



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT (ZBA) MEETING MINUTES Tuesday, November 17, 2020 Digital – only meeting via Zoom 6:30 PM

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. The public has access to contemporaneously listen and participate in this meeting through the video conferencing platform Zoom.us.

MEMBERS PRESENT: Douglas Lyon (Chair, voting), Michael Todd (Vice Chair, voting), Stan Bright (voting), Lauren Chadwick (Alternate), Katharine Fischer (voting), Heidi Lauridsen (voting), Steve Root (Alternate), Ann Bedard (recused), Frank Anzalone (Applicant)

OTHERS PRESENT: Nicole Gage, Zoning Administrator, Nancy & Gene Lindsey

- 1. Call to Order**—Chair Lyon called the meeting to order at 6:30pm and read the zoom authorization information. Chair Lyon called the roll. Doug Lyon: here. Stan Bright: here. Michael Todd: here. Frank Anzalone: here. Katharine Fischer: here, Steve Root: here, Lauren Chadwick: here. Heidi Lauridsen: here, Ann Bedard: here.

Frank Anzalone noted that they have retained Pierre Bedard to do some work on this project. Although there is no pecuniary interest and no conflict, Ann Bedard has recused herself as a voting member and Stan Bright will be a voting member tonight in her place.

2. Public Hearing:

Case #: #ZBA20-05 (Variances)
Owner/Applicant Harold Jr. & Nancy Lindsey
Applicant: Frank Anzalone, Frank Anzalone Associates
New Parcel ID 056-022-0-0-0
Address: 135 Old Route 11
Zone(s): R-2 (Residential) with FEMA Flood Hazard Area A and Shore Land Overlay (Little Lake Sunapee)

Summary of the Case: Four (4) variances are requested from 1) Article XX Section B.2.a, 2) Article XX B.2.b, 3) Article XX B.4, and 4) Article XVI C.2 of the Zoning Ordinance to permit the construction of a new screened porch on a portion of an existing deck.

Frank Anzalone stated that the Lindsey's bought this house several years ago and have done a lot of work to it. The work done that has been done has been advantageous to the lake and the landscaping has been done with native plantings. When the driveway was redone a good portion of it was done with pervious pavement. Ms. Lindsey is the Chair of the Little Lake Sunapee Protective Association.

The proposal is to screen in a portion of their deck and straighten a corner area. This will allow them to use more of the deck and simplifies the framing. For this small addition, there are four variances that are required. The portion added will be 6 square feet and will have minimal impact. Adding the screened porch will require adding a roof and now they will be able to collect the water coming off the roof and gather it in a chamber storage system created under the deck. This prevents the runoff of water and contaminants going into the lake. The design of the screened porch is consistent with the neighborhood and will have little to no impact on the lake.

Mr. Anzalone provided the following information regarding the five criteria that need to be met for a variance:

1. **The variance will not be contrary to the public interest** – Granting a variance does not threaten the public health, safety or welfare in any way. It doesn't conflict with the primary zoning objective which is a residential use in a rural residential zone.
2. **The spirit of the ordinance is observed** – Granting a variance is not injurious to the public or private rights of others and doesn't alter the essential character of the neighborhood. Having a deck actually will be beneficial as it will allow them to add the proposed storm water management system which will reduce the runoff going into the lake. This improves the water quality which is beneficial to everyone on the lake.
3. **Substantial justice is done** – Granting a variance does not cause harm to the general public that outweighs the benefits to the owner. No harm will be done to the general public and there will be no harm done to the private rights of the abutters. If anything, it will improve the water quality of the lake.
4. **The values of surrounding properties are not diminished** – By adding the screened in porch it will increase the value of this property and there are no negative impacts on the values of neighboring properties.
5. **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship** – This house was built in the 1980's. The west end of the property is fairly steep and running southeast to the northwest there is a sewer line and overhead wires that have an easement. This essentially cuts the property in half and the only location for the house is within the setback. This differentiates this from the other properties on the lake.

No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific applications of that provision to the property – the purpose of the ordinance is to prevent expansion that will damage or become harmful to the lake. The proposed addition with improvements to the storm water management will actually reduce the runoff into the lake and will help improve the water quality of the lake. The proposed use is a reasonable one. A screened in porch is a common feature on many of the single-family residences on this lake and many surrounding lakes.

Michael Todd stated the entire area of the proposed deck lies within the 50-foot buffer. Mr. Anzalone stated the deck already exists, they are just adding 6 square feet. The entire home is in the 50-foot buffer. Mr. Todd noted that the ordinance states if a deck exists, you can't put a covering on it. Mr. Anzalone stated this is one of the variances they are asking for.

Mr. Todd also noted that the power line easement also crosses four other lots. Mr. Anzalone stated that is correct but it crosses them in different locations. Mr. Todd stated that all the property owners on the lake are subject to the same ordinances that the petitioners are. Mr. Anzalone replied that the work they are doing to this property is going to reduce the detriment to the lake because currently the water runoff goes into the ground and into the

lake. Now there will be a collection system that will collect it and store it instead of it running into the lake.

