TOWN OF
NEW LONDON, NEW HAMPSHIRE
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Date: November 18 2019
To: Zoning Board of Adjustment
From: Nicole Gage, Zoning Administrator

Case #: #ZBA19-19 (Variance) and #ZBA19-20 (Special Exception)
Owner: Quinn Family Revocable Trust (Michael & Frances Quinn, Co-Trustees)
Applicant: Pierre J. Bedard
New Parcel ID 045-003-0-0-0 (former Parcel ID 045-003-000)
Address: 63 Murray Pond Road
Zone(s): ZONE R-2 with Shore Land Overlay and Streams Conservation Overlay

Summary of the Case: Michael and Frances Quinn are looking to build a 4.5-foot x 10-foot addition for a mudroom/entrance area at their front door. Upon my suggestion, they are requesting a Variance from the provisions of the New London Zoning Ordinance, Article V, Section C.1 to reduce the 25-foot Front Yard Setback; and a Special Exception, 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. Special Exception uses in the Stream Overlay are also permitted per XXI.G.4.

References to the Zoning Ordinance

Page	Article	Section	Part
34*	V* Residential Districts	C* Yard Requirements	1*
89*	XXII* Streams Conservation Overlay District	G* Uses permitted by Special Exception	3*
81-82	XXI Board of Adjustment	G Special Exceptions	1-4

*Appeal for Current Application

Description of Property: The property is a residential single-family home. It is part of the Murray Pond Association and was built in 1988 on approximately 0.22 acres with frontage on Murray Pond Road, a private road. Note: private roads must meet the same front yard setback as town-maintained roads (see definition of "frontage"). The town's digital mapping system shows the 100-foot stream buffer only over part of this lot; however the lot was professionally surveyed by Pierre Bedard which puts the entire lot within the 100-foot Stream Overlay. In addition, the entire lot sits within 250-feet of Murray Pond, putting it in New London's Shore Land Overlay District (even though it is smaller than the 10-acre minimum for public water bodies that fall under the State's shoreland jurisdiction).

Land Use History: (see attached pages 2-5)

1/13/2003 Building Permit #03-002 issued for dormers and interior alterations.

7/11/2005 Equitable Waiver granted for screened porch built in with a permit in 1987, but was located within the side yard setback.

7/11/2005 Variance granted for deck built without a permit sometime 1999 to 2002, in the side yard setback, with the condition that the deck not be altered or expanded

7/27/2015 The Quinn's purchased the property in 2014, and applied for a variance in 2015 to enclose a portion of the existing deck. However, the ZBA dismissed the request due to the conditions placed on the deck in 2005 (see 7/11/2005 Variance, above).

Town of New London
Zoning Board of Adjustment

P.O. Box 240
375 Main Street
New London, NH 03257

NOTICE OF DECISION

RE: SCARRINGTON LTD JULY 11, 2005

On this date, the Zoning Board of Adjustment held a Public Hearing of Scarrington LTD's (c/o Bernice and John White) request for an Equitable Waiver of Dimensional Requirement as provided in Article XXI, §H-1 of the New London Zoning Ordinance, in order to retain a screened porch on their house at 63 Murray Pond Road, Tax Map 045-003-000, with less than required side yard setback. A building permit for the structure with less than required setback had been erroneously issued to the previous owners in 1987.

After hearing the applicant's presentation, and receiving comments from one abutter and the Zoning Administrator, the Board determined that the screened porch does not negatively impact the surrounding neighborhood, and that removal of the porch would impact the nearby mapped stream.

The request for an Equitable Waiver of Dimensional Requirement was unanimously approved, with Russ Cooper, Laurie DiClerico, Betty Herrick, and Stefan Timbrell voting.

Also, on this date, the Zoning Board held a Public Hearing for Scarrington LTD's (c/o Bernice and John White) request for a variance from Article V, §C-2 of the New London Zoning Ordinance, in order to retain a deck on the rear of their house at 63 Murray Pond Road, Tax Map 045-003-000, with less than the side yard setback requirement. No building permit was ever obtained for the deck.

After hearing the applicant's presentation, and receiving comments from one abutter and the Zoning Administrator, the Board determined that the deck does not negatively impact the surrounding neighborhood, and that removal of the deck would impact the nearby wetland.

The request for a variance allowing the deck within the side yard setback to remain on the house was unanimously approved with the condition that the deck not be altered or expanded. Russ Cooper, Laurie DiClerico, Betty Herrick, and Stefan Timbrell voted.

Larry Ballin, Chair
Russ Cooper
Laurie DiClerico
Betty Herrick
Stefan Timbrell

NOTE: Application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person affected thereby according to New Hampshire Revised Statutes Annotated. 1955, Chapter 31:74-76.

