

**Town of New London
Zoning Board of Adjustments
January 25, 2010**

Members Present: Bill Green (Chair), Laurie DiClerico, W. Michael Todd, Cheryl Devoe, Sue Andrews

Also Present: Peter Stanley (Zoning Board Administrator), Paul Roberts (Lyon Brook)

Chair Green called the meeting to order at 7:30pm. He announced that the meeting had been noticed and was being recorded. He noted that the first agenda item was concerning New London hospital, who would be represented by Laurie Underwood. The hearing for the hospital was for the purpose of requesting a variance. Details included below.

VARIANCE

**New London Hospital
273 County Road
New London, NH 03257**

**Tax Map: 072 Lot: 016, 017
059 Lot: 004**

PURPOSE OF REQUESTED WAIVER:

Variance to the terms of Article V, Section A of the New London Zoning Ordinance to permit the use of a parcel of residentially zoned land, adjacent to a parcel of land in the Hospital Institutional Zone, for the permanent storage of fill from a New London Hospital construction project and to then use the resulting filled site for winter storage of snow from the New London Hospital parking areas and driveways.

Chair Green turned the floor over to Ms. Underwood to begin her presentation.

Ms. Underwood appeared at the hearing, accompanied by Mr. Todd French, Director of Facilities for New London Hospital. She explained that the issue of the property in place began in 2005 when they had a parking lot renovation in the back of the hospital. Some of the extra fill was deposited onto the land. At that time they did not proceed with any variances and it was never brought up in the process. In a project later on, they worked with Peter Stanley and other town officials to go through the process to make sure everything was in order. They realized the back area where the hospital institutional line and residential line met posed a zoning issue. When seeking their final certificate of occupancy, they realized they needed to deal with the issue.

Ms. Underwood explained that they had clean fill from their building project that they needed a place to put it. At that time, they worked with Mr. Stanley and Richard Lee (Public Works Director) on where the best place to put the fill would be. They decided that since there was already some fill in the area in question, that they should put this additional fill there. Ms. Underwood noted that they worked on proper erosion control measures together. In the planning process for the renovations, they had planned to put the fill there temporarily, but had not had it a part of their site plan review. They came to the Planning Board on November 27th and were approved for the changes they had made in their site plan.

Ms. Underwood referenced the location of the proposed placement of fill using a map. She explained that they wouldn't be able to do any proposed work to the site until the spring and would be willing to work with them on any changes that were suggested. She noted that they have worked to obtain a letter of credit with the Town for \$10,000 to do this work in the spring, should the hospital default on their agreement.

Ms. Underwood explained that this area was in the middle of a 50 acre parcel of land which is a residential area owned by the hospital. They do not have definite plans for this piece of land at this point. They may need the fill for another project at some point, or they may leave it where it is. She felt that they have a good plan in place as far as leaving it right where it is.

Ms. Underwood went on to explain that they have created a lot more parking than was requested of them but some of their spaces are lost in the winter due to the use of some parts of the lot for snow storage. They would like to be able to use the area in question for snow storage as well. She said that this area was also the approach for the DHART helicopter. There are a couple of trees that they would like to remove so the approach would be a little

clearer. In looking for the variance, they were of the belief that the area was far enough removed from any abutters to cause alarm.

Ms. Underwood showed on a map the parcel of land and where a few small wetlands were present. She showed where drainage traditionally took place and said that snow melting from the property would go in the same direction. She indicated that they do not intend to put any more fill in the area and would primarily like to use it for snow storage. Chair Green asked for ball park guess of the size of the area. Peter Stanley said that roughly, it was from toe of slope to toe of slope the widest at a little over 100' and from the pad was 250'. He said it was about a 2:1 slope.

Ms. Underwood said that a portion of the fill was installed in 2005 and the remainder was over the last two years. Mr. Stanley said that when they started talking about occupancy and the town officials were reviewing the site, they looked at the plan and the site with the fill was not present. They were then sent to the Planning Board who had returned them to the ZBA for a variance due to the fact that this is a hospital use in a residential district. Ms. DiClerico asked if the Conservation Commission had had a chance to review this issue. Mr. Stanley said that they had not reviewed it and that their review was not required as the water from the melt would not directly affect the wetlands.

Ms. Andrews asked if they had a variance for the parking lot. Ms. Underwood answered in the affirmative.

Ms. Devoe asked that if the snow was not being removed from the parking lot, if it would drain to the same area. Ms. Underwood answered in the affirmative.

Mr. Todd asked if they would be moving the snow after it goes to the parcel in question. Ms. Underwood answered in the negative. Mr. Todd clarified that it should be called snow *disposal*, and not "storage."

