TOWN OF
NEW LONDON, NEW HAMPSHIRE
375 MAIN STREET • NEW LONDON, NH 03257 • WWW.NL-NH.COM

ZONING BOARD OF ADJUSTMENT
(ZBA)
NOTICE OF DECISION
Meeting Held Tuesday, April 17, 2018

Case #ZBA18-02 – Spec Bowers, Applicant / SDB Investments Inc., Owner. Located at1876 Newport Road. Tax map 041-001-000. Zoned Agricultural & Rural Residential (ARR) in the Shoreland Overlay District. Pertaining to the rebuild of a cottage damaged from fire. Request for a Variance from Article XX, Sections B.1.a, B.1.c.iii and B.5.a to permit a vertical expansion of the structure, a 1-foot overhang of the second floor on the front side (away from the lake), and an increase in the number of bedrooms.

Motion passed in a vote 4-1 to DENY the request for a Variance based on the failure to meet the hardship requirement #5.

Nicole Gage
Zoning Administrator
Town of New London

Variances and Special Exceptions shall be valid if exercised within two (2) years. Refer to RSA 674:33, Powers of the Zoning Board of Adjustment, for the specific language. Persons who are aggrieved by the decision of the ZBA are advised to seek legal counsel as they deem appropriate and to review applicable laws including but not limited to RSA 677 Rehearing and Appeal Procedures; RSA 674:33 Powers of the Zoning Board of Adjustment; RSA 676:5 Appeals to Board of Adjustment; RSA 676:3 Issuance of Decision and other NH State Statutes and Laws which may apply. This notice is for general informational purposes and in no way shall convey any legal advice.

TOWN OF
NEW LONDON, NEW HAMPSHIRE
375 MAIN STREET • NEW LONDON, NH 03257 • WWW.NL-NH.COM

ZONING BOARD OF ADJUSTMENT MINUTES
(ZBA)
Tuesday, April 17, 2018 at 6:30 PM
Town Office, Sydney Crook Conference Room, 375 Main Street

MEMBERS PRESENT: Douglas W. Lyon (Chair), W. Michael Todd, Katharine Fischer, Frank Anzalone, Bruce Hudson (Alt.), Heidi Lauridsen (Alt.).

MEMBERS ABSENT: Ann Bedard, Stan Bright (Alt.)

STAFF PRESENT: Nicole Gage, Zoning Administrator

OTHERS PRESENT: Spec Bowers, Dave Robinson

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

2. Roll Call – Welcome new members. Frank Anzalone, previously an alternate, is now a regular member. There are three new alternates, Bruce Hudson, Heidi Lauridsen and Stan Bright.

3. Review Minutes of March 21, 2018

IT WAS MOVED (W. Michael Todd) AND SECONDED (Katharine Fischer) to approve the minutes from the March 21, 2018 meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

4. **Case #ZBA18-02 – Spec Bowers, Applicant / SDB Investments Inc., Owner.** Located at1876 Newport Road. Tax map 041-001-000. Zoned Agricultural & Rural Residential (ARR) in the Shoreland Overlay District. Pertaining to the rebuild of a cottage damaged from fire. Request for a Variance from Article XX, Sections B.1.a, B.1.c.iii and B.5.a to permit a vertical expansion of the structure, a 1-foot overhang of the second floor on the front side (away from the lake), and an increase in the number of bedrooms.

Spec Bowers attended the meeting to discuss a variance to rebuild a cottage damaged from fire. He owns George's Mills Cottages which includes this cottage. The town line goes through the property so this one cottage is in New London and all the rest of the buildings are in Sunapee.

Mr. Bowers is seeking the variance to make the building taller. There is no change to the footprint and he would like to increase the number of bedrooms. Mr. Bowers presented the following information in support of his request for a variance:

1. The variance will not be contrary to the public interest.

The requested variance would not change the footprint of the building. Adding a second floor and increasing the number of bedrooms would not threaten the public health, safety or welfare. Nor will it threaten the other purposes of the ordinance, such as congestion in the streets, undue concentration of population or water quality.

2. The spirit of the ordinance is observed.

The proposed building is entirely in keeping with the character of the neighborhood.

The existing complex has buildings that are taller than the proposed building; just 50 yards away is a building that is similar to the proposed building; there is a much larger building with three stories just 100 yards away.

Most other buildings on the lake have two or more stories. The variance is consistent with a stated purpose: "encourage those uses that can be appropriately located adjacent to shorelines." Mr. Bowers feels these uses are boating, swimming, fishing.

