



TOWN OF
NEW LONDON, NEW HAMPSHIRE

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**ZONING BOARD OF ADJUSTMENT (ZBA)
MEETING MINUTES
Tuesday, April 2, 2019
6:30 PM**

MEMBERS PRESENT: Douglas W. Lyon (Chair), Katharine Fischer, Ann Bedard, Heidi Lauridsen, Frank Anzalone, Bruce Hudson (Alt)

MEMBERS EXCUSED: W. Michael Todd, Stan Bright

STAFF PRESENT: Nicole Gage, Zoning Administrator

OTHERS PRESENT: Doug Gamsby, John and Mary Doyle

1. **Call to Order** – Chair Lyon called the meeting to order at 6:30 pm. In Michael Todd's absence, Heidi Lauridsen will be a voting member tonight.

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

3. **Review Minutes of March 19, 2019**

IT WAS MOVED (Frank Anzalone) AND SECONDED (Bruce Hudson) to approve the minutes of the March 19, 2019 meeting. THE MOTION WAS APPROVED UNANIMOUSLY

4. **Case #ZBA19-06 – Application for a Variance**

PUBLIC HEARING

Parcel ID 119-021-000, 583 Forest Acres Road

Zoned R2 with Shore Land Overlay

Doug Gamsby, Greenline Property Services, Applicant David & Risa Radeke, Owners.

A variance is requested from the provisions of Article XX, Section B.1.b of the Zoning Ordinance to permit removing a portion of existing multi-level deck, rebuild deck in similar footprint with less area disturbance, farther from pond edge and single level.

Doug Gamsby attended the meeting to represent applicants David and Risa Radeke. There is currently a series of decks that progressively go smaller and smaller on different levels and end up 12 feet from the edge of the pond. There are steps between each level so it's a safety hazard and it's very old. The existing deck is 176 square feet so they are proposing to remove the old deck and square off a single deck that is 170 square feet. It would be 12 feet long and 13.5 feet wide and almost 22 feet from the lake with less square footage and less disturbance. No vegetation or trees would be disturbed. After the old deck is removed it would be planted with ground cover. The erosion control is a silt fence barrier during construction.

When the applicants came before the Zoning Board previously to replace the house, part of the agreement was to remove only part of the deck. Now, it is falling apart, has two separate levels and stairs so it is cumbersome. The side stairs will remain but stairs in the front will be removed. There is an existing stone path to get down to the lake. There isn't a beach, just a grassy area. Ann Bedard wondered why this wasn't asked for when they went for the original building permit. Mr. Gamsby stated they were asking for quite a bit at that point and were focused on the house itself. After living there for a year, they realized the deck doesn't work very well.

They have an approved shore land permit.

Mr. Gamsby reviewed the following variance criteria:

Contrary to Public Interest - the deck and stairs have been there for a long time and the house was built in the 1950's, prior to setbacks. They are constructing a new deck on a similar footprint using less area of disturbance and building further from the pond edge which will create a greater undisturbed buffer for the pond.

The Spirit of the Ordinance is Observed - The deck will be constructed further from the pond reference line and thereby increases the undisturbed area with greater vegetative protection towards the pond.

Substantial Justice - The existing deck is in poor condition and should be replaced. Having multi levels with one and two step intervals is a safety hazard. Having a single level deck will be safer for adults and children using the deck.

The Value of Surrounding Properties will not be Diminished - The proposed deck and single stair set will be further from the pond thereby lessening the disturbance to the waterfront buffer. The majority of the area under the existing deck will be replanted with native species adding protection and wildlife habitat toward the pond with no detriment to surrounding property values.

No Fair and Substantial Relationship Exists between the General Purposes of the ordinance and this application - The existing deck and stairs protrude close to the edge. Reconstructing this proposed deck will be substantially further from the pond adding an unaltered area and fewer disturbances towards the pond.

The use is reasonable. The existing deck was showing signs of age, loose boards and rails and is multilevel. The combination of reconstructing the deck with new hardware and materials and making it a single level is advantageous to the owners and the pond waterfront buffer.

Unnecessary Hardship - to rebuild the existing deck in like kind with multi levels could be considered a safety hazard. Rebuilding a single level deck further from the pond edge will be good for both public safety and the pond itself.

Bruce Hudson asked about heavy equipment being used during construction. Mr. Gamsby stated they should need very little. He can't speak for the contractor but at most a small track excavator but doesn't see the need to even have that. Once the old deck is removed, it should all be hand work. Mr. Hudson asked about the septic system. Mr. Gamsby stated he did the septic design and inspected it. The septic tank was leaking and the septic tank and pump was replaced. The leach field was in good shape.

John and Mary Doyle are neighbors and attended the meeting to speak in favor of the variance and hopes the board will grant it. They've known the Radeke's since they purchased the property a few years ago and they've done a lot of work to improve the value of the property and the neighborhood. This request is consistent with that effort and within the guidelines of protecting the pond.

**IT WAS MOVED (Katharine Fischer) AND SECONDED (Frank Anzalone) to DISCUSS.
THE MOTION WAS APPROVED UNANIMOUSLY**

Chair Lyon stated that generally speaking, this board is very concerned about property with potential lakefront pollution and intrusion. This particular proposal actually reduces the intrusion into the area

close to the waterfront. It is an intelligent design that will reduce the impact on the lake and increase the amount of undisturbed and permeable area. Under the criteria, there is no fair and substantial relationship between the purposes of the ordinance and this application and the use is reasonable. In terms of the spirit of the ordinance, clearly we are trying to prevent intrusion near the waterfront and this does that. The condition of the deck requires intervention and values of surrounding property have actually increased over time by this land owner and we have heard comments from a neighbor attesting to that. For a lot of reasons, this meets our criteria for granting a variance.

IT WASD MOVED (Doug Lyon) AND SECONDED (Frank Anzalone) to approve the variance.

Ann Bedard would like to add conditions. She would like to recommend that when the stairs are removed; approved shore line vegetation is restored. DES has a list of native species and plants that they recommend.

Doug Lyon amended the motion as follows:

IT WAS MOVED (Doug Lyon) AND SECONDED (Ann Bedard) to approve the variance request subject to the following conditions:

- 1. The area of the deck and stairs to be removed will be restored with natural shore land vegetation approved by the state and/or Messer Pond Association.**
- 2. No further construction of any kind within the 50 foot waterfront buffer will be allowed without Zoning Board approval.**

THE MOTION WAS APPROVED UNANIMOUSLY

5. Other Business

There will be no meeting on April 16, 2019. Nicole Gage will send a notice to cancel meetings as soon as she knows there are no applications for review.

It was also discussed that all plan dimensions must be included for the board and no last minute handouts/information will be accepted the night of the presentation.

Nicole Gage noted that registration is now open for the June 1, 2019 Planning and Zoning conference if anyone is interested in attending.

6. Motion to Adjourn

A MOTION WAS MADE (Doug Lyon) and SECONDED (Bruce Hudson) to adjourn the meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting was adjourned at 7:36pm.

Respectfully submitted,

Trina Dawson
Recording Secretary
Town of New London