

**TOWN OF NEW LONDON  
ZONING BOARD OF ADJUSTMENT  
AUGUST 25, 2008**

**PRESENT:** Bill Green, Doug Lyon, Laurie DiClerico, Courtland Cross.

**PUBLIC HEARING**

Albert and George Widmer requested a special exception in accordance with Article XXII, Section G-3 of the New London Zoning Ordinance, in order to upgrade a septic system that would require some reduction to the stream buffer. Specifically, applicants propose a system that would locate the leach field pipes and disturbed area 75 feet from the stream, the septic line, tank and effluent lines 60-feet from the stream, and site a proposed well (as required by the State to be shown on the plan) 12-feet from the stream. The property is located at 482 Lakeshore Drive in the R2 zone, tax map 037, lot 013.

Bill Green opened the hearing at 7:30 p.m., called the roll, read the Notice of Hearing as posted, and announced that the hearing would be tape recorded.

Peter Blakeman and Zoning Administrator Peter Stanley also attended the hearing.

Applicant's Presentation

George Widmer explained that this is a seasonal cottage, and is only used two months a year. The current septic system works fine now, but it dates back to the fifties and consists of a steel tank and leach field. As preventative maintenance and in order to bring the system up to current standards, they wish to install a new system with the above described reductions in the stream buffer. They have kept the designed system as far from the lake and brook as possible, while still protecting the large old trees on the property, as well as those trees' root systems.

He referred to the plans provided, pointing out the location of the proposed tank, pipes, and leach field across the road from the house. He noted that in order to further reduce the amount of exception as well as to protect trees and roots, they are putting the effluent pipe under the garage, rather than go around that. Also, in order to further reduce the exception, they are proposing a two (rather than one) level enviro-system, that will allow 5'3" additional distance from the stream. He pointed out that the back of the property is too steep for installation of a system and would require a great deal of fill.

Bill Green asked to clarify that the property is actually on both sides of the road. Doug Lyon asked for some clarification on the plan of locations of required buffers compared to proposed locations for this system.

Bill Green opened the hearing to comments and questions. Peter Blakeman spoke in favor of this proposal as designed.

Hearing no further comments or questions, Doug Lyon moved to close the public hearing and enter deliberations. Courtland Cross seconded. There was no further discussion. And the motion was unanimously approved.

### Deliberations

Courtland Cross spoke in favor of granting the special exception citing the applicant's thoroughness and farsightedness in upgrading the system before it fails, and their concern with both preserving the buffers as well as the trees in the area.

Doug Lyon reminded the hearing that in order to grant a special exception, the Board must find that

- The use is one that is ordinarily prohibited in the district
- The use is specifically allowed as a special exception under the terms of the ordinance.
- The conditions specified in the ordinance for granting the special exception (Article XXI G-1) are met in this particular case.

He said that if all three questions can be answered in the affirmative, and he feels that in this case they can be, the Board must grant the special exception.

Bill Green agreed that the guidelines to which the Board must adhere in considering a special exception are specific. He agreed that they have been met in this case.

Laurie DiClerico also agreed that the applicants have met the required conditions, and as Courtland Cross pointed out, they have gone out of their way to be far-sighted in proposing to replace their current system with an upgraded one, and sensitive to the environment.

Although the Board did not review individually the conditions in Article XXI, Section G-1 of the New London Zoning Ordinance, members indicated that those had been adequately covered during the applicant's presentation.

Doug Lyon moved to grant the special exception. Courtland Cross seconded. No further discussion. Motion unanimously approved.

### **PUBLIC HEARING**

Audrey Perry and Richard Burgess requested a special exception in accordance with Article XIII, Section E-1 of the New London Zoning Ordinance in order to cross two wetlands with a proposed driveway and utility line to the Town's sewer system. The property is located on Fairway Lane in the ARR zone, tax map 123, lot 16.

Bill Green opened the hearing at 7:45 p.m., called the roll, read the Notice of Hearing as posted, and announced that the hearing would be tape recorded.

Applicants were represented by Peter Blakeman. Zoning Administrator Peter Stanley as well as abutters Chester Ellison, Joan Ward, George Hamilton, Dick Reed, Lisa Gooding, Dee Douglas, and neighbor Allen Koop, also attended the hearing.

#### Applicant's Presentation

Peter Blakeman submitted for the record a letter authorizing him to represent the owners at this hearing.

