



TOWN OF  
NEW LONDON, NEW HAMPSHIRE

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**ZONING BOARD OF ADJUSTMENT (ZBA)  
MEETING MINUTES  
Tuesday, May 3, 2022  
Whipple Town Hall, 6:30pm**

**MEMBERS PRESENT:** Doug Lyon, Chair, Michael Todd, Katharine Fischer (voting), Ann Bedard (voting), Frank Anzalone (voting), Lauren Chadwick (voting), Steve Root (voting), Heidi Lauridsen

**MEMBERS ABSENT:**

**OTHERS PRESENT:** Adam Ricker, Zoning Administrator, Caroline Leonard, Eric Schultz, Jeffrey Christensen, Nancy Dahm, Will Davis, Melanie Bell

1. **Call to Order**– Doug Lyon called the meeting to order at 6:30pm. Chair Lyon called the roll and noted that Michael Todd has recused himself from the first public hearing.

2. **Public Hearing (s):**

**Case #** ZBA 22-02  
**Owner** Eric and Susan Schultz  
**Applicant** Eric Schultz  
**Address** 148 Old Main Street  
**New Parcel ID**107-01\*9-000-000-000  
**Zone (s)** Residential (R-2)  
**Overlay**

**Summary:**

**#ZBA 22-02 – The applicant is applying for a variance of the front yard setback as required by Article V, Section C., 1. of the Zoning Ordinance. The property owner is proposing to build a pole barn that would be located partially within the required 25-foot front yard setback.**

Chair Lyon explained that this is a continuation of the hearing held last month. Mr. Shultz is applying for a variance and the ZBA members that were a part of that meeting last month will be the ones voting on it tonight (Katharine Fischer, Ann Bedard, Frank Anzalone, Lauren Chadwick, and Steve Root).

Melanie Bell, an attorney on behalf of Eric and Susan Schultz attended the meeting. Ms. Bell stated they are aware there is a five-part standard they are required to meet to obtain the variance. It is her understanding that a few members of the ZBA went and visited the property to familiarize themselves with the conditions of the property to see what makes it a special condition property. The first prong is whether it will have a negative effect on the public interest and their position is that it really has no effect on the public interest. Where Mr. Schultz wants to build the barn is along the same infringing setback as the house that has existed there since the 1800's. He is not asking to encroach any further into the roadway than the existing house itself. Ms. Bell looked into the purpose of the setback zoning ordinance and was not able to find much information. The road setback is to provide for utilities, access

for snowplows and school buses. Anything Mr. Schulz is proposing to do is well beyond the existing stone wall that has been there for many years. The pole barn is a small structure in a large field behind the house. Ms. Bell would like the board to consider that there may actually be a benefit in granting this variance as Mr. Schultz will be able to organize his equipment better and clean up his yard. It will be built to match the overall character of the neighborhood.

Since the last meeting, Mr. Schultz has provided additional material for review. This included a letter from a builder that reviewed the property and has concluded that this is the one and only place the barn can be situated on this property. It is the only flat area and cannot be pushed back as that is where the proposed septic replacement field will have to go. Mr. Schultz has discussed this with most of his neighbors and the only one that objects is the neighbor on the left which is strange as this is the only other place the barn could be built and they then would see the structure. The hardship is there is simply no other place to put the barn. He is entitled to the variance as the property has unique features such as a lot of steep slopes and the septic issue, so he has met the criteria for hardship.

The Board asked questions about the leach field stating the old one could be torn up and new one installed over the existing one. Also, could it be put where the land is sloping? Mr. Schultz responded they are using the information from the septic design that was presented when that leach field was installed in 1996. Mr. Schultz was unable to get a surveyor in the required timeframe, but he had a septic designer plot out the property. He used the online elevation app to make the elevation lines to show the only flat spot on the property. He also noted they were incorrect at the last meeting in thinking there was a five-foot discrepancy as it is more like 12 feet. This is referring to the distance between the front of the existing house and the property line. Mr. Schultz did not think it was possible to tear up a leach field and put a new one over it. Frank Anzalone also wanted to know why the barn cannot be moved back so it is conforming. Mr. Schultz responded it is the only flat spot on the property and if he puts the barn in the middle of it, he cannot use the barn in the way he needs to use it. He would be unable to use his tractor in that section of the property as there isn't enough room to move around.

Ann Bedard thanked Mr. Schultz for the information provided but she is disappointed that there are still no actual measurements saying how long the pole barn would be and the permit asks for a shed with different dimensions than what has been stated tonight. She specifically asked for exact dimensions at the last meeting.

Caroline Leonard attended the meeting on the behalf of the MacElwee's. She stated she heard for the first time tonight that the dimensions were different than stated at the last meeting. She encouraged the board to table this tonight until a survey is done with the correct dimensions so it can be properly considered.

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

Chair Lyon explained that is the job of the ZBA to explore all other possibilities. Frank Anzalone stated he is having an issue with the plan as presented. A surveyor would research the county record would be able to tell them where the property line is and what the dimension is from the property line to the proposed barn. He knows for a fact you can dig up a leach field and build another leach field over it as he has done two in the past three years. He doesn't think it will have an impact on surrounding properties and there is public interest

as there will be a visual impact. He is having difficulty with the hardship criteria as he can see three different locations where the barn could go, and it would be conforming. The use of a tractor is not a reason to grant a variance. Steve Root disagreed as he does see some hardship. The applicant has used his judgement as to what the best location of the structure is. There is very little area to turn a tractor around and blocking a path to a lower property is not a good thing. Frank Anzalone understands the visual impact but a set of doors would hide what is in the barn so there is no need for it to face away from the street.