(603) 526-4821 (telephone)
(603) 526-9494 (fax)

2005 Eq. Waiver and Variance for errors that happened before Quinn purchased

Town of New London

Selectmen's Office
Jessie W. Levine
Town Administrator

P.O. Box 240
375 Main Street
New London, NH 03257

June 7, 2005

Bernice A. White
Scarrington LTD Corp.
PO Box HM1533
Hamilton, HM F2 Bermuda

Re: ***Notice of Violation***, 63 Murray Pond Road (Map 045, Lot 003)

Dear Ms. White:

As Craig Howe has probably told you, the Town of New London found an error dating back to the time when your home on Murray Pond Road was originally constructed. This error resulted in the structure – specifically, the porch – having less than the required setback from your northeast property boundary. The plan submitted with the building permit application showed a side yard setback of 18 feet, which is less than the required minimum side yard setback of 20 feet. Even though the application did not meet the building permit requirements, the permit was approved by the Board of Selectmen at the time, and the home was constructed with that approval in place. In fact, subsequent measurements by Mr. Howe indicate that the actual setback of the porch is less than 10 feet, meaning that your structure intrudes even further into the setback than the original application indicated.

Compounding that error, it appears that a deck was constructed on the rear of the structure sometime between 1999 and 2002, without the application for or approval of a building permit, as required by Article XXV, Section A, 3, a of the New London Zoning Ordinance. This deck extends even *closer* to the property line than the porch, further encroaching on the already reduced setback. Our records indicate that the deck was first noticed by the Town as early as August 2002, when the property was inspected during the revaluation. We understand that you did not purchase the property until November 2002, so the deck was added prior to your ownership of the property. Nonetheless, as the property owner of record, the responsibility for resolving this issue rests with you and not with the person(s) who owned the property at the time the deck was constructed.

Please consider this letter to be a Notice of Violation pursuant to NH RSA 676:17. To resolve these matters, please take the following steps:

Eq. Waiver granted 7-11-2005

1) With respect to the issue of the original structure (including the porch) being built within the required side yard setback, you will need to apply to the Zoning Board of Adjustment (ZBA) for an "Equitable Waiver of Dimensional Requirements" (EWDR), which is described on page 73 of the Zoning Ordinance (copy enclosed).

variance granted 7-11-2005

2) With respect to the deck that was constructed without a permit, you have two choices: you may remove the deck, or you may apply to the ZBA for a variance from the zoning regulations regarding the setback of buildings (variances are described on page 74 of the

(603) 526-4821 (telephone)
(603) 526-9494 (fax)
e-mail: townadministrator@adelphia.net

Ordinance, also enclosed). This letter will serve as your formal referral to the ZBA, should you choose to seek a variance.

The applications for both the EWDR and the variance are available at the Town Offices or on-line at www.nl-nh.com/zbaapp.pdf. If you need assistance with the applications, please contact Zoning Administrator Peter Stanley at (603) 526-4821, ext. 16, and he will advise you about how to proceed from this point. Mr. Stanley's office hours are Monday (8:00 AM - 4:00 PM) and Tuesday and Thursday from 8:00 AM - 12:30 PM.

As always, please feel free to contact me if you have any questions. Thanks very much.

Sincerely,

Jessie W. Levine
Town Administrator

Enclosures
cc: Board of Selectmen
Peter Stanley, Zoning Administrator
Craig Howe, Talbot Builders

2015 - variance "dismissed" to enclose deck

TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
July 27, 2015

PRESENT: Douglas W. Lyon (Vice-Chair), W. Michael Todd, Paul Vance, Frank Anzalone, Ann Bedard, and Katharine Fischer.

ABSENT: Bill Green (Chair), Cheryl Devoe, Courtland Cross and Vahan Sarkisian.

STAFF PRESENT: Lucy St. John, Planning and Zoning Administrator and Kristy Heath, Recording Secretary.

OTHERS in Attendance: Froncie and Michael Quinn, Sandra Rowse and her attorney, Attorney Susan Hankin-Birke, David Guion (abutter to Landrigan/Rowse), and unnamed abutter to Quinn property.

CALL TO ORDER: In the absence of Chair Green, Vice-Chair Lyon called the meeting to order at 6:30 pm. Acting Chair Lyon asked Katharine Fischer to sit as a full board member.

ROLL CALL: Acting Chair Lyon called the roll. He called the roll and said the meeting had been properly noticed.

REVIEW OF MINUTES:

- IT WAS MOVED (Michael Todd) AND SECONDED (Ann Bedard) to approve the minutes of March 11, 2015 and July 2, 2015 as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Variance application for Michael and Frances Quinn. Property located at 63 Murray Pond Road. Tax Map 045-003-000. Property zoned Residential, R-2.

Mr. Todd said the variance should be dismissed due to Res judicata. Mr. Todd said that from materials provided the variance is addressing the same subject matter already heard in 2005. At that time, an application was entertained for a deck for which no permit had been attained. A decision was rendered by the Board to approve the deck with certain conditions. The principles of Res judicata prevents them from having to make a decision again on the exact same issue. The parties are in privity with the original petitioners as they own all the rights and conditions that ride with the property. The decision in 2005 was filed and not appealed.

IT WAS MOVED (Michael Todd) AND SECONDED (Doug Lyon) to dismiss the application as the ZBA had previously acted on granting a variance on this property on July 11, 2005 subject to conditions and the application would have violated the conditions placed on the property by the ZBA in 2005.

7-11-05 NOD said "condition that the deck not be altered or expanded"