



TOWN OF NEW LONDON, NEW HAMPSHIRE

375 MAIN STREET • NEW LONDON, NH 03257 • WWW.NL-NH.COM

ZONING BOARD of ADJUSTMENT MEETING MINUTES June 27, 2012

Members Present: Chair Bill Green, Jeff Horten, Doug Lyon, Laurie DiClerico, W. Michael Todd

REQUEST FOR VARIANCE

Mark Vernon, representing Arrolyn Vernon
217 Pinegree Road
New London, NH 03257

Tax Map: 023-011

Chair Green called the meeting to order at 7:31pm. He said that the meeting was being recorded and had been properly noticed. He explained the purpose of the requested variance, as described below:

PURPOSE OF THE REQUESTED WAIVER

Variance to the terms of Article XIV, Section E, of the New London Zoning ordinance to permit a lot size of 25 acres, despite 5.2 acres determined to be steep slope.

The property is in the Forest Conservation Zone, which requires a minimum of 25 acres per parcel. Chair Green turned the floor over to Mr. Mark Vernon to explain his case.

Mr. Mark Vernon explained that they had a steep slope assessment on the property and it showed 5.2 acres of steep slope. Their request is to discount the 5.2 acres of steep slope and have just the minimum 25 acre lot rather than the 30.2 that they would need to adhere to due to the steep slope requirement. He said that there would never be more than two lots on the parcel so where they draw the line won't affect that issue. They want a variance because of the effect it will have on his mother's property on the opposite side of the road. His family has spent many hours deciding how to equitably split the land and if they are allowed to have a 25 acre minimum on the parcel in question, it will allow them to do what they want on the other side of the road. He understands that they have to show hardship. Although he knows that the land on the other side of the road isn't up for discussion, it would be a challenge for them to do what they want to do due to wetlands. Mr. Todd said that Ms. Vernon's parcel is not being put before them right now and so it was just this parcel in question that was to be discussed.

Jim Vernon said that the land on both sides of Pinegree Road has been in their family for many generations. In 1976 his parents opened the land on the east side of the road to recreational use through a "Deed of Dedication." People continue to use the property and use the trails and enjoy it. They are happy with this arrangement and wish for it to continue. They have been discussing on how they will divide the land and thought of the farm as one unit. It has been the family's wishes that they divide the land equally. He will eventually inherit the farmhouse where his mother currently lives. The parcel lies within two different zones and, due to the fact that the minimum lot size changed from 15 to 25, makes splitting the parcel equally almost impossible. There can only be two lots on the parcel and the steep slope section could never be built on. He has no plans to build on his piece and it would not change the number of lots. It would be a hardship if they could not divide east of the road if they couldn't divide in this manner.

Chair Green asked why it was critical to divide between the 25 and 47 acres. Mr. Vernon said that the line isn't critical but they were concerned with the amount of land each lot was comprised of.

Mr. Horten asked if this would have been an issue in 2009 before the minimum lot size had changed. Jim Vernon said that he believed it would not have been an issue. Before the change, the acreage worked out the way they wanted to divide the land.

Mr. Todd asked how many acres were in the homestead. Mr. Mark Vernon said it was 42 acres. Mr. Todd asked if it was their goal that, at the end of the day, the two surviving brothers have equal acreage. Mark Vernon said that it is not equal acreage they are interested in, but equal value since his brother will be inheriting the home. The brothers showed some maps to the board members explain the details of the property further.

Mr. Todd asked how many structures they would envision being on the property. It was determined that there could be up to five. There are two existing structures, and could be up to three more. Mark Vernon said that he hoped the five structures could happen anyway but it would be harder to do so if the variance wasn't granted.

Mr. Todd asked if any the property was subject to any conservation easements currently. Jim Vernon said that there was not. He noted that the Deed of Dedication lapsed in 2006 during the time that their father was sick, but they still allow people to hike on the property. Ms. Vernon said that soon after the new assessor came to New London, he identified two building lots near the road and their taxes went up. She was never given a printout of the details to show exactly where the lots were.

