



TOWN OF NEW LONDON, NEW HAMPSHIRE

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ZONING BOARD OF ADJUSTMENT (ZBA)

MEETING MINUTES

Tuesday, December 15, 2020

Digital – only meeting via Zoom

6:30 PM

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. The public has access to contemporaneously listen and participate in this meeting through the video conferencing platform Zoom.us.

MEMBERS PRESENT: Douglas Lyon (Chair, voting), Michael Todd (Vice Chair, voting), Stan Bright (alternate), Katharine Fischer (voting), Heidi Lauridsen (alternate), Steve Root (voting), Ann Bedard (recused), Frank Anzalone (voting)

MEMBERS ABSENT: Lauren Chadwick, Ann Bedard (recused)

OTHERS PRESENT: Nicole Gage, Zoning Administrator, William Mitchell, Cindy White, Thomas Harris, Jim Mitchell

1. **Call to Order**—Chair Lyon called the meeting to order at 6:30pm and read the zoom authorization information. Chair Lyon called the roll. Doug Lyon: here. Stan Bright: here. Michael Todd: here. Frank Anzalone: here. Katharine Fischer: here, Steve Root: here, Heidi Lauridsen: here.

2. **PUBLIC HEARING(S)**

Case #ZBA20-06
Owner/Applicant: William H. Mitchell, James H. Mitchell, Mary A. Hayward Rev. Trust, et al
New Parcel ID 078-006-0-0-0
Address: 77 Wilmot Center Rd
Zone(s) R2 (Residential) w/ Shoreland Overlay

Summary of Case: Application for Variance from Article V, Section B2 to permit a lot line adjustment to change the lot size from 1.7 +/- acres (current) to 0.73 acres (proposed), whereas 2 acres is normally required.

Case #ZBA20-07
Owner/Applicant: William H. Mitchell, James H. Mitchell, Debra B. Mitchell, Mary A. Hayward Rev. Trust, et al
New Parcel ID 064-001-0-0-0
Address: 73 Wilmot Center Rd
Zone(s) R2 (Residential) w/ Shoreland Overlay

Summary of Case: Application for Variance from Article V, Section B2 to permit a lot line adjustment to change the road frontage from 0-feet (current) to 50.03 +/- feet (proposed), whereas 150-feet is normally required.

Case #ZBA20-08
Owner/Applicant: William H. Mitchell, James H. Mitchell, Debra B. Mitchell, Mary A. Hayward Rev. Trust, et al
New Parcel ID 064-001-0-0-0
Address: 73 Wilmot Center Rd
Zone(s) R2 (Residential) w/ Shoreland Overlay

Summary of Case: Application for Variance from Article V, Section B5 to permit a lot line adjustment to a) change the lake frontage from 90 +/- feet (current) to 189 +/- feet (proposed), CONTINUED ON PAGE 2 PAGE 2 New London ZBA Agenda December 15, 2020 whereas 200 feet is normally required; and b) change the lot size from 0.37 acres (current) to 1.34 acres (proposed), whereas 2 acres is normally required.

Chair Lyon stated this is essentially one applicant with different applications, all of which are designed to create a new property line. Mr. Todd stated for the two parcels of concern, there are four owners on one parcel, and three owners of the other parcel. He wanted to be sure that all property owners were present or have representation here tonight and this was confirmed. It was also noted that all abutters were noticed regarding this hearing as well.

Jim Mitchell stated they are trying pull their cousins and families agreements from the 1940's into the current centuries zoning requirements so they can have a peaceful and harmonious existence within the village of Elkins. The goal is to make life simpler and provide a better understanding for future generations.

For 73 Wilmot Center Road they would like to create a lot that is no longer land locked. They are asking to amend the lot line for 73 Wilmot Center Road so this lot would incorporate a shared driveway and increase the beach frontage. They have used and maintained the driveway for 65 years through easements on 77 Wilmot Center Road. 77 Wilmot Center Road will no longer have any responsibility for any of the easements that they currently have. Any requirement on the easements will fall to 73 Wilmot Center Road in this annexation.

1. The variance would not be contrary to the public interest - There would be no change to the current usage for the owners of 73 Wilmot Center Road or 75 Wilmot Center Road. It will become more conforming to the current standards. This has no effect on the general public except for lot 75 and that will be addressed with an easement. As owners of that section of the lake they will reduce the amount of traffic at the lake, will reduce number of users coming into the lake and will continue their tradition of using the lake as their ancestors did. They have a great sense of responsibility for taking care of the lake.