The requested overhand would move the drip line farther from the water, which would further protect the lake by increasing ever so slightly the filtration of water through the soil.

3. Substantial justice is done:

The general public would realize no appreciable gain from denying this variance. Denying the variance would result in substantial loss to the petitioner. Any loss to the petitioner that is not outweighed by a gain to the general public is an injustice.

4. The values of the surrounding properties are not diminished:

The changes in the context of the entire property are miniscule.
The changes would be barely noticeable from other properties.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

A. For purposes of the subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:
(1) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
(2) The proposed use is a reasonable one:

The property has these special conditions:

- It is a small part of a larger complex
- The complex straddles town boundaries
- The driveway is in Sunapee and the complex connects to the Sunapee sewer, not New London.

(1) There is no fair and substantial relationship between the general public purposes of the restriction against extending upward or of increasing the number of bedrooms, and the specific application of those provisions to this unique property.

(2) The proposed use is a reasonable one:

The building would continue to be a single family residence; it would be consistent with the character of the other buildings of the complex. All rooms, while still fairly small, would now be adequate in size.

The cottage could be built as it was and no variance would be required. There were no issues renting it as it was, although it was the least popular cottage to rent. The bedrooms were very small. It will still be a single family residence and is in character with the other buildings.

The reason for the one foot expansion is for a better layout for the bedrooms. It gives protection over the front door.

IT WAS MOVED (W. Michael Todd) AND SECONDED (Frank Anzalone) to discuss. THE MOTION WAS APPROVED UNANIMOUSLY.

DISCUSSION:
This is a rental unit. At certain times of the year it is short term vacation rental and can also be an off season rental from September through May.

Chair Lyon provided the following summary:

This building is part of a complex that is isolated from other properties. He doesn't feel it is contrary to public interest. The spirit of the ordinance is to protect the waterfront and it appears the petitioner has gone to great length to minimize impact on water quality. It clearly is a substandard structure. Although it can be rented, the question is if this provides an opportunity to make it closer to current standards in terms of sizes of rooms. It doesn't appear that there is any substantial benefit to the public to deny this variance. The values of the properties are not diminished and most of the properties belong to Mr. Bowers and are isolated from others. This brings us to the fifth criteria which is the hardship criteria. The special conditions of the property that distinguishes it from other properties in the area is that it is unique in the sense it is a complex of buildings. Given the rules of how the zone is governed, the only way he can build a building more in keeping with modern code is to go up. So this suggests there is some uniqueness although this could be argued.

Mr. Todd wanted to note that it will increase the concentration of the population. It would double the amount of people that are currently there. This calls into question whether or not it is contrary to the public interest, regardless of whether people can see it.

The spirit of the ordinance falls under the definition of permitted uses within the shorefront overlay buffer which is boathouses and docks. He can't argue for an expansion even though it's preexisting, non- conforming.

The existing unit can be rebuilt and rented so there will be a return on investment. The question is does loss mean denial of maximum gain? Mr. Todd feels the structure can be rented as is and it isn't a loss if he isn't granted additional bedrooms.

Mr. Todd doesn't feel there has been any evidence put forth that suggests that the physical characteristics of that lot are any different than any other lakefront lot and all of the lots are subject to the same restrictions of the shore land overlay district. This lot is not exempt. He does not feel they should grant the variance.

Ms. Fischer agrees with Mr. Todd regarding the hardship issue.

Mr. Anzalone feels the fact that this lot is almost unbuildable makes it different from all the other property. Mr. Todd feels that's a reason to rebuild it the way it was without expansion.

IT WAS MOVED (W. Michael Todd) AND SECONDED (Katharine Fischer) to DENY the request for variance, as it fails to satisfy the requirements of the unnecessary hardship provision.
THE VARIANCE APPLICATION WAS DENIED 4-1.

5. Other Business

IT WAS MOVED (Frank Anzalone) AND SECONDED (Bruce Hudson) to elect Doug Lyon as Chair of the Zoning Board of Adjustment. THE MOTION WAS APPROVED UNANIMOUSLY.

IT WAS MOVED (Frank Anzalone) AND SECONDED (Bruce Hudson) to elect W. Michael Todd as the Vice Chair of the Zoning Board of Adjustment. THE MOTION WAS APPROVED UNANIMOUSLY.

6. Motion to Adjourn

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

The meeting was adjourned at 7:40pm.

Respectfully submitted,

Trina Dawson
Recording Secretary
Town of New London