

**Town of New London  
Zoning Board of Adjustments  
November 8, 2010  
APPROVED**

**Members Present:** Chair Bill Green, Doug Lyon, Laurie DiClerico, Sue Andrews, Courtland Cross

**Also Present:** Peter Stanley (Zoning Board Administrator)

Chair Green called the **MEETING TO ORDER** at 7:30pm.

Courtland Cross said he would encourage applicants appealing to the Zoning Board of Adjustments (ZBA) to provide as detailed information as specific as possible to assist ZBA members in their process. It would increase efficiency and contribute to full disclosure, as well as save investigative time. He added that it would be nice if the Zoning Administrator would try to get the people to understand that the ZBA has to look at the information provided by others and assume that they don't know anything more. It seemed unreasonable to him to have members of the ZBA have to spend a lot of time investigating things in order to figure things out. Chair Green said perhaps after the third hearing that night, they could spend a couple minutes to talk about this issue.

Chair Green noted that that night's hearing was being recorded and had been properly noticed.

**SPECIAL EXCEPTION**

**Charles Lawson  
1549 Little Sunapee Road  
New London, NH 03257**

**Tax Map: 030 Lot 007**

**PURPOSE OF THE REQUESTED WAIVER**

Variance to the terms of Article XIII, Section F.1 of the New London Zoning Ordinance in order to permit a portion of a proposed new septic system to be within 75 feet of a jurisdictional wetland.

Chair Green gave the floor to Mr. Lawson to present his case. Mr. Lawson thanked the members of the ZBA for coming in to meet with him. He reminded them that he came before them the year before and was given a variance to do some construction on Little Sunapee Road. They have since joined a parcel across the road with the primary parcel, on which they wish to put a septic system. He apologized for his wife not being there, but she was in California.

Mr. Lawson read from his Application for an Area Variance. He referenced to the map that was in the ZBA members' packets. He had a larger version of the map and the ZBA was happy to see the detail it provided. They determined that the placing of the septic fields was as far away from the wetlands as it could get with it still remaining on his property. Mr. Cross asked if it was kosher to have a sewer system across the road from the main part of the property. Mr. Stanley said that people are doing it all the time. He indicated that the two parts of the lot are considered one lot with a public byway in between. Ms. Andrews said that the wetland is partially due to the road being there and Mr. Stanley agreed. Mr. Cross asked if the lot was large enough to have two homes on it. Mr. Stanley said that it was one lot and that two homes could not be on one lot. The owner would have to subdivide the lot again, but they couldn't subdivide this lot again because it is now considered a sub-standard lot.

Mr. Stanley explained that the town only permits one single or two-family dwelling on any parcel, regardless of how big any parcel is. The reason is that if they allow multiple houses to be built and one person owns them, they can be condominium-ized without subdivision and oversight by the Planning Board.

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

Mr. Lyon thought that Mr. Lawson did a great job putting the application together. It discussed the three issues they have to decide on to grant the variance. Given the land, he did not feel it was going to diminish surrounding property

values because it is an improvement in the existing septic system. It is not contrary to the ordinance, as the wetland is a consequence of the road being there and is not connected to any stream. He felt the hardship issue was clear because there isn't another place to locate the system. Mr. Lawson has no place else to put it. It does substantial justice because it allows the owner to utilize the properties that he has merged into one. By merging the properties, this has helped to reduce the density around the lake, and he felt held true to the spirit of the ordinance because it will not affect water quality and protect wetlands.

Chair Green said that he agreed with Mr. Cross' sentiments about materials given to the ZBA being as detailed as possible, as the map that was given was hard to read and understand. He agreed with Mr. Lyon that his reasons met the criteria in his opinion.

Ms. DiClerico agreed with Mr. Lyon and said she was also confused with the initial map she had been given. She doesn't have a problem with it.

Sue Andrews agreed and had nothing to add.

Mr. Cross said that his comment would be that he wished it had been presented in a more forthright manner to begin with. It makes sense to him now, after seeing the larger map.

Mr. Stanley said that he would talk to Land Use Coordinator, Amy Rankins, to make sure a larger map is available to the ZBA in the future. He said that he could have outlined the property from the aerial photograph. Mr. Cross said he would appreciate a compass and a scale on the maps so they were easier to understand.

Mr. Lawson said that if he understood that they were having a problem understanding the map, he would have provided larger maps. He said that he made the copies, Amy didn't.

