



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD of ADJUSTMENT DRAFT MEETING MINUTES Monday, June 24, 2013

Members Present: Bill Green (Chair), Courtland Cross, Doug Lyon, Laurie DiClerico
Also Present: Kim Hallquist (Town Administrator), Jeffrey Wheeler (applicant), Jim Wheeler and Pierre Bedard.

Chair Green called the meeting to order at 5:00pm. He said this was a continuation of the June 17th hearing with Jeff Wheeler of 275 Route 103 A (Tax Map 080-012-000).

Chair Green said that Bart Mayer, Town Counsel, had sent in a letter with his remarks after reviewing the case. He noted that Mr. Mayer had made a point that the stream buffer regulates extensively the cutting and removal of natural vegetation and the purposes of the prohibition on the removal of vegetation. He made the point that the setback would be similar in the setback to the streams conservation overlay district. In his opinion he feels that they could hear this as a special exception. This would determine whether or not they needed a variance.

Mr. Lyon said he read the letter differently. His interpretation was that a variance would be required as the structure would consume additional buffer area. The expansion terms would be that they could build up or further along down the boundary line, but not to go further into the buffer area. He was pleased that this was confirmed. His sense was that unless they want hear a special exception to reduce the buffer, it should be a variance that should be heard.

Mr. Cross and Ms. DiClerico agreed that it was a variance that should be heard and not a special exception.

Mr. Wheeler said the writers of the ordinances took into consideration that they were restricting what people could do in these kinds of situations. They can use the buffer zone to allow folks to make exceptions when in a situation like his. He said that in April they granted a special exception to Mr. Miller to build a parking lot in a similar situation. The parking lot falls into the same permitted use for a special exception as does his request for a deck (structure) within the buffer. Mr. Lyon argued that they allowed Mr. Miller to encroach into the buffer zone, but they did not reduce the buffer zone. Mr. Wheeler thought it was the same thing. He begged that the Zoning Board of Adjustment consider the special exception.

Mr. Lyon retained that there is a difference between encroaching into the buffer and reducing the buffer. To his knowledge they had never heard a special exception that allowed the reduction of the buffer.

Ms. Hallquist said she spoke with Mr. Mayer that morning. His conclusion is it is up to the Town to interpret it their way. He didn't particularly like either solution. It was noted that the ordinance allows for people to apply for a reduction of the buffer.

Chair Green wondered if the applicant had the ability to decide which he would like to apply for; a special exception or a variance. Ms. Hallquist said that Mr. Wheeler applied for both a special exception and a variance as it wasn't clear which he would need and wanted to be prepared.

Mr. Wheeler assured the Board that what he wanted to do was fully within what the ordinance will allow. He did not wish to damage the land at all. Ms. Hallquist said this request is seen as a structure; it doesn't matter if it is just a deck or an additional room. Mr. Lyon felt that Mr. Wheeler was making a reasonable request. He was concerned about reducing the buffer zone as future owners could enlarge the house by two times and there would be no jurisdiction over it. He thought they should hear the case as a variance, as a special exception would offer future owners much greater latitude.

IT WAS MOVED (Doug Lyon) AND SECONDED (Bill Green) to hear Jeff Wheeler's case as a variance. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Green asked Mr. Wheeler to review the application he submitted for the variance.

Mr. Wheeler read through his variance application.

IT WAS MOVED (Doug Lyon) AND SECONDED (Laurie DiClerico) to discuss. THE MOTION WAS APPROVED UNANIMOUSLY.

IT WAS MOVED (Doug Lyon) AND SECONDED (Courtland Cross) that the variance be approved as presented by Jeff Wheeler.

Mr. Lyon said that there would be no diminution of the buffer or increased erosion, the spirit of the ordinance would be preserved, substantial justice would be done because it increases the safety of the building providing a second exit of the apartment, and if not allowed, would deprive the landowner a reasonable use of the property. It was certain that the value of surrounding properties will not be reduced. The entire property is within the buffer zone and the owner is otherwise prevented from what other property owners are able to do.

Ms. DiClerico questioned whether this was making the building more non-conforming. Mr. Lyon felt they were but were granting a variance to do so.

Mr. Cross thought granting the variance didn't establish a precedent like a special exception would.

THE MOTION WAS APPROVED UNANIMOUSLY.

IT WAS MOVED (Doug Lyon) AND SECONDED (Laurie DiClerico) to adjourn the hearing. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting adjourned at 5:25pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London