



# TOWN OF NEW LONDON, NEW HAMPSHIRE

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## TOWN OF NEW LONDON ZONING BOARD OF ADJUSTMENT JUNE 9, 2008

PRESENT: Bill Green (Chairman), Doug Lyon, Laurie DiClerico, Courtland Cross, Michael Todd, Erin Darrow (Engineer for Applicants), Peter Stanley (Zoning Administrator).

### PUBLIC HEARING

Erin Darrow of Darrow Engineering PLLC, representing Cate Family NH Realty Trust, requested a special exception in accordance with Article XIII, Section E (1) and (2) that would allow a wetland crossing by a shared driveway in the proposed subdivision of Lot 103-2 and a fire pond on Lot 103-1 and 103-2-2. The property is located on Route 103A in the ARR zone.

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

### Applicant's Presentation

Erin Darrow explained that she has been working with the Cate family since 2005 in subdividing their land. They received a minor subdivision approval in 2006, and now would like to further subdivide existing lot 103-002 so that each of the four siblings may keep a house site with enough upland to maintain their current use status.

She said they are requesting special exceptions that would allow two impacts to wetlands in the wetland overlay district. The first is for a shared driveway to cross an intermittent drainage stream, and the second is to allow impoundment of water creating a fire pond. She said that both impacts are unavoidable in order to develop the lot and they have worked hard to minimize impact.

She referred to two details of the proposed driveway crossing, at scales of 1/20 and 1/10. The impact will be to 1385 square feet of wetland, and will include cutting into some existing embankment and placing some fill in order to maintain that channel. The culvert will be 15-inch corrugated metal pipe, and that is adequate drainage flow capacity needed in this area. She pointed out that in locating the shared driveway in this location, she had to take into consideration several factors: DOT's request that they keep this access aligned as much as possible with the access to Poor Road on the other side of 103A, the required sight lines, and the grade in this area.

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Board of Selectmen P: 603-526-4821 x 10 F: 603-526-9494	Town Administrator P: 603-526-4821 x 13 F: 603-526-9494	Town Clerk-Tax Collector P: 603-526-4821 x 11 F: 603-526-9494	Finance P: 603-526-4821 x 21 F: 603-526-9494	Assessing P: 603-526-4821 x 20 F: 603-526-9494
Planning/Zoning P: 603-526-4821 x 16 F: 603-526-9494	Fire Department P: 603-526-6073 F: 603-526-6079	Police Department P: 603-526-2626 F: 603-526-2782	Public Works P: 603-526-6337 F: 603-526-9662	Recreation P: 603-526-4821 x 14 F: 603-526-9494

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She referred to a detail of the proposed fire pond that will be located on property owned by the Cates but not within the proposed four lot subdivision. She said she worked with the New London Fire Department, as well as with DOT and DES to identify a location that would be accessible, practical, and take into consideration natural characteristics. The fire pond in this location will not only benefit the new subdivision, but other houses in the near neighborhood as well.

She added that there are no immediate plans to develop this property, but the driveway accesses and the fire pond will probably be constructed within the next year or two.

### Open Discussion

Doug Lyon referred to the unusual shape of proposed lot 103-2-3, and asked where a house would go on that. Erin Darrow pointed out an area where soils are actually very well suited for development (on the plan: between contours 534 and 536 near southwest corner of the wider area of that lot). She also pointed out that the unusual shape does include enough road frontage, and the house site could be accessed by a shared driveway with proposed lot 103-2-1.

Bill Green asked to confirm that everyone received a copy of Chief Jason Lyon's December 18, 2007 letter to the DES confirming that the preliminary plan for the proposed fire pond and dry hydrant meets the New London Fire Department's specifications.

Doug Lyon asked if this has been reviewed by the Conservation Commission. Erin Darrow said yes, and that Board has approved the plan. Minutes from that meeting were also included in ZBA members' packets. She went on to say that they have received DES approval for a standard dredge and fill permit and that necessitated review by the Army Corps of Engineers. Also, Beaver Tracks LLC (Jonathan Sisson CWS & CSS) did a vernal pool analysis from which he determined that the vernal pools on the property are all upgradient from any areas of proposed development.

In response to her statement that each family member would like to have one house lot with enough land to keep the lot in current use, Michael Todd asked if the plan is to merge the two southerly lots (of 7.69 and 8.50 acres). Erin Darrow did not indicate that the family plans to merge those. The requirement for current use is that there be at least ten acres contiguously, and under same ownership.

She went on to say that they have obtained preliminary DOT approval for the driveway permits. Those numbers will be forthcoming. Also, they have received preliminary approval from DES for the design and lay out location of the fire pond, but DES will hold the final approval until such time as they establish their bond price, and line up a contractor. She asked this Board to consider approving the special exception conditional upon receipt of those final approvals.