**IT WAS MOVED (Courtland Cross) AND SECONDED (Doug Lyon) to grant the variance for Mr. Charles Lawson. THE MOTION WAS APPROVED UNANIMOUSLY.**

#### **SPECIAL EXCEPTION**

**Matthew McClay  
Burpee Hill Road  
New London, NH 03257**

**Tax Map: 070 Lot 044-001**

#### **PURPOSE OF REQUESTED WAIVER:**

**Special Exception as permitted by Article XIII, Section E,1 of the New London Zoning Ordinance to permit 5 wetlands crossings for the purpose of accessing a buildable portion of the lot.**

Chair Green invited Mr. McClay to give a presentation to the ZBA in as detailed a way as possible. Mr. McClay said he would like to build a house on the property and he showed them the best place to put the home, using the map he had provided. The simplest and least obtrusive way to get to the desired portion of the property is to cross the wetlands at their narrowest points. Mr. Stanley said the land is surrounded by stonewalls. Chair Green reminded the board that the most minimal impact to the wetland can be done by crossing at the narrowest point. Mr. Stanley said the wetlands in that area are mostly drainage areas from Burpee Hill. Mr. McClay pointed out one crossing he would make, which was over an existing culvert.

Chair Green asked Mr. McClay to read through his application and to point out any additional issues or information that may not be written, which he would like to share.

Mr. McClay said he is trying to build a single family residence and wishes to turn some of the land into farmland, as it used to be. He indicated that he has two horses. He wishes to cross the wetlands at their narrowest points to enable them to be able to build on the most buildable portion of the land.

Mr. Lyon asked if they have a wetlands permit from the State. Mr. McClay said that the permit has been applied for. Mr. Stanley said that any approval would need to be contingent upon State approval and that he had received a letter back from the State with a request for more information. Mr. McClay had not yet seen this letter. Chair Green said that the Conservation Commission had seen this case and had no issue with it. Mr. McClay said that they closed on the land about a month ago.

**IT WAS MOVED (Doug Lyon) AND SECONDED (Laurie DiClerico) to discuss.**  
**THE MOTION WAS APPROVED UNANIMOUSLY.**

Mr. Lyon pointed out that this was an application for a Special Exception and there were three answers the board has to answer in order to grant the waiver.

The first question is: Is the use ordinarily prohibited in the district? He answered in the affirmative that yes, it is usually prohibited.

The second question is: Is the use specially allowed as a special exception in the ordinance? Mr. Lyon answered in the affirmative that yes, it was.

The third question is: Are the conditions in the ordinance specified met in this case? Mr. Lyon affirmed that yes, the crossings will be done with minimum impact on the land.

Mr. Lyon suggested that the criteria for special exception had been met in this case and that the waiver should be granted.

Chair Green and Mr. Cross both agreed with the points made by Mr. Lyon. Ms. DiClerico noted that crossing these wetlands was the most feasible way to access the building lot. Ms. Andrews agreed.

**IT WAS MOVED (Doug Lyon) AND SECONDED (Courtland Cross) to approve the special exception as requested by Matthew McClay with provision that before any construction be done, the minimum impact expedited permit be approved by the State. THE MOTION WAS APPROVED UNANIMOUSLY.**

#### Minutes Review

Chair Green said that since they had some time before the next hearing that they should review some minutes from earlier meetings.

**IT WAS MOVED (Doug Lyon) AND SECONDED (Laurie DiClerico) to approve the minutes of July 19, 2010, October 18, 2010, and October 26, 2010, as circulated. THE MOTION WAS APPROVED UNANIMOUSLY.**

#### Discussion of Information Provided by Applicants

Chair Green said that a copy of the tax map, showing surrounding properties, and if necessary, having a full drawing or at least the full drawing reduced which is legible. Mr. Stanley said that his role is to help the applicants understand the legal points, but not making the packets. If the ZBA wanted him to make the packets, he would. Mr. Lyon said that perhaps he should ask the applicants to provide these things. Mr. Cross said that he should make the applicant assume that the ZBA knows nothing about their case and to provide as much information as possible.

Mr. Stanley said that for the Planning Board he uses a PowerPoint presentation with aerial photographs. The focus has been on not having too much paper but clearly, the larger plans are helpful and they can require them where appropriate. Mr. Cross noted that he likes to visit every site before a hearing and it was difficult with such sketchy information. Mr. Stanley pled for members to call him with questions ahead of time. It is legal for him to provide them access to plans and information as relevant. He could contact an applicant to gather more information if he did

not have it himself. Mr. Lyon said he understood the effort of the town to reduce costs and knew that making copies of large plans can get pricey. He suggested that if an applicant would need to provide a larger map, it could be a requirement of the applicant to pay for the copies. He added that sometimes, as in this case, a member who was planning on coming to the meeting and had done a fair amount of research, had to have someone fill in for him at the last minute. In this case, the most information, presented in a clear way would be very helpful to those not having a chance to do the research themselves.

