



November 16, 2010

To: Windham Planning Board
Windham, New Hampshire

From: Barbara P. Aichinger
NHPropertyRights.com
36 Olde English Road
Bedford, NH 03110

Subject: Involuntary Lot Merging and definition of Abandonment

Hello Windham Planning Board,

My name is Barbara Aichinger from an organization called NHPropertyRights.com. We are writing you today to ask that you clarify your new definition of Abandonment to **not** include Lots or Parcels that are duly recorded in the Rockingham Registry of Deeds. We are an organization that focuses on property rights particularly for owners of small grandfathered lots. These property owners are particularly vulnerable to changes in zoning ordinances that lower the value of their property by limiting the improvements that they can make. We just want to make sure that your new abandonment definition is not a backdoor method for folks to lose their property rights. Your Community Development Director, Laura Scott, has assured me that in her opinion it was not the intent of the Planning Board to have this definition to in anyway effect the development of non conforming lots that are currently vacant or unimproved. This is great but many people are only going to read the ordinance and may misinterpret it. This is why we are asking that you add language to clarify that owners of non conforming lots do not lose development rights if they have not built on their lots.

Our flagship effort was the outlawing of Involuntary Lot Merging via the passage of SB406. Many towns participated in this partial taking by essentially removing the lot line on non

conforming lots when they came into common ownership. You may not be aware but this has happened in Windham. Many towns in New Hampshire combined lots in the assessing office as a convenience. It was much easier to send out a single tax bill for adjacent lots than to send out say 5 or 6 if a family owned multiple side by side lots. As time evolved and tax id's were redone and zoning changed. Zoning and Assessing became blurred and the tax id became the property id. Pretty soon the Assessor was making zoning decisions. Case in point for Windham is the Charles Roberts property on Cobbetts Pond Road. He has 5 lots duly recorded with a subdivision plan in the Registry of Deeds. These are non conforming lots but are the same size as many other lots on Cobbetts Pond. Most of the towns in New Hampshire that practiced Involuntary Lot Merging have allowed owners to come forward and have their lots unmerged. The lots are treated as if they had separate owners all along. This has been an increase to those towns tax base and is probably the only time you will find property owners actually asking for a tax bill!

We are hoping that the Town of Windham will recognize Mr. Roberts's lots as individual parcels versus one large lot. We can see no reason why they would not since it does not appear Windham *ever* had an Involuntary Lot Merging Ordinance. Therefore it appears that the town never had any authority to merge Mr. Roberts's lots. We know by law that the Assessor cannot merge lots as he does not have zoning authority and since the passage of SB406 it is now *illegal* for any town to merge lots without the consent of the owner.

Thanks for taking the time to hear our concerns. If you have any questions please refer to our website at www.NHPropertyRights.com or contact me directly.

Regards,



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