St. John would not have approved the building permit application otherwise. It was more than 25' back from the setback.
- ✓ Said it seems that the issue is the placement of the house, not the septic. Mr. Leister placed the septic appropriately. Why inquire further from him? Mr. Pollard said he was the one who placed the house using the setbacks on the erroneous tax map with plenty of distance on both sides.

Cheryl Devoe:

- ✓ Said she considered this to be a failure to inquire rather than it being a good faith error, which addresses 1B.

Public Hearing Closed:

Motion to Discuss Equitable Waiver of Dimensional Requirements:

IT WAS MOVED (Bill Green) AND SECONDED (Paul Vance) to discuss. THE MOTION WAS APPROVED UNANIMOUSLY.

Cheryl Devoe:

- ✓ Said she was struggling with the fact that the site designers failed to inquire. She did not think they did it in bad faith, but it was a mistake and she does not want the board to set a precedent. She understood Mr. Leister to convey that the site designers checked out the deed and it was accurate (reading from his letter). It is obvious that the calculations are different. Miss Devoe asked how the site designers did not see the difference between the deed language and five sides of the property.
- ✓ Said it bothers her because there should have been an obvious inquiry. If the issue was simply an incorrect measurement, she could see that as being excusable. She considers this situation a result of a blatant failure to inquire. If an incorrect survey was given them, it would not be their fault. She felt this was an obvious error on the part of the property owner and his representatives.

Chair Green:

- ✓ Did not think setting the septic system would require a survey. Ms. St. John commented that NHDES has rules governing design and permitting of septic systems. It is her understanding that neither the State nor the Town requires a survey plan be submitted when applying for a septic system permit.
- ✓ Said if everyone was careful and perfect, there would not need to be an equitable waiver process. It is true the owner has built within the setback. Chair Green is not too concerned about any precedent because that is what the intent of the equitable waiver is-- for building within the setback.
- ✓ He said if mistakes were never made, there would not be a need for this type of provision. That is why the equitable waiver opportunity exists.
- ✓ Questioned if a survey had been done, would the outcome have been different?

Frank Anzalone:

- ✓ Commented that, unfortunately, what has happened is common practice and there are no rules that say property owners need to have a survey or a certified survey.
- ✓ Said he would have liked to have known the distance of the house from the septic on the initial plan, which the applicant's representatives did not provide. Also, he pointed out that if there is no basement, the setback from the septic tank would be less than if there was a basement.

Ann Bedard:

- ✓ Has a problem with ignorance of the law especially because there was room on the lot to fit the home properly.
- ✓ Didn't dot their "I" and cross their "Ts".
- ✓ There are many people with small building lots who manage to fit the buildings in correctly.
- ✓ The owner still could remove the garage and put it somewhere else inside the building lot.
- ✓ There is a legal document that exists (deed) and it is there regardless of whether the applicant or his representatives choose to use it or not.
- ✓ The owner's agents were not careful.

Paul Vance:

- ✓ Said he would feel differently were there not room to put that sized house on that lot. If the owner had built too big a house for the lot, it would have created a more serious problem. He believes the house could have been placed differently.
- ✓ Asked how an equitable waiver could be ever granted in this situation? If someone made adequate inquires, these problems would not had ever occur.
- ✓ Said he could see circumstances where the Board would not grant an equitable waiver. If the legislature put equitable waiver into law and provided that failure to inquire was included, it was considered as something that could happen. The owner relied on the tax map, there is an error, the house is completed and there is no hardship on the neighbor. There will always be mistakes made.
- ✓ Opined that the whole board felt frustrated because the house had already been built. If the Town required a survey for building permits, it might prevent this kind of problem from happening. Is failure to inquire enough to say the applicant does not qualify for the waiver? If there wasn't room on the lot to place what was built, he said he would feel differently about the matter.

Michael W. Todd:

- ✓ Said that all equitable waiver requirements have to be met to approve the equitable waiver. Looking at the corrected lot, from the lake shore where there is not a lot of question about where the lot begins (at the edge of the lake), if one goes 200' west for almost half the distance, that person is going along a straight stone wall. Anyone checking elevation on the land couldn't miss it and it lines up with the pin that was used when the leech field was set. He found it astonishing that an inquiry was not made at that point. Why was it so different? Also, if the applicant's representatives went to the lake and saw the pin, they must have seen there was no road there. That should have caused another question to come up. When paying for a lot like this, it is incumbent upon the owner to know what he is buying. This is accomplished by looking at the deed and the deeds of surrounding properties and having a survey done. He does not understand why an inquiry wasn't made.
- ✓ This whole issue was caused by a failure to inquire; nothing more. Since that part of the criteria is not met, he does not believe the Board could grant an equitable waiver.
- ✓ Said there was an obvious discrepancy between the shape of the lot, and also a disclaimer on the map saying it was not to be used for this kind of planning.
- ✓ This was not a matter of miscalculating, but rather of people cutting corners.
- ✓ The stone wall can be located in the field, and thus it is astonishing.
- ✓ If people were required to have boundary surveys, this would not have happened.
- ✓ Noted there is one case for equitable waiver that went to the NH Supreme Court. The Supreme Court reversed the decision because the conditions of the waiver were not met. Based on the evidence, Mr. Todd did not see an equitable waiver as relief for the applicant. He noted that the board still has a variance discussion to go through.
- ✓ Said the provision isn't in the law to address whenever a mistake is made; only when all conditions set forth in the statute are met. Criteria 1B has not been met: failure to inquire. A little investigation by a prudent agent or the owner himself would have disclosed that there was a problem. They laid out the house using a tax map that has a disclaimer saying it wasn't for that use. A little investigation would have solved this problem and he didn't understand why this wasn't done.

Public Hearing Closed:

Motion:

IT WAS MOVED (Bill Green) AND SECONDED (Ann Bedard) to approve the equitable waiver as requested. Two votes in favor of the motion – Paul Vance and Bill Green, those opposed- Ann Bedard, Cheryl Devoe and Michael Todd. **THE MOTION FAILED.** Request for the Equitable Waiver of Dimensional Requirements was denied as the Board of Adjustment determined that the primary reason for the violation was due to a failure to inquire, per Article XXI, H. 1. (b).

Discussion on what is the front yard, as shown as the corrected property line on the plan.

Chair Green commented that the Board will need to determine what portion of the property is now considered the front yard, as the boundary line has been corrected. Chair Green said they need to determine the boundaries of the front yard, so they can decide if this is a difference between a 20' or 25' setback. Ms. St. John referred to the definitions and other provisions of the Zoning Ordinance which discuss frontage and setbacks requirements for the R-2, Shoreland Overlay District.

Comments from the Board members

- ✓ Paul Vance said the driveway fronts on State property so was this a highway in the past? It was noted that it was a highway and that is what the deed references it as.
- ✓ Frank Anzalone believed the front yard was the side that faces the street. He asked what the State's property is used for.
- ✓ Ann Bedard said the survey shows the front being the side that faces the stone wall, which was the State highway of 200'. She commented the surveyor said the front setback is the stone wall.

Comments from applicant's representatives

- ✓ Mr. Byrne observed the front of the home is facing the field in front of him, not the highway or the stone wall. Mr. Everett said he could not see the stone wall as the front.
- ✓ Attorney Dietel referred to the plans which showed the corrected and incorrect property lines. He said that per the plan showing the corrected property line, the front would actually be point (pin). He commented that he can see ambiguity in the ordinance. He explained that the State property is mainly used to access to the dam and it is not large enough to do anything further due to setback requirements. An easement was granted by the State for the property owner to use the area to access the home. He explained that when he looks at the map and reads the definition, the operative word seems to be "bordering" and he feels the greater portion of the boundary on the easterly side is closer to Little Sunapee Road. Given the unique nature of the property, he thought it a fair interpretation considering they have just one point that reaches the road. He thinks the board should make this decision. He thought the fall back should look at the intent of the setbacks. Side setbacks are related to abutters. Front setbacks are related to roadways. The board can and should interpret that area to be the side and the 20' setback is the face of the house.

Motion:

IT WAS MOVED (Michael Todd) AND SECONDED (Bill Green) to consider the front dimension of the lot for the purposes of computing the front setback as the area shown on the plan as the "corrected property line" and as shown on the boundary plan submitted, which is approximately the 200' line bounded on each end by a stone wall, identified as the area alongside the State Highway S 38' W 200'.

THE MOTION WAS APPROVED UNANIMOUSLY.

Presentation on the Variance to Article V, Residential District, Setback requirements.

Chair Green gave the floor to Mr. Pollard to discuss the setbacks. He provided an overview of the responses included in their application material and how they met the variance criteria. Attorney Dietel then made several additional comments:

- ✓ He said he thinks what has been lost in the mix are the inequities here and the impact this will have on Mr. Byrne, and the fact that this was a good faith miscalculation.
- ✓ He said what was done is not contrary to public interest; the State has no objection. There are no concerns raised by neighbors on the other side of the property. Even though a mistake was made on the site plan, no detrimental effects will remain and there will not be any changes to the character of the property or the boat ramp.
- ✓ The spirit of ordinance will be fulfilled. There are over 100' of forest between the ramp and Mr. Byrne's home. There are no plans to further develop the area. A separation should remain even with the reduced setback to the corrected property line.
- ✓ Substantial justice would be done because the property was significantly completed at the time the error was discovered. The applicant and his representatives did what they could to correct the situation that was caused in error.
- ✓ Surrounding properties will not be diminished. The surrounding properties will not be affected at all. No complaints have been raised and the remaining setback areas will remain forested.
- ✓ With regards to unnecessary hardship, he said that New Hampshire State Law addresses a balance between the purpose of the ordinance and the nature of the use, and serving public purposes. The problem was discovered when the home was substantially complete. The owner is doing what he can to address this. The side setback will not adversely affect anyone else. It is intended to keep a certain amount of undeveloped space between neighbors.
- ✓ He said this is a residential use, which is permitted. There is no change in the character.
- ✓ He added that it would be well within the board's discretion to grant a variance so it can avoid detrimental effects and see this situation is corrected.

Public Hearing Opened:

Comments and Questions from the Board and Applicant's Attorney:

Michael W. Todd:

- ✓ Asked what the specific physical characteristics are that exist on the property which distinguishes it from neighboring properties.
- ✓ Asked about what "unnecessary hardship" would be applied if the ordinance is followed strictly. What makes this property so different from all the others on the lake that the application of the ordinance constitutes an unnecessary hardship? If this cannot be described, the board cannot approve the unnecessary hardship criteria.
- ✓ He stated the hardship is self-created, not a condition of the lot.
- ✓ Commented that the analysis was not correct and he did not know why this property should be treated differently.
- ✓ Asked what physical characteristics distinguish it from others?

Frank Anzalone

- ✓ Commented that there is now a non-conforming structure.

Attorney Dietel:

- ✓ He noted that he had already brought up a number of considerations and read through the criteria which satisfy the requirements of NH law.

Motion:

**IT WAS MOVED (Cheryl Devoe) AND SECONDED (Ann Bedard) to discuss.
THE MOTION WAS APPROVED UNANIMOUSLY.**

Chair Green went around the room to ask the opinion of each board member with regards to each criteria that must be met to get a variance approval.

Will/will not this be contrary to public interest: Mr. Vance, Ms. Devoe and Ms. Bedard agreed that it would not be contrary to public interest. Mr. Todd did not agree to this sentiment.

The spirit of the ordinance is/not observed: Mr. Vance was not concerned about this. Neither were others on the Board.

Substantial justice would/not be done by granting this variance: Ms. Bedard said Mr. Byrne would then have the ability to use the undeveloped property as if the house is correctly set and she did not think this was fair to the other homeowners on any undersized lot, no matter if it fronts on the lake or not. If the board grants a variance, there should be conditions.

It was asked what losses would be to the applicant if the variance is not granted. Mr. Todd said if the ordinance is complied with, no harm will be done to the abutters, and there would be a limited threat of chipping away at the limits of the zoning ordinance. If the applicant loses one bay of a two car garage, perhaps that would be appropriate in this situation.

Chair Green asked about the individual versus the public benefit for granting this variance. Mr. Vance said he was fine with this one. Chair Green said that he/the board over time, has taken into account the feelings of the abutters as in most cases, they are the most affected. Mr. Todd said he has not heard the gains to the general public. Chair Green thought the loss to the applicant would be greater than what the public would gain. As applied to this property, what are the possible gains to the public? Mr. Vance saw the public gain to be mutual, so the loss to the applicant would be greater.

Would the values of surrounding properties be diminished? Ms. Devoe, Ms. Bedard, Mr. Todd and Mr. Vance agreed there was no evidence for this.

Would there be unnecessary hardship? Mr. Vance said the hardship needs to point to specific issues on the property that are overcome by the waiver. They have a sympathetic situation that the building already exists, but he hasn't heard anything that would normally respond to the fact that any area of the property was too steep to build, etc. He did not see that requirement.

Ms. Devoe agreed with Mr. Vance. Ms. Bedard said she keeps going back to the house not being set properly and that the property owner has an unfair advantage over his neighbors, so it is a hardship to others. Mr. Todd said he has not heard evidence on any aspect of the physical conditions of the lot which would identify it as out of character with the surrounding lots. No specific conditions of the property were put forth that would distinguish it from any other properties in the area. He does not see that the hardship conditions were met. The fact that the lot is undersized does not prove to be a hardship in his eyes. Mr. Todd posed the question that if the applicant came to the Zoning Board before the home was built, would they approve it?

Mr. Vance asked if Ms. Bedard's concerns would be addressable by setting conditions on the approval. Mr. Anzalone said that if granted, now it is an existing non-conforming lot; now Mr. Byrne could build up to that new line they have established. He can also build up. Can the board restrict the property owner from building up to an area he has already built to?

