



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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**ZONING BOARD OF ADJUSTMENT (ZBA)
MEETING MINUTES
Tuesday, December 17, 2019
New London Town Offices, 375 Main Street
6:30 PM**

MEMBERS PRESENT: Douglas W. Lyon (Chair), Frank Anzalone, Heidi Lauridsen, W. Michael Todd, Steve Root

MEMBERS EXCUSED: Stan Bright, Ann Bedard (recused), Katharine Fischer

STAFF PRESENT: Nicole Gage, Zoning Administrator

OTHERS PRESENT: Pierre Bedard, Tyler Kipp, Catherine Newick

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

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

3. **Review of Minutes of December 3, 2019**

IT WAS MOVED (Michael Todd) and SECONDED (Heidi Lauridsen) to approve the minutes of the December 3, 2019 meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

4. **Case #: #ZBA 19-21 (Variance) and #ZBA 19-22 (Variance)**

Owner: Tyler Kipp & Catherine Newick

Applicant: Pierre Bedard

Address: 495 Elkins Road

New Parcel ID: 78/1/0/0/0

Address: 495 Elkins Road

Zone(s): Zone R-1 (without Water & Sewer) with Streams Conservation Overlay

Summary of the Case: Tyler Kipp and Catherine Newick are requesting a variance from Article II Section 8 to permit installation/construction of a sewage disposal area less than 75 feet from a water body and well; and a variance from Article XXII Section E to permit the erection of a new structure or alter the natural surface configuration in the Streams Overlay District.

Pierre Bedard attended the meeting and provided the following background. The current owners purchased this property on July 26, 2019. The property includes a five bedroom residential dwelling and attached barn. The dwelling is dilapidated and in poor condition as well as part of the barn. The property is bordered by Elkins Road, Grist mill road, Grist mill brook and property at 527 Elkins Road. The property is .92 acres. Grist Mill Brook is in the Streams Overlay District. The 100 foot natural woodland buffer set back occupies most of the property. The 75 foot setback from the stream also occupies most of the property. The onsite well is located between the driveway and the side porch. The current house encroaches on 25 foot front yard setback and the 100 foot streams overlay setback. The current septic system is located at the rear of the house and in unknown condition.

The owners would like to demolish the current dwelling and replace it with a smaller structure, mostly within the existing footprint. The current footprint is 1,780 square feet and the proposed structure will be 1,008 square feet. The initial plan would be to demolish the structure and then begin planning a new residence. In order to improve the property, these variances are necessary. There are many in the neighborhood who would like to see this property's condition improved. Removal of the dwelling and replacing it would be an asset to the neighborhood. The proposed septic system design will place the leach field and septic tank 67 feet from the brook and 46 feet from the well. They are requesting a variance from the 100' streams buffer and 75' buffer to the stream and well. They will be requesting waivers from New Hampshire DES for these setbacks. It is their opinion that the proposed system will provide adequate treatment and improve the current poor condition of the property.

Chair Lyon asked what type of system they are proposing. Mr. Bedard responded it will be the Enviroseptic.

Mr. Bedard reviewed the five criteria as follows:

1. The variance will not be contrary to the public interest- The lot has existed and has been a residential lot since the early 19th century. The current dilapidated condition is, and has been an eyesore to the neighborhood for some time. A new structure will only enhance the value of surrounding properties and would be welcomed in the neighborhood.
2. The Spirit of the ordinance is observed - The lot meets the conditions of Article XX section C.2. Several abutting properties in the neighborhood that are smaller in size currently have an existing dwelling that also does not meet the requirement of this ordinance. The proposed structure will meet the front, side and rear dimensional set back distances.
3. Substantial justice is done - the property will be improved and the neighborhood eyesore will be gone.
4. The value of surrounding property is not diminished - Surrounding property value should benefit from the removal of this eyesore and new improvements.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship - The property taxes have been paid on this property as a residential lot from the beginning. There is no prospect of meeting the provisions of the requested variances on this lot given its condition. If the variances aren't granted then no structure can be put on the property.

Chair Lyon noted that in photos that accompanied the application, there appears to be a building that is not connected to the house, adjacent to the barn. Will this be demolished? Mr. Bedard responded that yes, this would be demolished. The house will be completely demolished and only the barn will remain. The barn would be used primarily for storage. Mr. Bedard is unsure at this time if the house will be connected to the barn.

The size, location and geometry of the property make it unfeasible to meet the regulations. It is also bordered by a brook on two sides. On the other side of the property there is an easement. Conservation Commission Chair Bob Brown has no record of an easement but the assumption is that it is for the culvert to drain onto the side yard. Nicole Gage stated she has found a drainage easement in the registry. The buildable area is possible on only approximately 1/3 of the lot.

