



# TOWN OF NEW LONDON, NEW HAMPSHIRE

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## ZONING BOARD OF ADJUSTMENT (ZBA) MEETING MINUTES Tuesday, October 6, 2020 6:30 PM

**MEMBERS PRESENT:** Douglas W. Lyon (Chair), W. Michael Todd, Steve Root, Ann Bedard, Katharine Fischer, Heidi Lauridsen (Alternate), Lauren Chadwick (Alternate)

**MEMBERS EXCUSED:** Stan Bright, Frank Anzalone

**STAFF PRESENT:** Nicole Gage, Zoning Administrator

**OTHERS PRESENT:** Charlie Hirschberg, Doug Gamsby, John Doyle, Donna Doyle, Donna Weaver, Paul Raynor

1. **Call to Order** – Chair Lyon called the meeting to order at 6:30 pm and read the authorization for the Zoom meeting. Chair Lyon called the roll: Douglas W. Lyon: present, Heidi Lauridsen: present, W. Michael Todd: present, Steve Root: present, Ann Bedard: present, Katharine Fischer: present, Lauren Chadwick: present. Chair Lyon noted that Lauren Chadwick would be a full voting member tonight.

2. **Public Hearing continued from 8/18/20 & 9/15/20:** Case #ZBA20-02 (Variances) for owner Donna Weaver, applicant Doug Gamsby & Charlie Hirschberg, Parcel ID 106-006-0-0-0, 38 Beaver Point.

Summary of the Case: A variance is requested from Article V (5) Section C2 and a variance is requested from Article XX (20) Section B4 of the Zoning Ordinance to permit a small deck within the 25-foot side setback and vertical expansion of a structure in the waterfront buffer.

Chair Lyon noted that he spent time today with Donna Weaver walking this property and getting a better understanding of the project. There were a number of issues brought forth at the last meeting and additional information was requested. One of the issues was a survey and that has since been completed.

Donna Weaver stated that this is a project she has been thinking about for years and finally started discussions last fall. The discussion with the Zoning Administrator at that time brought to light the challenges of a small lot and being close to the waterfront. Over the winter she spent time designing a house that was in the same footprint and sought to minimize disruption to the pond. She thanked Paul Raynor of Lane River Design for coming up with a very versatile and thoughtful design. Septic approval from the state has been obtained and the shoreline permit application has been accepted. At the August ZBA meeting, the board had concerns about a boundary line and a continuance was necessary to obtain a survey. This has been done and she thanked Doug Gamsby for getting this done so quickly.

Charlie Hirschberg attended via zoom to provide an overview of the project. On the subdivision map there are 15 lots that go from Bog road and go all the way down to the triangular lot that fronts on Forest Acres Road. These lots were created in the 1956 subdivision. On the Zoning

Map of this same area, there are now only 10 lots as some have been consolidated. Of the 9 lots that have been built on, five houses are in some way within the waterfront buffer. Seven of the nine homes are two story dwellings. All of the other lots have expansion capability outside of the 50 foot buffer.

On the existing conditions plan, all the information related to the boundary survey is available. The uniqueness of this lot is there is no expansion capability. The existing impervious area is 32.4% of the site.

The proposed house plan has the same boundaries. The plan is to take the existing garage and move it closer to the proposed house. The current connector from the house to the garage will be eliminated and the garage size will be slightly reduced. The foundation of the house is in good condition, so the house footprint is no different in terms of the house structure. They will eliminate the fuel oil tank which is in the basement and plan to bury a propane tank by the road to replace it. The proposed house will have stone drip edges and also will incorporate a variety of storm water features. Vertical expansion is proposed which will add 607 square feet. The deck on the pond side will be removed. On the road side they plan to add a covered entry and the driveway will be pervious. Plantings and erosion control are part of the plan. Silt fencing will wrap around much of the house during construction to prevent runoff.

Chair Lyon commented when he walked the property the existing foliage on the site protects neighbors and there is no way the height of the house will impact the neighbors. Mr. Hirschberg agrees and stated it is consistent with the neighborhood.

A small bobcat excavator will be used for foundation construction and will have low impact. Part of the house sits on stone and is not adequate to support the house and will need to be replaced with a more secure footing. Woodchips will be put down to minimize damage from the excavator.

The existing house has a living space of 1264 square feet and the living space for the new house will be 1871 square feet. This is still a modest house with a one bay garage which has been reduced in size.