Michael Todd asked what the difference is between a dry hydrant and this. Peter Stanley said this is a natural wet area. The overflow goes under a culvert. They know what capacity they will have. There will be a dry hydrant. This plan is considered an impoundment. It is going from a wetland to an area in which water will be held back even though no dam has been built.

Michael Todd confirmed that applicants have been to the Planning Board on May 27. He referred to the language in Article XIII, Section E stating that the application should have been referred to the Conservation Commission, Soil Conservation Service, and New Hampshire Wetlands Board for review and comment at least 30 days prior to the date of the (Zoning Board's) hearing. Peter Stanley explained that the Wetlands Board is part of DES, and the Soil Conservation Service is no longer considered. Michael Todd said then the language in that section should be updated. Peter Stanley said Article XIII is up for review next year. Michael Todd then referred to the requirement that the Zoning Board of Adjustment shall consider all review comments received by the date set for the hearing. He asked for a copy of the May 27 Planning Board minutes.

Erin Darrow said they do anticipate final approval from the Planning Board at its June 24 meeting. She said that Board is waiting for the special exception from the Zoning Board as well as the fiscal analysis. In addition, she said a subcommittee of the Planning Board has met to review and make some changes to the wording of the covenant for the proposed subdivision, and the final draft of that will also be prepared by June 24.

Michael Todd observed that in the May 27 Planning Board minutes, there is only discussion of the proposed fire pond, no mention of the wetlands crossing. Erin Darrow and Peter Stanley confirmed that the crossing had been discussed. Michael Todd pointed out that the access for the driveway to the two northerly lots is where it is because DOT required that it be aligned with the access to Poor Road, but the access for the driveway to the two southerly lots is halfway between two other roads across Route 103A. Erin Darrow explained that in siting a driveway access, they consider a number of factors, including grade and sight distances. Whenever possible, a four way intersection is preferred, but in the case of the two southerly lots, that was not possible given the grade of 103A there and the sight distances. She said one condition of the driveway permits is that the driveway that is there now be abandoned because of poor sight distances. She also pointed out that there would be no advantage in bringing the new driveway further south so that it would cross the drinking water well radius for existing lot 103-1.

Hearing no further comments or questions, Doug Lyon moved to close the public hearing and open deliberations

### Deliberations

Doug Lyon said that there are three criteria for granting a special exception, and if the Board finds that all three exist, it must grant the special exception. He reviewed:

- The uses being proposed—a wetland crossing and water impoundment are prohibited in this district.
- The uses proposed are specifically allowed as special exceptions under the terms of the ordinance.
- The conditions for granting the exceptions are met in this case.

In addition, he pointed out that both the New London Conservation Commission and NH DES have approved these plans.

Bill Green, Courtland Cross and Laurie DiClerico agreed that those criteria exist in this case, and Laurie DiClerico added that the fire pond will be an added benefit to other residences in the neighborhood, and thus in the public interest.

Michael Todd agreed that criteria 1 and 2 have been met, but, referring to the language in Section E-1 of Article XIII (and noting that language counts when reviewing special exceptions), he said that the applicant must demonstrate two things:

- that there is not a layout of the access way, driveway, Street or utility line which conforms with New London's regulations and does not cross a wetland,
- the proposed crossing would create the least impact on the Wetland compared with other possible Wetland crossing locations.

Bill Green asked him to show where there might be an alternative. Michael Todd suggested coming in off the east side of Route 103A, just north of lot 103-2. Erin Darrow said that location is not well suited for a driveway access for a number of reasons including: it is close to 15% grade there and they would not be able to meet the sight distance requirement because of the crest of the hill on Route 103A. They would not be able to get a DOT permit there. Also, both she and Peter Stanley said that a longer, more circuitous route around wetlands would ultimately result in more erosion and runoff into those very wetlands that they are trying to protect. As the plan is presented, Erin Darrow said they have crossed the wetland in one of its narrowest spots, and made the shared driveway as short as possible thus reducing the runoff into the wetlands. Peter Stanley said that bringing the driveway in through a third lot makes the application more complicated, and Erin Darrow said it would be impractical, and would be a substantial engineering project.

Doug Lyon moved to approve both the especial exception for the proposed fire pond and the special exception for the proposed wetland crossing, stating that all three criteria described above exist in this case. A condition of the approval will be receipt of the DES permit for the fire pond, the DOT driveway permits and final Planning Board approval. Courtland Cross seconded the motion. There was no further discussion. The motion was unanimously approved.

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The minutes of April 14 were accepted as drafted.

The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Sarah A. Denz  
Recording Secretary