Frank Anzalone asked if the lot could handle a five bedroom system as that is what is being proposed. Mr. Bedard stated with the well where it is, no. For the site loading, they don't need any

waivers, variances or special exceptions from DES. They are requesting variances for the set back to the brook and the well. The state requires 75 feet. Mr. Anzalone asked how close the system would be to the house and Mr. Bedard answered ten feet. The state requirement is ten feet. There will be a basement but unsure at this time if it will be a full or partial.

Steve Root addressed the issue of disturbance outside the footprint. What dimensions are allowed? Frank Anzalone responded that they can set conditions to limit this. Nicole Gage stated there are erosion and sedimentation control procedures in the Streams Overlay District that would allow them to disturb with Conservation Commission input and possibly Planning Board review. Mr. Bedard stated that the silt sock that is shown on the plan is to capture any runoff downslope from any disturbance that occurs during the demolition and construction area.

The applicants proposed that there was significant storm damage since last fall a tree fell on the house during a storm but it was determined that there was not enough evidence to allow a replacement under article XX. Even though this is a replacement, the focus is on a new structure. There are no new structures allowed in the stream buffer and this is what they would like to do.

Neighbors came to the meeting in support of granting the variances for this project.

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

Chair Lyon went through the criteria and summarized the following:

This variance is not contrary to the public's interest as there would be a substantial improvement to the neighborhood. The demise of the existing structure would actually make the new structure more conforming and that is in the spirit of the ordinance. Substantial justice is done as the benefit to the applicant and to the property seems to outweigh any public harm. The new septic system adds additional protection over the existing, unknown system. The values of surrounding properties are likely to go up as a result of this. As for the hardship criteria, this is a weird lot and different from its neighbors in a variety of ways but mostly because of the proximity to the streams. There are other small lots but this one is particularly burdened by its location. Any use of this property would require a variance. Chair Lyon stated that based on all of the above it does meet the variance criteria but conditions may need to be put in place to protect the site as much as possible.

Frank Anzalone stated there are a lot of unknowns about the proposed house and he has concerns about this.

1. Case #ZBA19-21 (Variance)

Owner: Tyler Kipp & Catherine Newick.

Applicant: Pierre J. Bedard. New Parcel ID 78 / 1 / 0 / 0 / 0.

Address: 495 ELKINS RD.

Zone(s): ZONE R-1 (without Water & Sewer) with Streams Conservation Overlay. Requesting a Variance from Article II Section 8 to permit installation/construction of a sewage disposal area less than 75-feet from a water body and well.

IT WAS MOVED (Frank Anzalone) AND SECONDED (Doug Lyon) to approve the variance to permit the installation/construction of a sewage disposal area less than 75 feet from a water body and well. THE MOTION WAS APPROVED UNANIMOUSLY.

Decision: The Variance was GRANTED unanimously in a vote 5-0.

2. Case#ZBA19-22 (Variance)

Owner: Tyler Kipp& Catherine Newick.

Applicant: Pierre J. Bedard. New Parcel ID 78 / 1 / 0 / 0 / 0.

Address: 495 ELKINS RD.

Zone(s): ZONE R-1 (without Water & Sewer) with Streams Conservation Overlay. Requesting a Variance from Article XXII Section E to permit the erection of a new structure or alter the natural surface configuration in the Streams Overlay District

A MOTION WAS MADE (Frank Anzalone) AND SECONDED (Michael Todd) to approve the variance to permit the erection of a new structure within the stream buffer with the following conditions:

- 1. The area of disturbance be limited to 20-feet of work, demolition & new leach field**
- 2. The footprint of proposed house must fit within the existing footprint of the existing structure except for condition number 4 below;**
- 3. Be outside the DES septic system setback;**
- 4. Additional footprint is permitted provided it not be any closer than 80 feet to the current stream; and**
- 5. Must comply with all other zoning regulations.**

THE MOTION WAS APPROVED UNANIMOUSLY.

Decision: The Variance was GRANTED unanimously in a vote 5-0

6. Other Business

Nicole Gage stated that she spoke with Margaret Burns, Executive Director of NHMA earlier today to get a legislative update. The three person housing board should go into effect on July 1, 2020 however there are two proposals to get rid of this law. This would be a board of appeals for all housing related issues including subdivision, variances, building permits etc.

7. Updating Rules of Procedure

Chair Lyon stated that Nicole Gage distributed a revised copy of the Rules of Procedure to Board members. Chair Lyon stated it was very well done and there are a lot of good suggestions in there. Chair Lyon suggested that they postpone a discussion about the Rules of Procedure until Ms. Gage has a chance to look at it as there were some questions and comments.

8. Motion to Adjourn

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

The meeting was adjourned at 8:15 PM.

Respectfully submitted,

Trina Dawson
Recording Secretary
Town of New London