He said that Audrey Perry and her son-in-law Richard Burgess, have owned this property for many years, and have had it on the market for a number of years. He (Peter Blakeman) has been working with the owners on developing a building site for four years, and he added that the process has been long and difficult. The property has been surveyed and flagged, and its many wetlands have been delineated by wetlands scientist Peter Schauer.

He summarized the steps they have taken in an effort to locate a site for a septic system.

(a) First they looked at the northeast corner of the property, prepared and submitted a plan to the State. The State returned with a number of additional requests.

(b) At that point, they realized that there is sewer service available at nearby Lake Sunapee Country Club, and its service line runs along both legs of Fairway Lane near this property. He reported that Doug Homan said it would be okay to hook into that. The closest would be the north leg of Fairway Lane, but the Perry property does not have frontage on that. They would have to access that via a 25-foot footpath there, and Doug Homan has said that would be okay. There is a manhole right across the street. They submitted a wetlands application for a driveway-crossing and sewer line-crossing to the Wetlands Bureau as well as to the New London Conservation Commission. He said there was strong opposition to that from the neighbors, and the Conservation Commission did not sign off on it. The Wetlands Bureau returned a request for much more information, plus a requirement for a letter of permission from the abutters to bring the line within 20-feet of their property line.

(c) At that point, they looked at the southern leg of Fairway Lane. Richard Lee was okay with tying in with the Town's line there. Again, they are here tonight requesting special exception from this Board for the two wetlands crossings—one for the driveway and the other for the utility. He said he would cross the wetlands at their narrowest locations.

Bill Green asked him to point out specifically those wetlands that would be affected. Peter Blakeman pointed out on the map where the driveway would impact 570 square feet of wetland, and where the utility would impact 580 square feet of wetlands. He said the sewer line would run along the driveway. He pointed out where they would install a manhole, and where the pipe would be gravity run for 475-feet along Fairway Lane to the existing manhole. The system would require some pumping.

Doug Lyon asked how big the pipe would be. Peter Blakeman said it would be a 2-inch pipe, with a grinder pump.

Doug Lyon clarified that the only request of the ZBA is the special exception for the wetlands crossings. Referring to the three findings the Board must make in order to grant the special exception, he expressed concern about the third—whether or not the application meets the specifications in the ordinance. He asked if the Conservation Commission has reviewed this most recent plan. Peter Stanley said they did not sign off on either of the wetlands application. Peter Blakeman said he spoke to Conservation Commission chairman Les Norman, and dropped this plan off for the Conservation Commission. He has not yet submitted this plan to the Wetlands Bureau.

Peter Stanley said his concern is the drainage problems that a house on this site would have. The building site is problematic. He noted, however, that they have met the setback requirements. Bill Green asked if there is a spot where they could put the house that would not be in a wetland. Peter Stanley said that there is no question that the proposed house site is on dry ground. The issues are drainage.

Both Doug Lyon and Laurie DiClerico said they have concerns about the fact that the Conservation Commission has not signed off on this. They said they would be reluctant to approve it without that.

Bill Green asked Peter Blakeman what he estimates the time frame will be for the Wetlands Bureau to review this. Peter Blakeman said this would be a “permit by notification” application. If the Conservation Commission signs it, it would be a ten day permit. If the Conservation Commission does not sign it, it would be a 25-day permit. If comments are submitted to the Bureau, it could be longer.

Bill Green reminded the hearing that the ZBA is looking only at the wetlands crossings. The other “hoops” are independent of the ZBA. At that point, he opened the hearing to comments from the floor.

Chet Ellison said that if a house is built on the proposed site, his house will be flooded. He said that as things are now, the wetlands in the area are just able to handle runoff from spring snow melt and rain. If they change the site, the wetlands will not work correctly. He said that when he purchased his lot, he was told by two or three realtors that the site under discussion tonight (Perry’s) is “not buildable.” He said at that point he offered the owners \$10,000 to purchase that lot, but his offer was declined. He said he is opposed to this, and suggested that the Board should get another opinion (on the “buildability” of the Perry lot).

Bill Green asked him to show where the runoff is now. Chet Ellison said the problem is that they do not know what will be built there or by whom, and they won’t know how it

impacts the water there until spring. He added that his own house is on the other side of the proposed sewer line, but it would be very close to the proposed house.

George Hamilton said the surface here is a big problem. He opined that the land is too flat to handle runoff, and he would not want to make the situation worse than it is now. His own builder installed a fifty-foot pipe around his own house to direct runoff away from it. If that pipe gets clogged, they have two and a half feet of water in the house.

