



Town of New London
Zoning Board of Adjustment

33-15 21-1
P.O. Box 240
375 Main Street
New London, NH 03257

NOTICE OF DECISION
New London Zoning Board of Adjustment

RE: PETER MOORE

SEPTEMBER 17, 2007

You are hereby notified that on this date, the New London Zoning Board of Adjustment held a public hearing at the request of Peter Moore. The applicant requested a variance to Article IX, Section D, 1 of the New London Zoning Ordinance in permit the creation of a new lot in the Forest Conservation District with less than the 25 acre minimum lot size. This property is located at 719 & 750 Little Sunapee Road, in the R-2 and Forest Conservation zones, Tax Map 33, Lot 15 & Map 21, Lot 1.

Deliberations: The Board went through the area variance questions.

Diminution in value. Since the likelihood is the property would be improved, the property would likely become more valuable with no diminution to surrounding properties.

1. Granting the variance must not be contrary to the public interest. The property being more valuable is a benefit to the Town at large. No injury to public interest is apparent.
2. Unnecessary Hardship. (a) The first prong to the question of an area variance is needed to enable the applicant's proposed use of the property, given the special conditions of the property. The uniqueness of the property exists in that a number of properties share both R-2 and Forest Conservation land. This is unique in the physical characteristics of the lakeside property and that the owner owns an abutting property that is nonconforming to become conforming. (b) The second prong to the question is whether or not you achieve the same benefit by other reasonably feasible method. The alternative would require the owner to move his business, as his request is to allow him to append to this lot to continue to carry on his livelihood. It would seem that if he did find an abutter to annex the property to, he would still have his two lots and not need to be here – it could be achieved some other way, but reasonably? Uniqueness is a forested hillside, wetlands and past and future anticipated use of the property for his business and residence. The Board concluded there appears to be no other reasonable method.
3. Substantial Justice. A guiding rule according to counsel "any loss to the individual that is not outweighed by a gain to the general public is an injustice." Given the discussion, it was the opinion that justice would be done. Mr. Moore has a potential loss that holding him to the ordinance would not be a gain to the general public.
4. Contrary to spirit of the ordinance. Keeping in spirit with the ordinance is a benefit as it is bringing a property more into conformity than present and creates a fully conforming R2 lot. The Forest Conservation district was designated long after these lots were defined. This is not affecting the Forest Conservation district in that the Forest Conservation land remains in tact. The spirit and intent of the ordinance states to protect and promote the general welfare by preserving its rural natural heritage. There is nothing in this proposal that does not agree with the spirit of the ordinance.

Mr. Lyons MOVED to approve the variance, seconded by Mr. Cross. Mr. Todd amended the MOTION to approve the proposal with the condition that there be no further subdivision to Map 33, Lot 15, meaning that the 4.6 acre lot created by the annexation of these two pieces of property. Mr. Lyons seconded the amended motion for purposes of discussion. There was some discussion that the property would not qualify for subdivision. Ms. Andrews inquired as to how this condition is enforced? The response was that the plan will have a notation and recorded with the Merrimack County Registry of Deeds.



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Chair Green called for a vote on the amended MOTION, unanimously approved. Chair Green called for a vote on the APPROVAL of Mr. Moore's request for a variance Article IX, Section D.1 of the Zoning Ordinance. MOTION carried unanimously.

Bill Green, Chairman
Doug Lyon
Courtland Cross
Sue Ellen Andrews
W. Michael Todd

NOTE: Application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person affected thereby according to New Hampshire Revised Statutes Annotated, 1955, Chapter 31:74-76.