Mr. Todd stated it is the burden of the applicant to show that there is unnecessary hardship. Mr. Anzalone stated there is no other place on the lot that the house would fit and having a screened in porch would be beneficial to them. Steve Root asked if there was any other possible locations for the screened porch that would be outside of the 50 foot buffer. Mr. Anzalone stated no, not really. The area outside the 50 foot buffer is the entrance to their bedrooms. That would be awkward if guests had to walk through their bedroom to get to it and is not a reasonable use. Mr. Anzalone also added that the only disturbance would be within the footprint of where the screen porch is. They aren't disturbing any vegetation and work will be done by hand.

Chair Lyon noted there was a letter of support on file that was sent in from a neighbor.

IT WAS MOVED (Michael Todd) AND SECONDED (Stan Bright) to discuss. Doug Lyon: yes. Michael Todd: yes, Stan Bright: yes, Heidi Lauridsen: yes, Katharine Fischer: yes. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Lyon spent a lot of time reviewing these materials and an overriding issue for him on this project has to do with the spirit of the ordinance. The reason that the ordinance talks about not doing vertical expansion is to protect the lake from unreasonable expansion that would affect the water quality. For this project, the expansion that is being proposed is quite reasonable. It is a tiny area and the overall impact of the project is an improvement to the quality of the lake. Mr. Todd raised a legitimate question about what would happen if everybody on the lake had permission to do this. Chair Lyon feels that if each person came in and wanted to submit a tiny increase in square footage with an overall improvement on the water quality of the lake that is a reasonable thing to entertain. The public interest is primarily to protect water quality which will be improved by this project. The spirit of the ordinance is protection and this provides protection. The use of the Lindsey's propose is reasonable and there are some aspects to this lot that make it different from other properties. It is somewhat unique and somewhat different. He considers the overall reasonableness of this project and how reasonable is it within the five criteria. He stated it is a reasonable proposal and the landowners have made a good faith effort to put a project in place that has virtually no impact in terms of things the spirit of the ordinance is trying to address and improve such as water quality. He is in favor granting the variance.

Mr. Todd pointed out that if all the other pre-existing non-conforming properties on the lake wanted to expand their porches and their proposal included storm water management features that improved water quality we would be bound to approve it based on the above argument. Chair Lyon responded that a decision on one case has no bearing on the other cases. Each proposal would be considered individually. He considers the overall reasonableness of the overall project. This is a tiny increase of the porch and it improves the quality of the water. Mr. Todd stated it is a question of whether it is necessary or unnecessary. What is the extent of the hardship? If everyone is subject to the same restrictions, there is no grounds for a variance. Chair Lyon stated there are court cases that state the hardship exists if the penalty to the landowner is greater than any benefit to the public. In this case, this proposal benefits the public and there is no penalty of any kind. The penalty to the landowner is a diminished use of their house which is a disadvantage to them.

Stan Bright suggested doing more to enhance the collection of water coming off the roof. Katharine Fischer agrees that if anything more can be done that is reasonable to enhance the catch of water, it should be done. Frank Anzalone suggested they could improve the drip edge to collect and store more water and channel it into the collection system.

IT WAS MOVED (Doug Lyon) AND SECONDED (Michael Todd) to approve all four variances requested by this applicant determining that it has met the five criteria. The condition applied is that all of the water on the plane of the roof to which the new screened porch attaches, will be collected and in addition to that, the remainder of the roof will have improved drainage on the ground that will channel water toward the new collection area. Doug Lyon: yes. Michael Todd: yes, Heidi Lauridsen: yes, Katharine Fischer: yes, Stan Bright: yes THE MOTION WAS APPROVED UNANIMOUSLY.

3. Review of Minutes of October 6, 2020

Steve Root noted that the identification of voting members should be reflected in the minutes.

IT WAS MOVED (Doug Lyon) and SECONDED (Katharine Fischer) to approve the minutes of the October 6, 2020 meeting. THE MINUTES WERE APPROVED UNANIMOUSLY. Doug Lyon: yes. Michael Todd: yes, Heidi Lauridsen: yes, Stan Bright: yes, Katharine Fischer: yes, Ann Bedard: yes

4. Other Business – Chair Lyon stated that meetings held via zoom will continue indefinitely due to the rising numbers of COVID19. He recommends investing in a headset to improve participants ability to hear members.

Zoning Administrator Nicole Gage reported that she attended the state annual Land Use conference on October 31, 2020. She noted that one town shared a suggestion of getting all of the land use boards together on an annual basis to discuss issues. This would include Planning, Conservation Commission and the Housing Commission. Please let her know if you are interested in doing this.

Ms. Gage stated the only amendment the Planning Board is going to propose in March 2021 is a change in the definitions of the storm water erosion control plan. The Master Plan should be rolled out over the next few months.

5. Motion to Adjourn

IT WAS MOVED (Katharine Fischer) AND SECONDED (Stan Bright) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY. Doug Lyon: yes. Michael Todd: yes, Stan Bright: yes, Heidi Lauridsen: Yes, Katharine Fischer: Yes.

The meeting was adjourned at 7:50PM

Respectfully submitted,

Trina Dawson

Recording Secretary
Town of New London