



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Tuesday, February 7, 2017
Town Office – Sydney Crook Conference Room
375 Main Street
6:30 PM

MEMBERS PRESENT: Douglas W. Lyon (Chair), Vahan Sarkisian, W. Michael Todd, Cheryl Devoe, Katharine Fischer (Alt.), and Paul Vance (Alt.- Voting Member)

MEMBERS ABSENT: Jerry Coogan (Alt.), Ann Bedard, and Frank Anzalone (Alt.)

STAFF PRESENT: Lucy St. John, Planning and Zoning Administrator

OTHERS PRESENT: Risa Radeke (owner/applicant), David Radeke (owner/applicant), Paul Raynor (Lane River Design), Brian Vincent (CLD Engineers, Inc.), John Doyle, Mary Doyle, Robert Brown

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

Roll Call: Chair Lyon called the roll.

Approval of Minutes

IT WAS MOVED (Paul Vance) AND SECONDED (Vahan Sarkisian) to approve the minutes of November 7, 2016, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

Variance Application

- **Radeke, David & Risa Variance application.** Located at 583 Forest Acres Road. Tax Map 119-021-000. Zoned Residential (R-2); Floodplain, Wetlands Conservations and Shoreland Overlay Districts. Variances requested for the reconstruction and expansion of an existing nonconforming structure including increased height, and disturbance in the waterfront buffer. Variance requested to Article XVI, Shoreland Overlay District, Section C and F; Article XX, Nonconforming, Section B; and Article XIII, Wetland Conservation Overlay District, Section D and F. Plan prepared by CLD Engineers. Town received application January 17, 2017.

Brian Vincent presented the application. He showed a board illustrating the existing nonconforming structure and existing nonconforming lot in an R-2 lot. He noted there is an existing cottage and an existing two-car garage; the existing structure's within the 50-foot buffer by about 80 or 90 percent, and that the entire property is within the 250-foot shoreline buffer; a number of trees will remain in place; there's a town-designated wetland buffer that reaches out into the property, as well as a mapped wetland that was mapped with the septic design, which goes with gravity to a pump chamber, and then is pumped into a leech field that sits in the southwest corner of the lot.

He indicated that the proposal dictated to leave the cottage in its current location, although it will be reconstructed with a new footing with a crawlspace, which would be a little under 4 feet deep; there is currently no basement, as it's on piers; the 209 square foot living space addition would be to the back of

the cottage or away from the pond, and that it would be out of the 50-foot shoreline buffer; the bulkhead and entryway would be included; and the plan was to leave the small deck and stairs with the exception of the deck, which would be removed for purposes of construction and installed in like kind; removal of one tree inside shoreline buffer and one outside the buffer, as well as one large one behind cottage, which poses a danger of falling down; there's an existing chimney (24" x 24") on west end, and proposal is to rebuild it (26" x 26", brick-tile lined) and relocate it closer to the lake side or the northeast corner, inside the 50-foot shoreline buffer; house would be 76 feet from the buffer.

He noted that the next step, upon approval, would be to apply to NH DES for a Shoreline Permit, as the property is affected by a floodplain from Messer Pond. He assured that everything being done is outside of floodplain; a LOMA was done by FEMA, and that established floodplain at 1105.0', and 1107.0' would be the approximate bottom of the foundation.

In response to questions, he stated that rather than making a larger footprint on the ground, the intent is to make a taller building, 27' at the highest point; project is to replace existing pump chamber and septic tank, as it's taking on groundwater, with a 1700-gallon tank, which is located within the woodland buffer; infiltration drip edges on either side of the eaves would lead to a stone reservoir for storage of storm water, preventing it from going into the pond from the roof, avoiding excessive runoff; there would be no proposed expansion in use, and it would remain a two-bedroom cottage; State of New Hampshire and the Town of New London mandate that the plans must include a backup design of septic system, in case this septic system failed; it's not a proposal in this application to do anything with the leech field, and, if it failed, it would be replaced; project is slightly impacted by a stream buffer; it would not be effective to move the property from its current location, as any movement would have greater impact on surrounding natural resources; setback from wetlands is 100'.

Requested Variances:

1. Height request – up to 27'
2. Area around structure that would be impacted by virtue of building a foundation
3. Expansion of structure, outside of the 50' buffer
4. Coming closer to wetland at rear of site
5. More than 50% of usable space
6. Dripline encroachment on buffer
7. Septic tank/leech field within 100' of wetland

Paul Raynor indicated that the building would be taller than Ann Wustrow's house, which is comparable to other structures; it would be very tight to put the chimney inside, and there's a need to preserve every bit of floor space inside.

Lucy St. John read off the property card to detail the square footage; tree cutting was approved within the 50-foot buffer, as the tree was compromised; Provisions of Wetlands, page 49 through 51, Wetland Buffers, page 52; defined wetlands and indicated on the Wetlands map and GIS Map where the property is located, in comparison to the wetlands.

Board Questions/Concerns/Comments

- ✓ Concrete floor
- ✓ Blueprints for a proposed structure
- ✓ Height of building – will it affect views? Will it measure up and compare to the height of the building next door?
- ✓ Current usable square feet
- ✓ Will the stone reservoir modify the dripline, which will expand the footprint?

