



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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**ZONING BOARD OF ADJUSTMENT (ZBA)
MEETING MINUTES
Tuesday, May 7, 2019
6:30 PM**

MEMBERS PRESENT: Douglas W. Lyon (Chair), W. Michael Todd, Stan Bright, Katharine Fischer, Ann Bedard, Heidi Lauridsen (Alt), Bruce Hudson (Alt)

MEMBERS EXCUSED: Frank Anzalone,

STAFF PRESENT: Nicole Gage, Zoning Administrator

OTHERS PRESENT: Karen Epstein, Richard Epstein, Jennifer McCourt, McCourt Engineering Associates, Rick Davies, Barbara Miller, MJ Delegianis

1. **Call to Order** – Chair Lyon called the meeting to order at 6:30 pm. Stan Bright will be a voting member this evening.

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

3. **Review Minutes of April 2, 2019**

IT WAS MOVED (Frank Anzalone) AND SECONDED (Bruce Hudson) to approve the minutes of the April 2, 2019 meeting. The spelling of Doug Gamsby's name is misspelled and will be corrected. THE MOTION WAS APPROVED UNANIMOUSLY

4. **Case #ZBA19-07 – Application for a Variance**

PUBLIC HEARING

Parcel ID 096-029-000, 350 Barrett Road

Zoned R-1

Richard & Karen Epstein, Owners.

A variance is requested from the provisions of Article V, Section C.3 of the Zoning Ordinance to contraction of a garage within the corner lot front setback.

Richard Epstein stated they bought the house in October 2015 and are planning to stay in New London. They would like to add a garage and hired experts to find a solution that would have the least impact. They found there are a lot of wetlands on the property and wanted to stay away from them. They are also trying to avoid the sewer pipe, gas lines and propane tank and also minimize the amount of fill they will need. They also wanted to be considerate of the neighbors.

Ms. McCourt stated they are trying to minimize the amount of fill as much as possible by using the back side of the garage wall as a retaining wall. This is why they pushed it as far forward as they could to minimize the amount of fill. Ms. McCourt explained that the most logical place to put the garage isn't possible due to wetlands and the amount of drainage that comes through. The subdivision was done in 1966. There is a large gap between the edge of pavement and the actual property line. If they had done a typical 50 foot wide right of way, the edge of the right of way would be at 25 feet and the garage would sit beyond that set back. Basically if it had been laid out as it is traditionally done, they would meet the set- back requirement.

Michael Todd asked about the existing trees on the lot. Ms. McCourt stated they will save as many as they can. Mr. Todd feels part of the character of the neighborhood is a result of the tree canopy that has been preserved around these houses. It would help to lessen the visual impact of the added garage if they could preserve as many of the existing trees in the canopy as possible. Ms. McCourt agrees and feels the owners are trying to be conscientious of the neighborhood and trying to preserve what they fell in love with.

Ms. McCourt reviewed the five criteria for a variance:

The variance will not be contrary to the public interest - The proposed garage is not contrary to the public interest since the driveway is designed per the New London Department of Public Works regulations and storm water will continue in the direction it does today. The use of the driveway, culvert and garage shall afford additional off street parking. Mr. Todd asked if the addition of the garage and driveway changes the essential character of the neighborhood. Ms. McCourt stated no.

The spirit of the ordinance is observed - The request is to encroach on the front building setback by the maximum of 16.5 feet for the construction of an attached garage. The right of way for Squires Lane is skewed from the center line thus creating a greater setback distance from the center line than of a standard 50 foot right of way. The proposed location of the garage respects the front setback from the right of way line and the standard road way layout, thus it is in the spirit of the ordinance. Michael Todd asked if this particular layout that is proposed has a far less impact on the wetlands than the alternative. Ms. McCourt stated this is correct. Ann Bedard stated this is not necessarily true as it is disturbing the corner area of the property. Ms. Bedard understands that the culvert that is being installed will mitigate it from the road but not from the neighbors. She wants to know what the plan is to address this.

Ms. McCourt stated they will create a swale that will direct the water to the fifteen inch culvert. The water will be directed underneath the driveway where there is a natural swale that leads to wetlands. She has proposed to put up a silt fence on the lower side during construction to stop the sediment from going into the wetlands. There will be rip rap as well to absorb the energy from the water going through the pipe. She could also put a level spreader in to spread the water out a little to minimize the downhill erosion. Chair Lyon stated that the culvert will direct water that might have ended up on the street into the culvert and into the wetlands. Historically water flowing down that street has been a big problem so this will be an advantage to redirect the flow and aim it toward the wetlands.

The values of surrounding properties are not diminished - The proposed design of the garage is in character with the existing house and surrounding neighborhood and therefore will not diminish the surrounding property values. The set back from the road is in keeping with other houses in the area.