Mr. French said that a normal storm takes up 8-10 parking spots. The banks get very high and they need more room for the snow disposal. He said that the need to remove the snow from the parking lot stemmed from a safety standpoint and was not just due to lost spaces.

Jim Cricenti, resident, asked if the material from the site could be reclaimed for another project. Ms. Underwood answered in the affirmative and explained that they had used some of the fill already in one of the newer sections of the hospital. Mr. Cricenti said that there was some talk of changing the boundary from institutional to residential. Ms. Underwood said that it had not been changed yet. Over the next few months they will work with Planning Board to determine what is inclusive of the hospital. Mr. Cricenti asked if the variance was project-specific or if it changed the institutional zone with this approval. Ms. Underwood said that it would not change the line. Chair Green explained that the request was for a variance for utilizing the property in a residential zone outside of an institutional zone for a use that isn't permitted in a residential zone. Mr. Cricenti asked what they would be able to do if they want to use the area for more parking in the future. Mr. Stanley said that what they were doing now was coming only to ask to put dirt in the area. If they want to do something else with the parcel later on, they would have to come back to the Zoning Board. The only other use permitted would be snow storage. No parking and no storage of equipment would be permitted.

Ms. Andrews asked that if the variance was permitted, could they take the fill for other uses at their whim. Mr. Stanley said that they'd have to go to the Planning Board to get permission for any extraction of fill. He added that the parcel was intended to be used as temporary storage but was never intended to be permanent.

Chair Green said that, it being wintertime, it was hard to determine how it the fill at the site had been finished. He asked if the embankments were established. Mr. French explained that a Clough Harbor engineer came out in late November. They came up with plan to make the road to the site a little firmer. They will do more work to make sure it is smooth. He said that they plan to put grass on the sides of the banks, although it was pretty established already. Mr. French explained that they will add more matting to the site, but that was fairly established with weeds. Mr. Stanley agreed except for the very end of the road and one westerly side section that had eroded due to water flow. He said that those parts would need to be upgraded.

Ms. DiClerico asked if Mr. Stanley and Mr. Lee felt the erosion control measures would be good enough. Mr. Stanley felt they would suffice.

Ms. Underwood said that they would do this work in conjunction with Mr. Stanley and Mr. Lee in the spring to make sure it would be done right. She said that nothing more has changed with the site and that they would do what they needed to do.

Mr. Cricenti asked if the snow storage would be on top of the berm. Mr. French said that the snow would go over the very end and push it over so that it does not affect the landing zone.

Paul Roberts, president from Lyon Brook was present at the meeting and expressed some concerns that Lyon Brook was downhill from the proposed snow storage site. He explained that they have had some hardships with water in recent years. After finishing construction in 1986, they experienced troubles with water in the back yard. They had to dig up the asphalt and put in new drainage. Mr. Roberts said that the parcel of land was probably 500' from the nearest house at Lyon Brook and that the surface water could be handled by two existing culverts, however, there was always the worry of the underground water. He presented a memo stating some concerns of their position. He wasn't sure there was a risk to Lyon Brook or not, but felt he should express his concern.

Mr. Roberts clarified that he was concerned with the snow storage and the result of the melt in the spring. Chair Green asked if Mr. Roberts felt it would exacerbate the drainage situation at Lyon Brook. He said he wasn't sure what the water may or may not do. He reviewed the map brought by Ms. Underwood.

Ms. Underwood said that the parking lot they had recently built was a porous, concrete parking lot. There would be no sheer runoff from that lot and that it leaves as ground water.

Mr. Todd provided some photographs of the area being discussed. Ms. Underwood agreed that they were a good representation of the area at the current time. Mr. Todd had taken some photographs of the area, as he assumed that the other members of the board would not be able to get to the site themselves. The photographs were submitted for the file.

Ms. Underwood read through the criteria she filled out in the application for a use variance. Please reference the attached documentation to review Ms. Underwood's application details.

Chair Green asked if there were any questions from the members of the board.

Mr. Todd asked what the dotted line around bottom of the map was. Mr. French said that it was a hiking trail. Mr. Todd asked what the position of the hospital was on these trails. Ms. Underwood said that they were reviewing the possibility of building a retirement community. They are also looking at plans for the area and would like to maintain the hiking trails and also to create additional hiking trails. They are looking towards winning a grant for this work.

