



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT MEETING MINUTES Wednesday, June 2, 2016 6:30 PM

MEMBERS PRESENT: Douglas W. Lyon (Chair), W. Michael Todd, Vahan Sarkisian, Ann Bedard, Paul Vance (Alt) and Frank Anzalone (Alt).

MEMBERS ABSENT: Cheryl Devoe, Jerry Coogan and Katharine Fischer.

STAFF PRESENT: Lucy St. John, Planning and Zoning Administrator.

OTHERS PRESENT: Paul and Linda Messer (applicants), Robert Stewart, Jr. (RCS Designs), and Regina Stevens (abutter).

Call to Order: Chair Lyon called the meeting to order at 6:33 pm.

Roll Call: Chair Lyon called the roll. The voting members for this meeting are: Chair Douglas W. Lyon, W. Michael Todd, Vahan Sarkisian, Ann Bedard, and Frank Anzalone.

Approval of Minutes

IT WAS MOVED (W. Michael Todd) AND SECONDED (Paul Vance) to approve the minutes of February 22, 2016, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.

IT WAS MOVED (W. Michael Todd) AND SECONDED (Vahan Sarkisian) to approve the minutes of the joint meeting (PB & ZBA) of April 12, 2016, as circulated with minor corrections from the Planning Board. THE MOTION WAS APPROVED UNANIMOUSLY.

Variance Application

- **Messer, Paul and Linda Irrevocable Trust. Property located at 600 Bunker Road. Tax Map 076-031-000. Property zoned Residential (R-2), and Shoreland Overlay District. Variances requested to Article V, Residential District, C. Yard Requirements, C (1 & 2). Plan prepared by Robert Stewart, Jr., of RCS Designs.**

Chair Lyon provided an overview of the ZBA variance process, the five (5) variance criteria which must be met and a brief summary of the application before the Board. He noted that the owner would like to construction an addition to the house for a master bedroom and construct a new access on the east side of the house near where the current steps are located. He noted that four (4) letters have been received from: Dianne Yelton at 585 Bunker Road, David Demers at 586 Bunker Road, John & Sue Rogers, and a letter from Attorney Michael Malaguti of Ransmeier Spellman representing abutters Regina and David Stevens at 614 Bunker Road.

Bob Stewart of RCS Designs then proceeded to discuss the application on behalf of his clients Linda and Paul Messer. Mr. Stewart discussed each of the variance criteria and provided an explanation, as noted in the application submitted. He provided some additional details of the property including explanation and discussion of:

- ✓ Changes of the inside and outside layout
- ✓ Conceptual lot line adjustment with the Demers was discussed with the Planning Board
- ✓ Current house was built at angle and thus the setback lines is why the application was submitted
- ✓ Current house was built prior to zoning
- ✓ Currently no stormwater management features on the lot, but this will be addressed as part of the NHDES Shoreland application, and thusly the site will be more environmentally friendly
- ✓ Distance to the lake -the northeast corner of the house is 54' from the lake
- ✓ Legally non-conforming structure due to fact that it was built prior to the zoning, therefore, whatever setbacks exist today that are non-conforming to today's standards, allow for them to exist and not have to change it. Main hurdle is whether or not it's legally non-conforming building and making it less non-conforming
- ✓ Located in the Shoreland Overlay District
- ✓ Lot of record
- ✓ Lot separated by Bunker Road, but one lot
- ✓ Measured from proposed drip edge
- ✓ NHDES Shoreland application will be submitted
- ✓ Senior friendly- want to make house, including a possible handicapped access ramp
- ✓ Steep slopes on the lot, to the rear of the house include a 85% slope with ledge making development further back on the lot expensive, would need to do blasting, and could create additional stormwater and groundwater seepage if the mount (steep area) is excavated (blasted)
- ✓ Steps will be relocated to the northeast corner, which would make them 67 feet away from the lake
- ✓ Variance would provide a better entrance into the house

Mr. Stewart then proceeded to address the five variance criteria, reading the application and explaining in more detail why the variance should be granted.

1. Will not be contrary to the public interest – the improvements proposed will reduce the non-conformity of the structure.
2. The spirit of the ordinance is observed – relocating the steps will make it more conforming.
3. Substantial justice is done – making a lot line adjustment and improvements will make it more conforming.
4. Values of the surrounding are not diminished – the improvements made, including improving storm water management, benefit the neighbors and the lake.
5. Literal enforcement of the provisions would result in an unnecessary hardship – the improvements are for the owner's needs, both bedrooms on the first floor and the easier access and allowing room for a handicap ramp in the future and for safety reasons. He explained the physical characteristics of the lot which include an 85% slope and ledge therefore making it very difficult to engineer. Additional stormwater features will be added, if the house were moved back, the ledge area would need to be blasted, making the hillside less stable, and there could be groundwater seepage issues.

Board Discussion

- ✓ The Board referred to the various definitions in the Zoning Ordinance related to setbacks, frontage, lot measurement, nonconforming, and other provisions noting some clarification is needed, as some language is ambiguous.