2. The Spirit of the Ordinance is observed – This criteria addresses whether the public interest is upheld and it seems that given the information above, this has been met.

3. Substantial justice is done – The benefit to the applicant should not be outweighed by harm to the general public. The benefit to the applicants is to have access to their own driveway, owning their leach field and septic system and owning their rights for water and this won't negatively impact the general public. The owners of lot75 will continue to have an easement to use the driveway and continue to have access to the water rights. Reducing the

amount of owners of beachfront on Pleasant lake going from 2 owners of the 190 feet of frontage to one owner of the 190 feet reduces the amount of wear and tear on the lake.

4. The values of surrounding properties are not diminished – There will be no changes in structures or to the property. There is no burden on any other property by creating a larger lot on 73 Wilmot Center Road and now the leach field will be on property owned by 73 Wilmot Center road. Right now a significant part of the leach field is on 77 Wilmot Center Road. The Everett trust property values will increase with a less litigious easement. It will reduce the value of lot 77 as there is less land there however it reduces the liability of those owners tremendously. They had the liability of all the easements. This hearing was noticed to all abutters and there were no comments or complaints from them.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship – Mr. Mitchell stated that literal enforcement of this provision is what had them in court for the last four years. They were sued and told they couldn't drive on the driveway, had to move their septic, etc. They do not want to go through this with the next owners.

The hardship is having property that has three different parties with easements that are critical for the ongoing maintenance and use of all the properties. This attempts to get rid of one of the properties so it reduces the number of people that can interfere and misinterpret an existing easement for use that is critical to travel to and from the road for both the 75 and the 73 property, for the use of the water on the 75 and the 73 property, the use of the septic on the 73 property and for parking for these properties. He would suspect there are other properties in New London that are landlocked that don't own their driveway and have an easement, but it is a hardship.

The fact that the lot is landlocked is a condition that distinguishes it differently from the neighboring properties and also the septic and well are on another person's property.

No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific applications of that provision to the property.

Chair Lyon stated there has been a lot of testimony given tonight about why they want to do what they are proposing and it seems to be reasonable.

IT WAS MOVED (Frank Anzalone) AND SECONDED (Michael Todd) to discuss. Doug Lyon: yes. Michael Todd: yes, Steve Root: yes, Frank Anzalone: yes, Katharine Fischer: yes. THE MOTION WAS APPROVED UNANIMOUSLY.

Chair Lyon stated there had been adequate testimony on the five criteria that suggests that the criteria has been met. The variance is not contrary to the public interest because there is no harm to the public. The spirit of the ordinance is upheld as there is no threat to public health and safety or other injury to public rights. The benefit to the applicant is greater than any harm to the public. The surrounding property values are not diminished because there will be no change to the use to the property or to the buildings that are on the property. Literal enforcement of the ordinance is an unnecessary hardship because there are special qualities and characteristics to this property that distinguish it from others in the surrounding area. The proposed use by the applicant is reasonable. Chair Lyon is in favor of approval with conditions.

IT WAS MOVED (Doug Lyon) AND SECONDED (Michael Todd) to approve the application for all three variance requests with the following conditions:

- 1. Approval is subject to the Planning Boards approval of the lot line adjustment as presented.**
- 2. The driveway will meet the current driveway regulations of the town to the satisfaction of the Planning Board.**
- 3. The parties acknowledge at the conclusion of this hearing they still retain two pre-existing non conforming lots after the variance in regards to lot size, lake frontage and road frontage.**

Doug Lyon: yes. Michael Todd: yes, Frank Anzalone: yes, Katharine Fischer: yes, Steve Root: yes THE MOTION WAS APPROVED UNANIMOUSLY.

3. Review of Minutes of November 3, 2020

IT WAS MOVED (Michael Todd) and SECONDED (Steve Root) to approve the minutes of the November 3, 2020 meeting. THE MINUTES WERE APPROVED UNANIMOUSLY. Doug Lyon: yes. Michael Todd: yes, Steve Root: yes, Frank Anzalone: Abstain, Katharine Fischer: yes

4. Other Business – There is a hearing scheduled for January 5, 2021.

5. Motion to Adjourn

IT WAS MOVED (Katharine Fischer) AND SECONDED (Michael Todd) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY. Doug Lyon: yes. Michael Todd: yes, Steve Root: yes, Frank Anzalone: yes, Katharine Fischer: yes.

The meeting was adjourned at 8:19PM

Respectfully submitted,

Trina Dawson

Recording Secretary
Town of New London