



# TOWN OF NEW LONDON, NEW HAMPSHIRE

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## ZONING BOARD OF ADJUSTMENT MEETING MINUTES

Thursday, September 18, 2014

6:30 PM

Town Office – Sydney Crook Conference Room, 2<sup>nd</sup> floor

**Members Present:** Bill Green, Chair; Douglas Lyon; Cheryl Devoe; W. Michael Todd (late); Thelma Kaplan, Alternate; Paul Vance, Alternate

**Members Absent:** Ann Bedard; Courtland J. Cross, Alternate

**Also Present:** Lucy St. John, Planning and Zoning Administrator

### Meeting Opened and Roll Call

Chair Green called the meeting to order at 6:30 PM, took roll call, and noted the meeting had been properly noticed. Thelma Kaplan and Paul Vance were asked to sit in as full members.

### Review and Approval of Minutes August 4

**IT WAS MOVED (Doug Lyon) AND SECONDED (Bill Green) to approve the minutes of August 4, 2014 as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.**

### Public Hearing

- Variance Application for Kozain Trust Property. Located at 55 Page Road, with frontage on Page Road and County Road (Route 103A). Tax Map 117-021-000. Property owned by Nina L. Kozain, Trustee of Nina L. Kozain Trust. Zoned ARR. Parcel is 19.59 +/- acres. The owner is proposing to subdivide the parcel into two (2) lots. Variance to Article XIII, Wetlands Conservation Overlay District, K– Effect of Minimum Lot Size/Density (2) applicant proposes to use less than 70% of the wetland area towards the lot size, instead of 15%. Plan prepared by Clayton Platt, Pennyroyal Hill Land Surveying and Forestry, LLC and Jonathan Sission, NH Certified Wetland Scientist and NH Certified Soil Scientist. The ZBA had granted a variance on July 2, 2014 for this property.

Chair Green explained the purpose of tonight's meeting is to address the request of the Kozain Trust Property for a variance, as stated above. He introduced Clayton Platt, Surveyor, who will represent the Kozain Trust tonight.

Mr. Platt noted the survey plan has changed slightly. A copy of the plans was displayed on the screen. Mr. Platt pointed out the wetland and upland areas. Mr. Platt reminded board members that the Trust could have had an 8.7 acre lot, which would have split the marsh in two. He conveyed that the variance request is essentially the same as what was approved on July 2, 2014 with the exception of the amount of wetland area to be included in the lot calculation, and this was needed due to clarification of the surveying details. Mr. Platt said that as he began to set corners and boundaries, he realized his estimate was off by two percentage points. The variance granted in July included a condition that Lot 1 and Lot 2 will never be further subdivided.

Doug Lyon asked the purpose for dividing the parcel into two lots? Mr. Platt said the Kozains are looking to create two residential lots. The farm is on the 14.6 acre lot. Mr. Lyon asked if the other lot was a potential building lot – was the purpose of the subdivision to create another building lot? Mr. Platt

answered in the affirmative. Thelma Kaplan asked if the Kozains were living in the farm house now and Mr. Platt replied they were.

Mr. Platt explained that the information from the High Intensity Soil Survey (HISS mapping) revealed the northeast corner of Lot 1 would be more suitable for a septic system. Chair Green noted that Lot 1 shows upland areas (non-wetlands), and there are a couple places on Lot 1 where a septic could be placed. Mr. Platt agreed that lot was moderately well drained. Mr. Platt said that NHDES Subsurface was at the site that day. A new test pit was dug, as one had been dug at 36 inches, the State wanted to see a 48 inch test pit.

Chair Green asked if anyone had questions. Ms. Kaplan inquired if Lot 1 will be built on. Mr. Platt said yes, eventually. Frontage will be on Route 103. Doug Lyon clarified that the board had previously approved a 66% use of the wetland, and now the Trust is asking for 70%? Clayton replied in the affirmative. He also noted the Kozains are not asking for any additional changes, and the stone wall will still be the boundary.

**Public Hearing Opened:** Chair Green read into the record an e-mail from Susan Wheeler who lives on Route 103, dated September 16, 2014.

Dear Lucy,

Thank you for the time and information you shared with me last week. I want to go on record expressing a concern of mine. I'm sending this email to express my concern regarding increased runoff onto my family property on the other side of Rte. 103A, increasing the wetland area. There are already 2 culverts diverting uphill water onto our land, and roofline drainage from the Kozain property could add to this volume. Susan Wheeler

Chair Green noted it would have been helpful to have Ms. Wheeler at the meeting tonight.

Mr. Platt emphasized that the Kozains are not planning to build on Lot 1 right now. Doug Lyon commented that the issue of run-off is something the Planning Board would address when the Kozains applied for the building permit. Lucy St. John informed the ZBA that Mr. Platt has submitted a subdivision plan which is included on the September 23<sup>rd</sup> Planning Board agenda, as the applicant was anticipating that the ZBA may grant this variance request. Ms. St. John explained that the Planning Board does not get involved in the review of individual residential building permits, however they may attach conditions to the subdivisions plan if the plan is approved. Ms. St. John commented that Ms. Wheeler's comments will also be provided to the Planning Board for their review of the Subdivision Plan.

Chair Green called for a motion to discuss.