Joan Ward said she and her husband moved into their home abutting the Perry property in 1989, and found that it did get flooded until her husband cleared the culverts nearby. She said the Town has not been willing to do that. Bill Green said in driving by the property, he observed a hand dug trench on the side of the Wards' yard. Joan Ward confirmed that, and said they must keep the culverts cleaned out themselves. She said they think the street culverts flood because of the way they are tilted.

Alan Koop said he has lived in this neighborhood for 27 years, and his observation is that right now the wetlands there do what wetlands are supposed to do, but he said that the people down slope from the Perry property are justified in their concerns. Even the natural wetlands are not always adequate to absorb all the water all the time. He noted that the Town has invested a great deal of effort to address the drainage problems at Old Coach Road and Fairway Lane.

Lisa Gooding said the amount of flooding that is there now is enormous, and if building is allowed to disrupt the normal flow as it is, then it will be worse. Joan Ward agreed and expressed concern for anyone who might buy the new house.

Dee Douglas also expressed concern.

Dick Reed said this is more than a simple wetland. It pools, infiltrates and runs off. He referred to the letter sent by the Conservation Commission in 2007. He said the wetlands there is a holding base for both ground and surface water, and building there would aggravate flooding of adjacent lots. He observed that the Town already spends a lot of money addressing drainage issues. He also expressed concern about the potential for increased filling. He suggested that a resident on the site would not be happy to live on an island, but would want to increase the dry land around the house by bringing in more fill.

Doug Lyon reminded the hearing of the three findings the ZBA must make in order to grant the special exception, and the fact that if it finds that all three conditions exist, it must, under law, grant the special exception. There remain some concerns about the third finding, and the fact that the Conservation Commission has not yet signed off on the plan.

The ZBA agreed to continue this hearing until September 29. Bill Green advised the hearing that as it will be a continuance, no additional notification will be sent. He said the application should be reviewed by the Conservation Commission at its regular meeting on September 17.

## **PUBLIC HEARING**

Janet and David Royle requested a special exception in accordance with Article XIII, Section E-1 of the New London Zoning Ordinance, in order to cross a wetland with a temporary access in order to rebuild the existing 30-year old septic system. The property is located at 195 Tracy Road in the ARR zone, tax map 118, lot 002.

Bill Green opened the hearing at 8:15 p.m., read the Notice of Hearing as posted, called the roll, and announced that the hearing would be tape recorded.

Peter Blakeman represented the applicants. Peter Stanley also attended the hearing. No abutters or other interested parties attended.

### Applicant's Presentation

Peter Blakeman said that the Royles have obtained a building permit for an addition on the north side of their house, but when they found that would cut off access to their leach field, they decided to rebuild the system before the addition. He said that they found that the house is surrounded by wetlands, including the front lawn. He said that wetlands scientist Peter Schauer delineated those, and he (Peter Schauer to Peter Blakeman) explained that because the front lawn area has been disturbed, in order to find wetlands there he could not look at plant species, but only at the soil type and hydrology. Peter Blakeman went on to say that the application tonight is for a special exception allowing a temporary access over those in order to replace the leach field. At the project's conclusion, the wetlands will be restored to their current condition.

Doug Lyon asked if the Conservation Commission has reviewed this. Peter Stanley said that Board did sign off on this. Peter Blakeman said the State has approved this septic system design.

Peter Stanley added that the houses in this area were developed prior to anyone paying attention to wetlands. He said this is a pre-existing non-conforming use, and noted that the Town does encourage people to update their septic systems, and it is better do it now rather than later when there would be greater impact.

Hearing no further comments or questions, Bill Green moved to close the public hearing and enter deliberations.

### Deliberations

Laurie DiClerico said she did not see a problem with this temporary access, and agreed that it is best to do this before putting up the new addition.

Bill Green agreed.

Doug Lyon said he feels that this application meets the three conditions that must be found to grant a special exception.

Courtland Cross said that as with the first hearing, he was impressed by the applicant's farsightedness, and the fact that they are being thoughtful of the environment.

Although the Board did not review the individual conditions specified in Article XXI Section G-1 of the New London Zoning Ordinance, those were individually addressed in the narrative enclosed in the application packet.

Motion made, seconded and unanimously approved to grant this special exception.

**Minutes-July 21, 2008**—Motion made, seconded and unanimously approved to accept as drafted.

Meeting adjourned at 8:40 p.m.

Respectfully submitted,

Sarah A. Denz  
Recording Secretary