Chair Green said that in the packets of information that contain the application, but what supplemental information they would like? They decided they'd like a copy of the tax map and an aerial photo. Chair Green said that if a plan covers everything and can be reduced to 8.5x11 great, but if it does not cover everything, than a full plan should be required. Mr. Lyon noted he likes the tax maps because they can get an idea of who the neighbors are. Mr. Cross added that all plans should include a scale and compass. Mr. Stanley said that they should have photos where appropriate. He said he would pass this checklist on to Amy Rankins for future packets being sent to ZBA members.

#### **SPECIAL EXCEPTION**

**David & Michele Livingston  
490 Otterville Road  
New London, NH 03257**

**Tax Map: 042 Lot: 006**

#### **PURPOSE OF REQUESTED WAIVER:**

**The applicants are requesting a Special Exception, as permitted by Article XIII, Section E 3 of the New London Zoning Ordinance, to reduce the depth of the stream buffer adjacent to Otter Brook along the edge of his property. The reason for the buffer reduction is to allow for construction of a deck in a portion of the property that was developed prior to the adoption of the stream buffer ordinance.**

Chair Green turned the floor to Mr. Livingston to present his case. Mr. Livingston said he was applying for a special exception as he is trying to expand the current deck a little bit. He referenced the assessor's sheet, which was included in the packet. He was asking to be able to move the buffer a bit. Mr. Livingston provided some pictures of where the house sits currently. The expansion project includes putting a new surface to all the decks as the wood is rotting out and while they were doing this, they thought they'd square off the deck.

Mr. Livingston approached the board members and showed them, using the pictures he provided, the area in which he would like to expand the deck. The entire house is within the buffer as it was built before the ordinance came about. Mr. Lyon said that the proposed deck is no closer to the buffer than the existing one that is there now. Mr. Livingston said they will be using composite wood. Ms. DiClerico asked about the trench they were suggesting. Mr. Stanley said it would capture the drip from the decks. What falls through and beneath the deck will have a space devoted to infiltration.

Ms. Andrews asked if this was a request to change the stream buffer as opposed to a request to violate the buffer more. She said that it seemed to her that once they change the line, the owners could make other changes to the home within this line. Mr. Stanley said that they couldn't do anything more in this case, as they would be less than 150' from the lake. His suggestion is to usually move the buffer back to what it was prior to instituting the stream buffer.

**IT WAS MOVED (Doug Lyon) AND SECONDED (Courtland Cross) to discuss.  
THE MOTION WAS APPROVED UNANIMOUSLY.**

Mr. Lyon said that the request was for Special Exception and that the board needed to evaluate three criteria before granting the waiver.

The first criteria: Is the use ordinarily prohibited in the district? Mr. Lyon answered in the affirmative that yes, it is usually prohibited.

The second criteria: Is the use specifically allowed as a special exception under the terms of the ordinance? Mr. Lyon said affirmed that it was.

The third criteria: Are conditions specified met in this case? Mr. Lyon said that the entire lot is non-conforming now and predated the stream buffer issues. The proposed deck wasn't going to move any closer to the stream than the existing house does now. It allows the homeowner to use the property the way he'd like to. It seemed to him that the criteria were met.

Chair Green said that in addition, the topography of the lot is fairly gentle. He didn't think there was much of a chance that it would increase any erosion or runoff to the stream or lake, which was their main concern. He felt it was reasonable.

Ms. Andrews had no problem with the deck, whatsoever. She was worried that they were going to set a new buffer so someone could come along at a later date and tear down the old house and build a new house and want to take the trees down between the new house and the stream. Mr. Stanley said they couldn't do that. Chair Green said that if they go by the driveway to the house, that the tree line would be the boundary. Ms. Andrews didn't want to see that front violated. Mr. Stanley said he tells people to reduce disturbances in the waterfront area to do as minimal practical approaches to manage their property. They need to leave an opening for their house to have light, etc. Ms. Andrews asked if there was a specific way to have a black line drawn so everyone knew where it was. Mr. Stanley said it could be scaled and put into the record forevermore.

Mr. Stanley said the buffer is from the northerly edge of the driveway to the stream. The driveway is out of the buffer. In order to move close to the buffer they'd have to clear more to develop into the area that the house is on.

Ms. DiClerico said the new trench would probably give some improvement to the runoff.

**IT WAS MOVED (Doug Lyon) AND SECONDED (Laurie DiClerico) to approve the special exception for David Livingston, with the condition that the buffer line be to the north side of the existing driveway. THE MOTION WAS APPROVED UNANIMOUSLY.**

**IT WAS MOVED (Doug Lyon) AND SECONDED (Laurie DiClerico) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 8:45pm.

Respectfully Submitted,

Kristy Heath, Recording Secretary  
Town of New London