There are special conditions that make this different than other properties on the pond. It is the shallowest lot in terms of depth from the pond to the roadside. It doesn't have an area to expand and is limited. It is burdened by the zoning restrictions and it becomes a hardship.

This proposed variance does not affect the public or private properties adjacent to it. It is not blocking any views and is consistent with the character of the neighborhood.

It is considered a reasonable use and the impervious footprint is being reduced over what currently exists. There will be no increase in runoff going off the site into the pond and, in fact, will contain the runoff to infiltrate onsite. No other reasonable approach to expansion would comply with the zoning ordinance.

It meets the spirit of the ordinance in that they are reducing impacts and addressing impact both during construction and long term. Additional planting is being done, which supports the watershed plan for Messer Pond.

They are increasing the property value so this helps the neighborhood in terms of its property values.

The hardship is that they can't increase any square footage of this property without going for the variances.

John and Donna Doyle commented that as abutters they are in support of this project and feel it is a great addition to the neighborhood. The team that is working on this project has done other projects on their road and they have all come out very well. They respect the pond and the watershed. The Doyle's are in favor of granting the variance.

**IT WAS MOVED (Michael Todd) and SECONDED (Katharine Fischer) to DISCUSS. THE MOTION WAS APPROVED UNANIMOUSLY.** Douglas W. Lyon: yes, W. Michael Todd: yes, Ann Bedard: yes, Katharine Fischer: yes, Lauren Chadwick: yes.

Chair Lyon stated he spent a lot of time looking at this property. As he reviewed the variance request, he determined that it is not contrary to the public interest in any way. In fact, it speaks specifically to the public interest in terms of reducing impact on the pond and protecting the watershed. This is an oddly shaped lot and has been reduced in size as time has gone on, as one of the boundary markers is under water as the lake has risen. By granting this variance, we will protect the lake. Replacing the septic tank, removal of the oil tank, a smaller overall footprint, improved drainage and plantings are all improvements. The values of surrounding properties should increase and not decrease as a result. There clearly is a hardship in terms of the shrinkage of the lot, the inability to move in any direction except upward and the public receives a substantial improvement by the design that has been created.

Michael Todd asked how the neighborhood would be affected if every similarly situated applicant were to receive this same variance. Charlie Hirschberg responded that there is only one house in the fifty foot buffer that is one story. In this neighborhood there aren't any other situations like this.

Ann Bedard stated on plan E1, the numbers need to be updated. Mr. Hirschberg agreed to do this. Ms. Bedard is also struggling with the waterfront disturbance. More than 50% of this project is in the waterfront buffer. The proposed landscaping needs to happen, especially in the front.

Donna Weaver responded that this is a reasonable, least impactful way to secure the home she wants to live in. Replacing two walls to support the house is a small excavation project in the waterfront.

**IT WAS MOVED (Doug Lyon) and SECONDED (Katharine Fischer) to approve this variance. The five criteria have been met:**

**The variance is not contrary to the public interest as protection of the waterfront is improved, as is the spirit of the ordinance which is designed to prevent overbuilding and impactful building on the waterfront and impacting adversely on water quality.**

**Substantial justice is done because the house that is being proposed is modest, but is also ADA compliant for safety and to deny this variance would be a hardship for the homeowner.**

**The values of the surrounding properties are more likely to be improved and not diminished. A strong case was made regarding the unique characteristics of this lot.**

**\*A condition to this approval is that non-invasive plants from the State of New Hampshire approved noninvasive plantings list would be part of the construction project and would be shown on the plan that goes before the Planning Board.**

**THE MOTION WAS APPROVED UNANIMOUSLY.** Douglas W. Lyon: yes, W. Michael Todd: yes, Ann Bedard: yes, Lauren Chadwick: yes, Katharine Fischer: yes.

### **3. Review of Minutes of September 15, 2020**

**IT WAS MOVED (Doug Lyon) and SECONDED (Michael Todd) to approve the minutes of the September 15, 2020 meeting.** Douglas W. Lyon: yes, W. Michael Todd: yes, Ann Bedard: yes, Katharine Fischer, Lauren Chadwick: yes

**THE MOTION WAS APPROVED UNANIMOUSLY.**

**4. Other Business** – The next meeting will be held on Tuesday, November 17, 2020.

### **5. Motion to Adjourn**

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

The meeting was adjourned at 8:00 PM.

Respectfully submitted,

Trina Dawson  
Recording Secretary  
Town of New London