**IT WAS MOVED (Frank Anzalone) AND SECONDED (Ann Bedard) to deny the application due to not meeting the hardship criteria. Frank Anzalone: yes, Ann Bedard, yes, Steve Root: no, Lauren Chadwick: no, Katharine Fischer: no. THE MOTION FAILS.**

**IT WAS MOVED (Steve Root) AND SECONDED (Lauren Chadwick) to approve the application after demonstrating all five criteria have been met. Frank Anzalone: no, Ann Bedard, no, Steve Root: yes, Lauren Chadwick: yes, Katharine Fischer: yes. THE MOTION CARRIES.**

<b>Case #</b>	<b>ZBA 22-03, ZBA 22-04 &amp; ZBA 22-05</b>
<b>Owner</b>	<b>Nancy C. Dahm</b>
<b>Applicant</b>	<b>Nancy Dahm</b>
<b>Address</b>	<b>110 Murray Pond Road</b>
<b>New Parcel</b>	<b>045-005-0-0-0</b>
<b>Zone(s)</b>	<b>R2 (Residential 2) within the Shoreland Overlay District and Streams Conservation Overlay District</b>

**Summary:**

- **#ZBA22-03- The applicant is applying for a variance from Article V, Section C. 1., of the Zoning Ordinance that would reduce the front yard setback from 25-feet to approximately 11.65-feet for the construction of a garage.**
- **#ZBA22-04 – The applicant is applying for a variance from Article XX-II, Section E. 1., of the Zoning Ordinance. The variance would allow for a corner of the proposed garage to build in the Streams Conservation Overlay buffer. A total of 17.5 square feet would be located in the buffer and the building would encroach the 100-foot buffer by 4.43 feet**
- **#ZBA 22-05 – The applicant is applying for a variance from Article V, Section C. 2., of the Zoning Ordinance for the side yard setback. The required side yard setback is a minimum of 20 feet with an aggregate of 50 feet between the two side yards. The existing structure has a side yard setback of 12.55 feet on the north side, and the proposed garage setback in the south side yard is 9.9 feet, with an aggregate of 22.45 feet.**

Jeffrey Christensen attended the meeting on behalf of the applicant, Nancy Dahm. Will Davis of Horizon's Engineering also attended the meeting as he prepared the plans that are being presented. The property is a single-family residence and Nancy Dahm is seeking to add a garage. Ms. Dahm stated she has owned this property since 1995. When they redid the cottage, they were required to stay within the same footprint. She has lived there full time since 2016 and loves living there. She will be turning 80 in January and for the last three

years the winters have been very difficult for her. The driveway gets icy, and her car is covered in ice and snow. It is a hardship for her to feel comfortable handling this by herself and if she doesn't have a garage, she will have to spend two or three months living somewhere else. This would be inconvenient and expensive.

Will Davis explained the existing house has infiltrating stone drip edges and they are proposing a similar approach for the garage. A small corner of the garage will be constructed within the overlay district, encroaching, at most, 4.43 feet into the 100-foot buffer zone. The property is irregularly shaped, narrowing as it approaches Murray Pond Road. There is nowhere else on the property where the garage could be placed where it would be conforming.

Mr. Christensen stated this is designed to be consistent with the design, shape, and layout of the house so it is consistent with the neighborhood as a whole. It is no closer to any of the neighbors than the existing building already is. Ms. Dahm is at the very end of Murray Pond Road so there is no impact on traffic. There is no fair and substantial relationship to the purposes of the zoning ordinances that should prevent the granting of this variance. There will be no environmental concerns created by this construction and the variance. Five abutter letters were received, and all were in support.

**IT WAS MOVED (Steve Root) AND SECONDED (Michael Todd) to discuss. THE MOTION WAS APPROVED UNANIMOUSLY.**

Chair Lyon stated this proposal was very well done. There is evidence that that suggests that the variance is not contrary to public interest. The spirit of the ordinance is observed, substantial justice is done and there is no evidence that the surrounding property values will be diminished. The nature of the property itself, because it is so small and odd shaped, makes it a reasonable hardship to grant and the criteria is therefore met.

**IT WAS MOVED (Doug Lyon) AND SECONDED (Michael Todd) to approve the variances having found that the applicant has met the five criteria with the following condition:**

**Variances granted as depicted on plan sets prepared by Horizons Engineering dated April 11, 2022. THE MOTION WAS APPROVED UNANIMOUSLY.**

**3. Review of Minutes – April 5, 2022**

**IT WAS MOVED (Steve Root) AND SECONDED (Michael Todd) to approve the minutes of the April 5, 2022 meeting. THE MOTION WAS APPROVED UNANIMOUSLY.**

**4. Other Business**

Chair Lyon stated that the Selectmen have suggested that a code of conduct be added to their rules of procedure. The code of conduct is related to how people conduct themselves during meetings and they have asked that all of the committees add this in. Chair Lyon and Adam Ricker will draft a document for review at an upcoming meeting.

**5. Motion to Adjourn**

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

The meeting was adjourned at 8:10PM

Respectfully submitted,

Trina Dawson

Recording Secretary  
Town of New London