- ✓ What would be the proposal, should the septic system fail?
- ✓ What exactly are you asking for a variance for?
- ✓ How are you proposing to build basement area?
- ✓ 16(c)(2) – in order to comply with the Ordinance, if you did digging anyway, you'd have to set the building 10' closer to the road? Dig into the waterfront buffer so it's on its existing buffer. Neighbors weren't permitted to do that.
- ✓ Conditions of the property need to be addressed in the hardship criteria.
- ✓ How many feet wide is the addition?
- ✓ Are there pictures of the staircase?
- ✓ You can't fold the chimney on the inside of the house to make it less nonconforming?
- ✓ Will the essential look of the neighborhood be changed by this reconstruction?
- ✓ Do you see any adverse impact on the health, safety, and welfare of the immediate residents and the community if you do this?
- ✓ Addition on the waterfront side – what's the increase of square footage on the waterfront side?
- ✓ Where would you build the building, if you didn't make it taller?
- ✓ If you move the building back, all you have to do is the dry well. It wouldn't affect anything?
- ✓ 20(b)(2) – spirit of the ordinance? Don't disturb 50' from lake.
- ✓ What's the setback to the wetlands, and how are the wetlands defined?
- ✓ If you disturb the waterfront buffer, you can put it back to its current condition; whereas if you move the house, it's a permanent disturbance.
- ✓ If we approve this, what is the gain to the individual and what is the loss to the public?

Brian Vincent presented the variance criteria, read from the zoning ordinance the variances needed, and explained other construction details of the project.

Paul Raynor and David Radeke responded to several concerns and questions as follows: the amount of watershed will be mitigated and conserved, which will improve the conservation of the lake; weatherproofing and a new heating system would allow for year-round usage; there is no loss to the public, as purchases will be made in local businesses, and the residents of the property would pay more taxes; the location would no longer be vacant.

Chair Lyon stated that the Board had received a letter from the abutters, Anne and David Wustrow, at 575 Forest Acres Road, that was in favor of the reconstruction; acknowledged the letter from Bob Brown.

Chair Lyon opened the Public Hearing.

John Doyle, 533 Forest Acres Road inquired regarding the septic system and the viability of the health of the leech field. Mr. Vincent indicated that it was good. Mr. Doyle spoke about Bob Brown's concerns detailed in the email sent to Amy Rankins on February 3, 2017. He indicated that two other properties have already been renovated, and CDL was responsible for both of those. He agreed with Anne and David Wustrow, that it's an improvement to that side of the pond, and wanted to commend the work done on managing the storm water. In terms of the tree, he suggested that healthy or not, there's a chance of the tree falling, and that the owners should be allowed to make the call on removal. In terms of the construction within the 25' buffer, he was in favor of it, as it would only be a temporary disruption.

Brian Vincent added that there is a proposal to bury propane tank and a proposed generator pad added beyond the 50' buffer, which are not shown on map.

Public Hearing closed.

Motion

IT WAS MOVED (Cheryl Devoe) AND SECONDED (Paul Vance) to discuss. THE MOTION WAS APPROVED UNANIMOUSLY.

The Board discussed and reviewed the responses of each of five variance criteria as noted in the application. The Chair noted that the public interest is served and the criteria have been met, as well as the spirit of the ordinance. He does not believe there would be a diminution of the value of the surrounding properties. In fact, it would enhance the value of the surrounding properties. The existing structure needs to be removed. It would add to the neighborhood, in terms of its additional buildings built recently. He noted there are several conditions of the property that create a hardship. It is a reasonable proposal that's been made. The owner has made a substantial effort here to improve the protections of the waterfront, the drip edge additions, the drywell additions, the improvement to the septic system, the mitigation of construction problems by doing it within the footprint. This is a tiny little place, and to make it into something that's habitable and in a reasonable way, it's reasonable. The owner has made effort to mitigate any concerns based on his construction.

Paul Vance indicated he has a slight continuing concern regarding the spirit of the ordinance, given the number of variances that are needed to make this work. In recognizing that this is a relatively large lot for the area, and it is impinged on so many different elements (lake, wetlands, road, narrowness of lot), that they've made tremendous effort to shoehorn something that's not a large eye sore building. Given that, he'd come to a positive conclusion on the spirit of the ordinance.

Cheryl Devoe stated that the special features of this lot make it very unique, and that, hearing that they're only using 3% of the lot right now, it's minor additions to make their home better. Also, in hearing about the owners' care for the land and the lake, and the Ordinances, she doesn't have any problems.

W. Michael Todd said if we didn't have the addition, two variances wouldn't be needed. He suggested that there needs to be a limit on the number of variances granted, if you're going to be true to the Ordinance, the wetlands, and the open bodies of water. He concluded that he was inclined to approve everything except the additional living space.

Katharine Fischer asked if there were any restrictions that the Board would consider in approving the Variance application. Chair Lyon responded that State approval is necessary.

Chair Lyon concurred regarding the pine tree that, if it fell, it would annihilate this cottage and everybody inside. Discussion was held regarding future expansions, and the effect on the residents, as well as the spirit of the ordinance.

Motion

IT WAS MOVED (Chair Lyon) AND SECONDED (Paul Vance) to grant the variances with following conditions:

- **State approval.**

IT WAS MOVED (Chair Lyon) AND SECONDED (Vahan Sarkisian) to grant the variances with following amended conditions:

- **State approval.**
- **Proposed nonconforming building would not be further expanded by either footprint or height.**

THE MOTION WAS APPROVED UNANIMOUSLY.

Motion to Adjourn

IT WAS MOVED (Chair Lyon) AND SECONDED (Vahan Sarkisian) to adjourn the meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

Meeting adjourned at 8:08pm.

Respectfully submitted,

Victoria O'Connor

Victoria O'Connor, Recording Secretary
Town of New London