Mr. Todd said that when they came before the Planning Board in February 2007 for the preliminary plan, Chair Ebel noted that the wetlands in the area were not of concern because they were not buffered. He said that if it is a jurisdictional wetland, nothing can be built within 200' of it. Mr. Todd went on to explain that these wetlands were upstream of a manmade culvert and were not mapped wetlands. Ms. Underwood said that she understood this fact. She said that they had this discussion when going through the process of creating their porous parking lot as well. Mr. Todd noted that the road agent at the time had some concern about snow in the section of the property that is in question. Mr. Stanley said that the original design had snow storage on a diagonal road that comes in on the north side where the long parking lot is. That was the area that was of concern because there was not room between the parking lot and wetland without spilling into the wetland. Snow storage has to be at least 25' from the wetland. Mr. Todd said that if they pile the snow as high as they can, it would spill into the wetland. It was noted that the snow would be going off the end of the property and not the side, near the wetlands.

Ms. Andrews asked how tall the sediment barrier was on the end, which appeared in the map. Mr. Stanley said that it was a rolled-up growth medium in a porous fabric. He said that it has seed rolled up in it making a natural berm or bump that would be 8" or 12" to retain runoff.

Mr. Todd said that there really were two variances being requested; one to deposit snow and one for the fill. He believed there should be separate variances requested for two different uses.

Mr. Stanley said that it was the same use and was accessory to the hospital. If this was snow from a residential site they could put it there. However, the snow originates from the institutionalized zone, as did the fill. Ms. Andrews opined that they were two entirely different things and should not be tied together. Mr. Stanley said that this is the way it is written by law. Chair Green said that when they discuss the issue, they could talk about it separately, but at the same time.

Mr. Todd said that when they came in front of the Planning Board in April of 2007, Mr. McWilliams was concerned about snow along the wetlands and that it be eliminated. It was clarified that the snow they were concerned with was in a different location than the parcel in question.

Mr. Todd said that Chair Ebel had asked where the fill from the construction would go. They were told that there would be no fill because they would not be excavating. Mr. Stanley said that there had been some talk about fill being stored there temporarily, but that it became permanent because of the excess. Ms. Underwood explained that when they came to the Planning Board in September, they had plans to create a basement, which is where most of the fill came from. Mr. Todd asked if there was any further discussion of fill after they decided to do the basement. Ms. Underwood said that there was not. Mr. French said they had to do a lot of blasting for the basement and that the ledge was taken away. They didn't add a lot to the fill area at that time and the ledge was trucked away to be crushed and reused.

Mr. Todd asked if the area was composed of clean fill why was there a request to remove buried trees from it. Mr. Stanley said that they had placed fill around live trees, which causes them to die. He said that it was these trees that needed to be removed. Mr. French said that all the stumps had been removed and were sent to the Springfield power plant.

Mr. Todd asked if the map they had been given was the same as the approved site plan. Mr. Stanley said that it was essentially the same map. Mr. Todd was curious because there were several proposed snow storage sites listed. Mr. Todd felt it was difficult to discuss the validity of the application due to the fact that he was given an old map to review.

Mr. Todd asked about a driveway that was proposed. He wondered why the fill was not proposed to be used in this driveway instead of being parked on the parcel. Ms. Underwood said that this was not thought of as an option for the excess fill.

Mr. Todd asked if this area would be fenced off. Ms. Underwood said it would not. Mr. Todd said that it was not posted and there were hiking trails nearby. He said it was conceivable that someone could wander off and discover it looming out of the forest. He reminded those at the meeting that steep embankments were dangerous to children. There was no restricted access to the property and it was possible that they may want to address that safety concern.

Ms. Underwood said she felt that through the entirety of the project they have tried to do the right thing and work with Mr. Stanley and the rest of the department heads and the Planning Board to do the right thing. She said she was only saying this in the sense that if that is what they think they need to do, they are agreeable to installing a fence.

Mr. Todd asked if the snow was collected from the entire complex. Ms. Underwood said it wouldn't come from the entire complex. Mr. Todd asked if it was pure snow. Mr. French said that they use Magic Salt and no sand. He added that they do get some debris from Clarke's Hardware plaza. Mr. Todd asked if they get trash and rubbish from the parking lot as well. Mr. French responded that there is very little trash and that they have a fairly clean parking lot. He added that they have eliminated a dumpster on the Hubert's side due to it being misused. They have an enclosed compactor now.

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

Chair Green suggested discussing the two issues with the parcel of land in question, at the same time.

1. The proposed use would not diminish the surrounding property values because:

Chair Green said that he thought for both the fill and the snow removal, in his opinion because of where the particular site was located within the hospital's property and its separation from any abutting properties and structures or homes, he didn't feel it would have a negative effect on either of the surrounding properties. He noted that the fill was already there and was present. He'd like the board to comment on approving this location and having the fill stay there permanently. He was in the opinion that if the board granted the variance that the fill should remain there permanently and not be disturbed at a later date.

