

October 18, 2010

Bedford Planning Board
c/o Town of Bedford
24 North Amherst Road
Bedford, NH 03110

Subject: Involuntary Lot Merging, SB406 and the Bedford Zoning Ordinance

Hello Bedford Planning Board,

My name is Barbara Aichinger and I was the prime force behind the passage of SB406 and an end to Involuntary Lot Merging. I have set up a web site on this issue www.NHPropertyRights.com and I encourage you all to read it. In addition to my property in Gilford, NH I am also a 16 year property owner and taxpayer here in Bedford. A few weeks ago I received a call from Mr. Chris Carter. He and his family are trying to provide for their elderly mother's care through the sale of their property here in Bedford and have been informed that the Town of Bedford will not consider their two abutting lots as separate lots.

The issue faced by the Carter family is exactly the issue that SB406 was meant to address. This legislation had as its co-sponsor Senator Shelia Roberge of Bedford and every NH House Representatives from Bedford supported its passage. Through our legislative representatives the people of the Town of Bedford have spoken. **NO MORE INVOLUNTARY LOT MERGING.** Yet it appears that this message has fallen on deaf ears down at the town hall. It appears that the Town Planner is relying on advice of town counsel in addition to the latest New Hampshire Local Government Center bulletin which states:

Involuntary Merger of Lots Prohibited. Chapter 345 (SB 406) prohibits any municipality, county or village district from merging preexisting subdivided lots or parcels except upon the consent of the owner. The purpose is to invalidate provisions, common in local zoning ordinances, that require the automatic merger of contiguous substandard lots that are owned by the same person. The new law does not appear to invalidate involuntary mergers that are deemed to have occurred by operation of law prior to the effective date. It also does not appear to prevent a municipality from requiring the property owner to merge contiguous substandard lots as a condition precedent to developing the lots—it merely states that the municipality itself may not merge them. E.D. September 18, 2010.

Throughout the course of SB406 there were many hearings and debates. The NHLGC was opposed to SB406 and I personally debated the NHLGC attorney Cordell Johnston toe to toe in front of the legislators. **I won.** So it is not surprising to see the NHLGC trying to keep SB406 out of play. Sounds like sour grapes. In fact I would contend that it is very

irresponsible of them to express their continued opposition using the statements 'the new law does not appear...' to try to convince municipalities to keep the status quo on lots that were involuntarily merged.

The reality of the situation is that the intent of the legislation *was* to afford relief to those owners who were involuntarily merged without their consent. Many, if not all, the legislators who voted to pass SB406 felt that involuntarily lot merging was unconstitutional. They felt that common ownership should have nothing to do with lot of record status. The method of the relief will be up to the towns since each town did it differently. You cannot expect the state to come in and solve this problem for every town. The towns that engaged in this unconstitutional practice all did so in a different manner. Thus, this is the point of my letter to you today. I am asking you, the Bedford Planning Board, to repeal the Involuntary Lot Merging portion of your ordinance and allow those owners who were involuntarily merged to come forward, by their will, and be unmerged. This is the process that has taken place in other towns in New Hampshire. The two that I am most familiar with are North Hampton and Gilford. I personally led a citizens petition to repeal Involuntary Lot Merging in Gilford and make it retroactive. It passed **WITHOUT** the endorsement of the Gilford Planning Board. Contrary to the opinion of Gilford Town Attorney and some Planning Board and Zoning Board members chaos did not erupt. Rights were returned to the property owners, several potential lawsuits were avoided, the town's tax base was increased and life moved on. March 9th 2010 was indeed a fine day in Gilford NH. After the vote I received phone calls, emails, letters, thank you notes and flowers. I even had one elderly property owner tell me he loved me! You see Involuntary Lot Merging is wrong and it mostly hurts older properties owned by older people.

SB406 has now rendered this portion of your ordinance illegal. It is simply ridiculous to think that you would keep lots merged simply because they came into common ownership during a certain time period. There is no science to keeping these lots vacant. If they cannot support a septic or water or have some other **SCIENCTIFIC** issue than that will be the determinating factor behind the lot being developed.

With regards to the abutters of these properties. Tell them they can buy the property if they wish it to remain undeveloped. When should the abutter have more rights to a property than the owner? Involuntary Lot Merging only benefits abutters. They get a tax free land buffer that adds to the value of their property at no cost to them!

I have told Mr. Sawyer that I will also be putting together a citizens petition to repeal this ordinance. As I have said above, I would much rather see the Planning Board do this. However I am scared. I am scared for the Carter family and others like them. I do not know if I can trust you to get it right. I have seen too many Planning and Land use boards and government lovers around the state be swayed into a socialist mindset. How could this have ever happened in the first place? How could people do this to these families when over time many of them came forward and literally begged for their property back? Their only crime was to place the lots in the same name! Unbelievable!

However I am willing to meet with the Planning Board to discuss this issue. I will admit that a Planning Board approved Zoning Amendment is a much easier sell to the public than what I accomplished in Gilford. I can be reached at:

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Email: Aichinger@comcast.net
Cell: 603-548-5037
Work: 603-472-5905

Your in Liberty,

A handwritten signature in cursive script that reads "Barbara P. Aichinger". The signature is written in black ink and is positioned below the typed name.

Barbara P. Aichinger
www.NHPropertyRights.com