



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT (ZBA)

MEETING MINUTES

Tuesday, December 7, 2021

Whipple Town Hall, 6:30pm

MEMBERS PRESENT: Doug Lyon (Chair, voting) Michael Todd (Vice Chair, voting), Katharine Fischer (voting), Ann Bedard (voting), Frank Anzalone (voting), Steve Root, Alternate not voting)

MEMBERS ABSENT: Lauren Snow Chadwick, Stan Bright, Heidi Lauridsen

OTHERS PRESENT: Kimberly Hallquist, Town Administrator, Amy Johnson, Trustee, Barry Schuster, Esq., Sue Ellen Andrews, Abutter

1. **Call to Order**– Chair Lyon called the meeting to order at 6:35pm and noted that there were five members in attendance to vote on the case.

2. **Public Hearing:**

Case	#ZBA 21-05
Owner	Westwind Trust, Amy D. Johnson, Trustee
Applicant	Amy Johnson
Address	596 Lakeshore Drive
Parcel ID	050-007-0-0-0
Zone(s)	Residential (R-2)
Overlay	Shore Land Overlay District
Summary:	

- #ZBA21-05 – Application for a variance per Article XX, Section B.4. of the Zoning Ordinance to allow vertical expansion in the Waterfront Buffer. The applicant proposes building a shed dormer on the Lakeshore Drive side of the home. The height of the ridgeline of the house will stay the same and there will not be an increase of impervious area. The house is located entirely within the Residential (R2) portion of the property.

Barry Schuster, representing the applicant, presented the application for variance pointing out that the proposed dormer is below the crest of the roof. He reviewed the five criteria for variance as included in the application.

1. **The variance will not be contrary to the public interest:**

The proposed dormer will be on the roadside of the house and would not be visible from the lake. The height of the house would not change. The Zoning Ordinance states that the “purpose of this buffer shall be to protect the quality of public waters while allowing the property owner discretion with regard to water access, safety, viewscape maintenance, and Lot design.” The addition of the small dormer will have no effect on the lake or water quality. There will be increase in roof area and no increase in the height of the house. Raising the ceiling in the existing second floor bedroom will not affect the “essential character of the neighborhood or threaten the health, safety, or general welfare of the public.”

2. The spirit of the ordinance is observed:

The proposal to raise the ceiling on the roadside of the house without changing the area of the floor space is only so that one can move in the existing interior room without hitting one's head on the ceiling. The request satisfies all of the statutory purposes of zoning and is consistent with the purpose of the Watershed Buffer. None of the purposes listed in the state statute or in the Watershed Buffer will be affected. The proposal will be consistent with the purposes of zoning and will allow an appropriate use of the property entirely consistent with the essential character of the neighborhood so that it is consistent with the spirit and intent of zoning.

3. Substantial justice is done:

The loss to Dr. Johnson without a variance is the reasonable ability to walk in a room with a ceiling of customary height. Granting the variance results in no loss to the general public since the house is existing and the overall height of the house will not change.

4. The values of surrounding properties are not diminished:

The length of Lakeshore Drive is residential and contains homes from end to end. The proposed dormer that Dr. Johnson would like to construct on her home would not increase the height of the ridge line of house and, once constructed, would be entirely consistent with the style of the house when viewed from the road. It would not be visible from the lake and would have no impact on property values other than to increase the value of her property which would only provide a benefit to the property values of her neighbors.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, means that, owing to special conditions of the property that distinguish it from other properties in the area: (1) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and (2) The proposed use is a reasonable one:

The unique setting of this property arises from the fact that it was constructed prior to zoning in the Town and is subject to zones and an overlay that have been added to the Ordinance over the years. It is a non-conforming use and is restricted in ways unlike that of most other residences in the residential zone. The addition of the minimal increase in the ceiling height will accommodate the reasonable use of the existing bedroom without having any impact on the public, the neighborhood or the environment. As such, the use is reasonable considering the property's unique setting in its environment.

Mr. Todd asked if the home is year-round, Ms. Johnson confirmed that while she does not live in the home year-round, it is used by her family on a year-round basis. Mr. Schuster noted that the request to add the dormer is respectful of the ordinance as there is no elevation in the height of the structure. Ms. Johnson noted that there will be no change to the footprint of the building or to the inside floor space. Mr. Root asked how many bedrooms the home contained; Ms. Johnson responded that there are three. He noted that he wanted confirmation that there are 3 bedrooms now and that no new bedrooms will be added; Ms. Johnson agreed noting that there have always been 3 bedrooms and no new bedrooms will be added. Ms. Johnson stressed that there will be no changes to the inside of the home.

Mr. Root read from the application, item #5: *The unique setting of this property arises from the fact that it was constructed prior to zoning in the Town and is subject to zones and an overlay that have*

been added to the Ordinance over the years. It is a non-conforming use and is restricted in ways unlike that of most other residences in the residential zone. Mr. Root noted that he struggles with this as he knows of many other properties similarly situated, nonconforming homes built in the watershed; he noted that this property is unique, but it is not unique because it is nonconforming or because of when it was built. Mr. Schuster pointed out that due to the sloping nature of the property, there is a topographical uniqueness that would not allow expansion. Mr. Root pointed out that the structure is located entirely in the 50' buffer zone so it could not be expanded anyway. Mr. Schuster agreed.

Mr. Anzalone summarized that the applicant will not change the number of bedrooms in the home and there will be no change in the footprint. Ms. Johnson agreed. He asked if there will be a window in the dormer; Ms. Johnson confirmed that will be a window. Mr. Anzalone noted that it must meet code: be large enough for a person to get out in case of a fire. Ms. Johnson was not sure of the measurements of the dormer but thinks it will be 13'7" long x 7'7" wide.

Mr. Todd asked Mr. Schuster to address the substantial justice requirement. Mr. Schuster noted that the request respects the spirit of the ordinance and allows a reasonable use of the home, it does not increase the size of the structure. He noted that he understands the frustration of people around the lake when people expand their structures, he stressed that this request does not do that.

Sue Ellen Andrews, abutter, stated that she has no objection to the request, she felt that it would not affect the neighborhood and she is happy that Amy has kept the cottage in its original form concluding that the requested dormer is a nice way to make the house more useful. Ms. Andrews feels that it is a fine idea.

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

The Board discussed the five criteria. Chair Lyon noted that he felt that all five criteria have been met by the applicant. Mr. Todd inquired about whether the structure would have gutters; Ms. Johnson noted that there would be no need to add gutters as a result of the dormer as there is a drywell on the property to catch the water runoff from the house and from the road, noting that the house is 8" below the level of the road.

IT WAS MOVED (Doug Lyon) and SECONDED (Frank Anzalone) to approve the variance to allow a dormer to be added to the existing structure; such dormer to be no taller than the existing ridge line and with a width that does not exceed 13'7". THE MOTION WAS APPROVED UNANIMOUSLY. Voting members: Doug Lyon, Ann Bedard, Michael Todd, Katharine Fischer, Frank Anzalone.

Review of Minutes of August 3, 2021

There was a discussion about a reference on page 2, line #1: "*...they plan to dig for signs...and 4.5 inches deep.*" There was general consensus that signs would be installed at a depth exceeding 4.5 inches, but given that the reference was not material to the decision in the case, no further action was needed by the Board.

IT WAS MOVED (Doug Lyon) and SECONDED (Katherine Fischer) to approve the minutes of the August 3, 2021. THE MINUTES WERE APPROVED UNANIMOUSLY.

Motion to Adjourn

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

The meeting was adjourned at 7:21PM

Respectfully submitted,

Kimberly Hallquist

Town of New London