**IT WAS MOVED (Bill Green) AND SECONDED (Thelma Kaplan) to discuss.  
THE MOTION WAS APPROVED UNANIMOUSLY.**

Michael Todd noted that conceptually this is simply an adjustment in the computation of the amount of wetland divided by the stone wall. Doug Lyon felt the board had spent a fair amount of time in July listening to the rationale for this variance, and this variance request is reasonable and meets the five variance criteria. Mr. Lyon indicated he had no objection to this minor adjustment.

Chair Green commented that the 19+acre lot can easily be subdivided into 2 lots, the applicant is not asking for more than 2 lots and slightly increasing the amount of wetlands used in the lot area calculation and thereby using the stone wall as the boundary makes sense.

**Public Hearing closed.**

**IT WAS MOVED (Doug Lyon) AND SECONDED (Michael Todd) to approve the application for a variance. The Zoning Board of Adjustment recognizes this is a small adjustment to a boundary that was approved in a prior application on July 2. All provisions of the previous motion will be incorporated. Variance granted with conditions that there be no further subdivision of either lot and that the Notice of Decision on the subdivision plan be recorded at the Merrimack County Registry of Deeds (MCRD).**

**THE MOTION WAS APPROVED UNANIMOUSLY.**

**Rules of Procedure**

Lucy St. John stated that she has not yet had an opportunity to make revisions to the Rules of Procedure. She has only received input from Paul Vance; otherwise, no other comments. Ms. St. John offered to prepare a draft document to discuss at the next meeting, referring to the ZBA OEP Handbook.

**Discussion of Meeting Dates**

Ms. St. John inquired if the ZBA would like to establish a set meeting time, for example the 2<sup>nd</sup> Wednesday of each month. This is what most other communities do, it would reduce the amount of staff time spent on setting meeting dates, and would allow the public advanced notice of when meetings would be held.

Chair Green asked for comments, and said his concern is that when he looks at the number of hearings the ZBA has, they are on the minimal side. If the board met regularly, there are going to be times when the applicant could be put off for five or six weeks because they are required to have their information in by a certain time frame, so if they are a day short, they could be put off to the next meeting. Doug Lyon commented that the fundamental issue is we are trying to get people in before the board as soon as possible, and having regularly-scheduled meetings might delay a decision. Chair Green noted that if an applicant ends up having to wait a month to go before the board, that is too long. New London has a short building season.

Lucy St. John noted the board could schedule more than one meeting a month, and if it turns out it was not needed, the meeting could be cancelled. Doug Lyon said that if an applicant is in a situation where he/she has to get approval from two boards, he feels the ZBA's schedule flexibility allows it to accommodate that person. Michael Wood suggested that some provision could be made for joint meetings between the Planning Board and ZBA, which would significantly shorten the approval period.

Chair Green asked if the general consensus was not to make a change at this time. Michael Todd agreed there is not enough demand. The ZBA only sits when a need arises based on what is proposed. He suggested that if it gets busier, the board might want to think about meeting more frequently. Mr. Todd also noted that it would be challenging for board members to attend set meeting dates, because they often serve on other boards. Thelma Kaplan noted that having a set time would be helpful to both applicants and for herself, as everyone is so busy these days.

Chair Green stated that until further notice or more demand, the procedure will be to set a meeting date as applications are presented.

### **Other Business**

- **Abutter Notification Process**- Lucy St. John reported she had received some complaints from abutters about receiving hearing notices only five days before the scheduled meeting, which is all that is required per the RSAs. She asked if the ZBA wanted to discuss establishing some policy or include something in their Rules of Procedure requiring more notice time. Doug Lyon thought the sooner the notices could be sent out, the better. Cheryl Devoe asked Lucy if she had a suggestion for a more reasonable notification period and Lucy suggested 10 days. Chair Green inquired whether Lucy tells people the meeting information is posted on the town's website, and she said yes. Chair Green commented that if the ZBA changes the notification period from five to 10 days, the number of people attending the hearings might double. Ms. St. John suggested the board could officially keep the notification period at five days, but try to send the notices out sooner than that. Doug Lyon agreed this would be a good informal policy.
  
- **Sparrow School. Rachel Ensign Special Exception granted July 2, 2014. Tax Map 084-059-000** Lucy St. John updated board members with regard to Rachel Ensign's progress on getting state approval for her pre-school. The state is requiring her to build a fence between the walkway and the west side of the building, with a gate. Ms. John explained that the Planning Board minutes of June 24, 2014 specifically state that if the State Licensing process requires that a playground area is needed on the site, this would require further review and approval by the Planning Board. Ms. Ensign has submitted a revised plan showing a proposed fence area, which will be discussed at the October 14<sup>th</sup> Planning Board meeting. Ms. St. John will explain the details to the Planning Board and the Planning Board can determine if an amended Site Plan (showing the fence), and if an additional public hearing is needed.
  
- **Municipal Law Lecture Series** – Lucy St. John asked board members to let her know if they are interested in attending any of these lectures.

**MOTION WAS MADE (Bill Green) AND SECONDED (Doug Lyon) TO ADJOURN THE MEETING. THE MOTION WAS APPROVED UNANIMOUSLY.**

Meeting adjourned at 7:02 PM.

Respectfully submitted,

Chris Work, Recording Secretary