Ms. Andrews said that in terms of the fill, she did not have a problem with it. She hadn't thought about it being there permanently. She noted that she did see the snow storage as a problem. She believed it would not diminish values due to the snow, itself, but possibly downstream. Ms. Andrews believed that a vast amount of the parking lot that is covered with Magic Salt would end up going over the bank.

Chair Green said that he believed the snow, in runoff, would already be going in the direction of the parcel in question already. If more snow was being brought onto the property he would feel differently, but didn't feel it would be an issue as it would be there anywhere. Ms. Andrews understood but felt it would be a huge snow pile. By March it could be very big.

Ms. DiClerico had questions regarding the snow. She said she would be more comfortable if they hired an independent expert to inspect the details to make sure the plans were the best management practices being used. Perhaps this would make them all feel more comfortable. She thought the details for both fill and snow should be reviewed.

Mr. Todd reminded the board that this was an "after-the-fact" application. Fill was dumped and they are now asking for approval. He said that they need to decide on the matter as though the fill were on the trucks waiting to be dumped there. Would they have approved this if it was before the fact? Mr. Stanley said that it was discussed at the Planning Board meeting. Mr. Todd said that there had been no motion made to allow or not allow the fill to be placed there. Mr. Stanley said that they all assumed the fill would go away and it didn't.

Mr. Todd said that regarding the diminishment of property values, he saw no evidence of non-diminishment. He noted the concern for one of the two abutters present about adverse effects of water on the property.

Ms. Devoe asked how the land looked before the fill was dumped. Mr. Stanley said that it rose only slightly at the center of the berm. He said that it was drastically different than it is now. Ms. Devoe said that as a Town they knew there was going to be runoff going into the streams from the parking lots. She opined that piling the same amount of snow in one spot wasn't going to be an issue.

Mr. Green said that if they look at the map and look at the topography and look where the snow would be placed, they can see the water is all sheeting down towards the parcel in question anyway. Mr. Todd said there are no basins to catch the sediment from the runoff. He questioned the condition of the water when it hits the wetland. There was no dispute of where it was all going, but how could they make the quality of the water the least toxic as possible. Ms. Devoe suggested that most of the snow they plow doesn't have the Magic Salt on it already.

Ms. Devoe said that she did not feel it would diminish the surrounding property values. She felt the Lyon Brook was a general concern and said that they can't estimate what would happen underground. Mr. Roberts said that the surface water was less of a concern. Mr. Roberts said that he was not a hydrologist but that he has found water where he doesn't want it in the past. Ms. Devoe said that the ledge underground all shifts and they can't blame development for that.

2. Granting the variance would not be contrary to the public interest because:

Ms. Devoe said that she struggles on this part a bit because of the concerns they have been raising. She didn't feel that it would be contrary of the public interest.

Mr. Todd said that they have to look at potential safety issues and downstream water quality issues. He said there had been no testimony that they intend to protect the area or prevent access to it. He said that if they approve it as-is he would have concern.

Ms. Devoe said that if the hiking trail doesn't go through this area in question, she didn't feel it would be a problem. She said that she was raised to hike on the trail and not to wander off. Mr. Todd still felt that there was a potential for danger.

Ms. DiClerico was more concerned of the water going down stream. She would like more information to help them feel comfortable that that this would not be causing a problem downstream.

Ms. Andrews said she was not concerned with the safety issue. She had no problem with the fill being contrary to public interest. She was concerned with snow storage and would prefer to have an engineer look at that part of it to see what they could do and how they might mitigate snow melt.

Mr. Stanley said that there was no budget so they could not pay for an engineer. He said the hospital would have to pay for it but that it was not required of them. Chair Green asked the board if the hospital was willing to have their engineer meet with them, would that be helpful to answer the questions they have in mind about the snow storage. Ms. DiClerico said it would help although it wouldn't be an independent source. Mr. Todd felt it would be helpful but not conclusive.

Chair Green said that they should ask the hospital if they would be willing to do that. Ms. Underwood said that they could get their engineer to review the information. Chair Green said that they would specifically like more information on utilizing this area on snow storage and focus on the runoff; what would be in the snow and how it would impact things downstream and how it may impact Lyon Brook.

The Zoning Board agreed to meet again on February 15 at 7:30pm to continue the hearing.

IT WAS MOVED (Michael Todd) AND SECONDED (Cheryl Devoe) to continue the hearing on February 15, 2010. THE MOTION WAS APPROVED UNANIMOUSLY.

IT WAS MOVED (Bill Green) AND SECONDED (Cheryl Devoe) to adjourn the Zoning Board meeting of January 25, 2010. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting adjourned at 8:50pm.

Respectfully Submitted,

Kristy Heath, Recording Secretary
Town of New London