Mr. Todd said they need to look at it to try and see what would make the most sense given their objectives and making it compliant to the ordinance.

It was noted that the Planning Board suggested if the ZBA approved this Variance, that it should be done conditionally that there could only be one building lot on each piece and no further subdivision. Ms. DiClerico said it would make more sense to make it conditional that there is no development on the steep slope. Mr. Lyon said that the point is to avoid building on steep slopes not to limit lot size.

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

Mr. Todd summarized the wishes of the applicants:

- To preserve the family land
- To provide a maximum of five structures on the ancestral property (two of which already exist)
- To keep the division of the property fairly equal between the two surviving children
- To be granted a subdivision of a lot that is less than 25 acres, given the topography of the land, the pre-existing structures and the existence of the brook, the position of the roads and the steep slopes identified on the map

Ms. DiClerico did not feel granting this Variance would be contrary to public interest. She was concerned that they not develop in the steep slopes so they can keep to the ordinance. They need to do this to avoid erosion. Mr. Todd asked if she was interested in approving the variance with two conditions: one for no further subdivisions and one for no development on the steep slopes. Ms. DiClerico answered in the affirmative. Chair Green and Mr. Lyon agreed with Ms. DiClerico's comments.

Mr. Lyon said that putting a provision in the condition of the Variance to prevent development of the steep slope, keeps with the spirit of the ordinance. The acreage issue is much less meaningful than the prohibiting of steep slope development. Mr. Todd and Ms. DiClerico agreed with Mr. Lyon.

Mr. Todd thought that substantial justice would be done provided the conditions are included with the approval. Mr. Lyon agreed as did Chair Green. Chair Green noted that this is a 25 acre zone which is an incredible-sized parcel of land.

Chair Green said that in view of the size of the lot and the topography, he felt the request was reasonable. It was consistent with the other parcels in the neighborhood and in addition they are not dealing with a request where they are asking to increase the number of total parcels. They have two and it is just the division of the two, which seems reasonable to him. Mr. Lyon said that the lots on the west side of the road were not under discussion that night but it was reasonable to see the big picture and understand the goals of the land owner. The applicants are willing to protect the steep slope and the topography does present a hardship to see the parcel developed the way they would like. Mr. Horten agreed with Mr. Lyon's sentiments.

No one could see that there would be any diminution of surrounding property values.

Mr. Todd felt that the purpose of the steep slope provision was to discourage development on lots that contained steep slopes. Ms. DiClerico clarified that it is only *on* the steep slopes that development is discouraged, but not on property that contains steep slopes. Mr. Lyon agreed and Mr. Todd said he understood.

Chair Green wondered if the applicants decide to annex the property later on, might they have a problem if they include the condition of no further subdivisions. Mr. Todd didn't think so because annexations and subdivisions were not the same thing. Mr. Lyon said that they could specify in the motion that no further subdivisions would be allowed, but an annexation would be.

IT WAS MOVED (Doug Lyon) AND SECONDED (Bill Green) to approve the petitioners request and that the minutes of the meeting would reflect the various points of passing, and as condition of passing, there can be no further subdivision allowed, although an annexation to either lot is allowable, and that no development would be allowed on the steep slopes that exist on either lot. THE MOTION WAS APPROVED UNANIMOUSLY.

Mr. Vernon asked if this motion had to appear on the deed. Mr. Todd said that a notice of Variance is recorded at the registry. It is signed off and approved and is attached with the deed and goes with the land.

Ms. Vernon asked if they would be allowed to merge the lots should they decide to in the future. She recalled that their land used to be one parcel. Mr. Lyon said that this would be the opposite of what they are trying to accomplish. Ms. Vernon wondered if there would somehow be an advantage to doing this. Mr. Lyon said they could do this in the future if they wish and noted that they hadn't done anything that night that would prevent them from doing this at some point in time if they wish.

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

The meeting adjourned at 8:15pm.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London