Literal enforcement of provisions of the ordinance would result in unnecessary hardship - If Squires Lane was constructed as other standard roads with a 50 foot right of way and the road way pavement centered within the right of way, the variance would not have been required. Therefore there is no fair or substantial relationship that exists between the general public purposes of the ordinance provision and the specific application.

The proposed use is a reasonable one - The proposed location of the garage is over 2 feet from the set back line that would have been established if the road way was constructed in the center

of the standard 50 foot right of way. In addition, the slope of the property and the wetlands create a hardship to be able to put a simple garage on the property. Chair Lyon stated that it was discussed earlier that due to the way the road is laid out and that impact on this property does make it unique in the neighborhood.

Bruce Hudson asked about the propane tank and if there are any thoughts to relocating it. Ms. McCourt stated if they put in a retaining wall they would put steps down to that area.

Barbara Miller attended the meeting as her property backs against this property. She has lived there since 1975 and has a perimeter drain around the house and there is a lot of water on the property. She does not object to the proposed garage but is concerned about the provisions for the flow of the water. Michael Todd asked Ms. McCourt if the plan proposed does everything possible to mitigate the flow of water so as not to aggravate the situation of the downstream neighbor. Ms. McCourt stated putting the level spreader will help. There will also be a stone drip edge on either side which will help to put the water back into the ground as well. Gutters and downspouts are not proposed for the garage.

Michael Todd asked what was being proposed to slow the flow of water sheeting off the garage roof into the ground. Ms. McCourt stated one of the best low impact developments that can be used on single family homes is putting in a stone drip edge. This is part of her plan to help mitigate the concentrated flow coming off the roof. Mr. Todd stated that from what he has heard tonight, we are only talking about the water that would have ended up there anyway. This isn't adding water from somewhere else. We are just trying to minimize the maximum rate and flow surges that result from this project. The quantity of water is the same but he would like to ensure there are no surges as a result of what they are doing. Chair Lyon state that there will be drip edge to catch the garage, a culvert to catch the new driveway, and on the other side of the culvert there will be ditching that will direct the water, rip rap to slow the flow and a spreader that will keep sediment from building up. It is his opinion that this is well designed.

IT WAS MOVED (Michael Todd) AND SECONDED (Bruce Hudson) TO DISCUSS THE MOTION WAS APPROVED UNANIMOUSLY

Chair Lyon stated that we have heard testimony from the applicant and comments from a neighbor that essentially say that this isn't going to change the character of the neighborhood, the concern is only about water flow. There is no objection to the garage. The criteria for public interest, spirit of the ordinance, surrounding property values and substantial justice have been met. The most difficult criteria is hardship and Chair Lyon is convinced that due to the layout of the road for this particular lot, it suffers in a way that other lots do not. This makes it a unique property. Also the existence of wetlands makes it so the garage cannot be located in another direction. The landowners are concerned about the property and the neighborhood and have gone to great lengths to design something that will mitigate the impact of what they are proposing. Chair Lyon stated he feels the criteria have been met and is in favor of approving the variance. Katharine Fischer agrees.

A MOTION WAS MADE (Chair Lyon) and SECONDED (Michael Todd) to approve the variance on the grounds that it is not contrary to the public interest, the spirit of the ordinance is observed, substantial justice is done, the value of surrounding properties are not diminished and because of the unique character of this property which includes the unusual setback (which is that the road is laid out in an unconventional manner such that

the 50 foot right of way is skewed) and the wetlands, it meets the criteria for a hardship.

The following conditions will be imposed:

- 1. That a level spreader be installed and application of rip rap on the downstream end of the culvert to slow the peak flow of water.**
- 2. To the extent possible, the preservation of existing vegetation consistent with the flow plan.**
- 3. The owners and the engineer will give consideration to any further water flow mitigation to ensure downstream neighbors are not impacted.**

THE MOTION WAS APPROVED UNANIMOUSLY.

5. Other Business

Nicole Gage announced that on May 28, 2019 the Planning Board has extended an invitation to a special training with UNH Cooperative Extension on facilitation processes. This is a one day training to help the Planning Board conduct charrettes this spring and summer for the community and the upcoming Master Plan developments. If you are interested, please contact Adam Ricker or Nicole Gage. This will be held at the library.

Chair Lyon gave an update on New London Place. Continuum is going back to the Planning Board for some adjustments to the approved plan. This includes a reduction of cottages from 33 to 30. They are also reducing the overall size of the lodge from 144,000 square feet to 130,000 square feet. They don't anticipate these changes will be problematic. The current plan is to break ground in the spring of 2020 and occupy the facility in the fall of 2021.

The next meeting will be held on May 21, 2019.

6. Motion to Adjourn

A MOTION WAS MADE (Bruce Hudson) and SECONDED (Michael Todd) to adjourn the meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting was adjourned at 7:51pm.

Respectfully submitted,

Trina Dawson
Recording Secretary
Town of New London