- ✓ The Board asked the applicant to clarify the location of the existing lot lines, and clearly state how he measured from each lot line, whether the line was drawn perpendicularly or from what angle.
- ✓ Asked about the distance from the south lot line (Steven's abutter) to the proposed bedroom. Plan shows 23 feet. Chair Lyon noted that the letter from the Steven's attorney states it will be closer. The Zoning Ordinance requires a minimum of 20 feet and aggregate of 50 feet (both sides).
- ✓ What changes are proposed on the south side (Steven's abutter), as the site is currently wooded. Mr. Stewart answered that there is a rock and one or two trees that needs to be removed but much of the woodland buffer would remain per NHDES unaltered area and the Town's requirements.
- ✓ Ms. Bedard asked for clarity about the vegetation on the shoreline. Mr. Stewart answered that vegetation will be added and would encourage his clients to maintain that buffer.
- ✓ Chair asked the Messer if they talked with the Steven's about the proposed construction and potential impacts to existing vegetative area that exist on that side of the property. The Messer's responded they had not.
- ✓ Discussed the limits of the roof overhang, the proposed entry platform and the bedroom addition referring to the various distances from the lot lines shown on the plan, as some of the distances are shown measured at right angles, and other angles including the 22.8 feet on the north side of the existing house. The Board discussed from what point the setback should be measured, and from what point is the frontage determined. The Board recognized the existing house is not situated parallel to the existing lot line on the south, and on the north the proposed lot line is set at various angles, not parallel to the existing house.
- ✓ The Board asked what is the current setback of the Steven's house on their property to their property line. Regina Stevens (abutter) did not know exactly and did not want to quote an estimate. The plan shows the proposed bedroom addition to exceed the required 20 foot setback (23 feet is shown). The existing Messer house currently meet the setback on the south side (Steven's side).
- ✓ The Board read several definition from the Zoning Ordinance including # 140 Side yard. The north side (Demers side) only currently has 19 feet setback and the south side (Stevens) where the proposed addition would be constructed is 23ft., which totals to 42' which does not meet the 50 ft. required. The current setbacks are 13ft. from the existing corner of the porch on the north side, and 34 feet on the south side, which equals 47'. Thusly the existing structure is a nonconforming structure. Under the new proposal, 19ft. from the corner of the house to the post and 23ft. from the corner equaling 42ft. This makes it more non-conforming and does not equal the 50 foot aggregate setback needed for both sides. The Board then discussed under the Nonconforming provisions if a variance is even required, as an existing nonconforming structure can be expanded.
- ✓ The Board asked the owners if the upstairs were being used. They replied, no. Mr. Stewart explained that the existing floor plan does not include enough space for a wheelchair, and one of the reasons this addition is proposed is for them to live there as they age, first floor living. The Board suggested that perhaps the proposed bedroom be reduced in size and the layout be redesigned.
- ✓ The Board referenced the Zoning Ordinance, Article XX regarding non-conforming issues, # 4 Alteration and Expansion of all other Legal Nonconforming Buildings and Structures, as the existing structure is located in the Shoreland Overlay District but is not located in the waterfront buffer (first 50 feet).
- ✓ The Board discussed that the proposed addition would essentially reduce the aggregate setback (50 feet required), from 47ft. to 42ft. thus making it more nonconforming by 5ft.

Chair Lyon opened the Public Hearing at 8:20 p.m.

- ✓ Ms. St. John reminded the Board of the four (4) letters received: John & Sue Rogers, Dianne Yelton, the Demers and the Stevens from Attorney Michael Malaguti.

- ✓ David and Karen Demers (abutters), in attendance stated they fully support the variance, referring to the Letter of Support submitted for the record. They have lived in the house while constructing their current home. First, they noted that more space is needed for living accommodations especially for wheelchair access. Secondly, they would be impacted more than the Steven's side, as the proposed entry platform is closer to their property line, as compared to the proposed bedroom addition which meet the current 20 foot setback, and thus don't see why this is an issue for the Stevens. Furthermore, the entry platform would be setback further from the lake, which is better for the lake. Third, they gave testimonies to the Messer's character regarding their respect and care for maintaining the waterfront and nature area. They are happy to see improvements being made to the house and property. They are more than willing to make the accommodations on their side to adjust the lot lines. They have agreed to a boundary line adjustment (equal swap of land) area, which will be presented to the Planning Board, if the variance is approved.
- ✓ Regina Stevens (abutter) commented that on advice from her legal counsel (letter was submitted for the record), she will not comment. However, she said that she thought there are other architectural possibilities that could be done to the building. She suggested that to the rear of the existing house where the slope area is be considered for expanding the structure, rather than to the side (as proposed). She suggested they work with an architect, and from her experience on another site, changes to the site grading could be possible, thus not needing to expand to the side, but rather to the rear of the existing structure.
- ✓ Mr. Demers commented that when they constructed their house, which has less slope/grading issues, as one would have with the Messer site, that ledge and groundwater seepage issues were an issue for the construction, and caused delays in the construction process.

Mr. Stewart asked the Board for a continuance.

Motion

MOTION WAS MADE (Chair Lyon) AND SECONDED (Ann Bedard) to continue the meeting and public hearing to Monday, June 27, 2016 at 6:30pm at a location to be determined (Whipple or Library, will be posted) and any new materials to be considered need to be submitted by Tuesday, June 21, 2016. THE MOTION WAS APPROVED UNANIMOUSLY.

Other Business

Ms. St. John noted that the Planning Board will be conducting a Work Session June 28th. The purpose of the Work Session is to discuss ideas for potential zoning amendments. The ZBA was asked to provide ideas to the Planning Board to consider.

Ms. Bedard made a comment about non-conforming zoning issues. She commented that several years ago, areas of the Town were rezoned, and the rezoning classification of these parcels, made many lots (about 50% of the areas which were rezoned) nonconforming lots. Discussed the need to review the zoning map and the specific nonconforming provisions. Ms. St. John will provide a ZBA a list of ideas as well. ZBA members were encouraged to attend the Planning Board meeting.

The Board discussed the hardships/difficulties of non-conforming lots and why getting the neighboring input when applying for variances can help.

Motion to Adjourn

IT WAS MOVED (Chair Lyon) AND SECONDED (Frank Anzalone) to adjourn the meeting. THE MOTION WAS APPROVED UNANIMOUSLY.

Meeting adjourned at 8:50pm.

Respectfully submitted,

Dianne Richtmyer, Recording Secretary
Town of New London