Attorney Dietel said there have been questions about what makes the property unique. He said with regards to the physical features, the lot is the smallest in the neighborhood and based on the corrected survey, has no direct access to a road--land locked. They have a configuration on the property that maximizes setback from the exiting residential neighbor and is respective to the state and their interest. Those are the unique properties of the property.

On the screen, the ZBA was shown a slide showing the tax maps for the properties in the area.

Chair Green observed the nearest abutter that could be affected is a property owned by the State. That could be seen as a unique attribute to the property. He did not know if that qualified for a special condition. He thought it was a reasonable use.

Mr. Vance said the owner wishes to put as much space between the abutting residential property as possible. Ms. Devoe said the driveway was set as they were using the existing right of way. The applicant is using it versus disturbing any other land to create a new driveway. She sees this as a special characteristic of the property. She likes to see less land being disturbed.

Mr. Todd disagreed that there is no direct access to the lot from the road. Every owner of the property has used the same driveway; he didn't think the State wouldn't approve an easement to use his driveway.

Attorney Dietel said the description of the right of way is not relevant. It is a land locked lot which is unlike any other he could see in that area. The only lot that comes near in size is lot 25, belonging to the State. Any lay person would consider this a unique property. The house has been set up to maximize the setback from the only residential neighbor. He thought these were criteria that the applicant had met and asked that the Board grant the variance.

Mr. Todd did not think the characteristics pointed out showed unnecessary hardship. Mr. Anzalone noted the minimum lot requirement is two acres. Mr. Todd said the lot has been that size forever. It is not an unnecessary hardship because of its size. Mr. Vance thought the combination of the two abutters may account for hardship.

Ms. Bedard said there are other properties in town that abut dams that meet the setbacks, any new home on a lot that abuts a dam would need to meet the setback. She did not feel that this was a unique characteristic.

Ms. Devoe was not sure about the State being unique as an abutter. They have written in saying they are OK with the plan, but she was not sure it added to the unique characteristics of the property.

Mr. Todd said they can't just approve a variance because the abutters are OK with it. Ms. Bedard felt if they placed conditions on the property it would make her feel better about granting the variance. She doesn't think they should tear things down and disturb the property even more. It is reasonable to have a residence on it. No matter the lot size, everyone is restricted into fitting their building into their land. Pulling it back is not going to impede the 50' setback on the lake side. She thought they were maxed out to add additional structures to the property.

Ms. St. John referred to the plan showing the garage and noted that, if the garage hadn't been built in the setback, there is space on the other side of the lot, which could accommodate a garage of this size. Ms. St. John said this is a nonconforming structure, and referred to the Zoning Ordinance provisions regarding nonconforming structures.

Mr. Vance didn't want to restrict further building on Mr. Byrne's property.

Mr. Anzalone suggested they could treat the side yards as less than an aggregate of 50'. These conditions would not just apply to the current owner but for the property forever.

Ms. Bedard suggested bringing the side lots further into limit the expansion.

Attorney Dietel said so long as the garage is within the setback, the physical layout of the building would maintain as-is. The side setback to the residential neighbor would be reserved. There would be no increase of non-conformity.

Ms. Devoe said this is the case so long as the encroachment exists; if someone took the building down, the provision would not remain.

Attorney Dietel suggest that the Board consider including language in the motion that would say there can be no further expansion of any structures on the property.

Motion: IT WAS MOVED (Paul Vance) AND SECONDED (Bill Green) to approve the variance on the basis that no diminution of the surrounding values; it is in the public interest because there is no effect on the ordinance other than the granting of the variance subject to the conditions; that there is substantial justice, that there is no benefit to the public if the variance is denied; it is a residential use that could have been built within the setbacks and would not be contrary to the spirit of the ordinance; denial of the permit would be an unnecessary hardship and condition of the property, it being a small lot setting back further from abutters; support from the State for other variances given; and to allow the existing portion of the building (garage) to infringe on the 25' front setback on the condition that:

- a) That there be no further expansion or addition to any of the buildings on the property so long as the existing garage is within the 25' setback on the front yard, unless all the existing structures are removed or demolished at some point in the future. So if the existing garage is removed and no longer in the setback, the owner can then expand the existing house. The condition goes away if the existing garage structure is modified and does not violate the 25' setback.
- b) That a certified boundary survey plan be submitted and be recorded within 30 days of the ZBA decision, and that the decision with the conditions of the ZBA be noted on said plan prior to the plan being recorded.

THE MOTION WAS APPROVED UNANIMOUSLY.

Motion to Adjourn

**IT WAS MOVED (Cheryl Devoe) AND SECONDED (Ann Bedard) to adjourn.
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 9:05pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London