

December 1, 2010

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

Subject: Involuntary Lot Merging, SB406 and Town Attorney's October 7th 2010 letter

Hello Bedford Planning Board,

I would like to follow up with you on this topic. In my letter of October 18th 2010 I described to you the issue facing the Carter Family. The Carters have decided to sell both lots together because of the mounting legal fees and Bedford's insistence on keeping the lots merged. This has been a significant hardship for this family. In my recent correspondence with Mr. Carter he states:

Every time I think about this, it just gets me sick how this all happened, as they say "by a matter of operation..." The voters at that time to be sure had no idea what they exactly were voting on, and how it would impact Mr & Mrs Landowner. But because it was endorsed by the planning board, the masses went along... What a bunch of BS... People really need to think for themselves once in a while.

Mr. Carter and I have decided not to pursue a petitioned warrant article on this issue. Instead we are placing the issue with the Bedford Planning Board. We pray that you will rise to the occasion and protect the property rights of Bedford landowners. We are sure there are other Mrs. Carters out there trying to recoup the value of their land to help pay for their retirement. The Carter family was struggling to keep Mrs. Carter in a private nursing home. What a sham that the local government deprived her of her property after she paid taxes on the merged lot as a buildable lot for over 40 years! This is clearly not the role of government that our founding fathers envisioned. Oh how far we have drifted from Liberty.

With regards to Town Attorney's response to this issue. In his letter dated October 7th 2010 he states:

Now we need to deal with the statutory amendment. Interestingly, the ordinance contains a mirror image of the statute by establishing a date certain, March 13, 1991, as the “effective date” of the ordinance. You do not want to lose the historical aspects of this ordinance, as it already has affected some properties. Nevertheless, you need to make it clear that as of September 18, 2010, the ordinance does not apply to substandard lots which may be acquired by the same individual in the future. You may wish to consider the following as an amendment:

The provisions of this section shall not apply to nonconforming lots acquired by a person on or after September 18, 2010.

I would challenge Mr. Mayer’s interpretation on the ‘statutory amendment’. SB406 never contained an actual date. The law had an effective date but that is with all laws. SB406 was meant to **not allow** municipalities to continue to hold lots merged. The legislature clearly recognized that common ownership could have easily been circumvented and the physical characteristics of the lot should determine whether it is buildable or not. I would urge you to repeal Bedford’s merging ordinance and replace it with the following as the town of Gilford has:

Lots merged by municipal action for zoning, assessing or taxation purposes prior to the effective date of this ordinance and without the consent of the property owner shall not be deemed to have been merged for the purposes of this Zoning Ordinance, the Town’s Subdivision Regulations, or Site Plan Review Regulations.

Once this was passed in Gilford the lots in common ownership that has separate tax id’s never knew that anything had happened. They just continued to pay their taxes, sell their property or apply for a building permit. If the lot was unbuildable they did a voluntary merge and life went on. No big deal. Those whose lots, like mine, had a single tax id filled out a form and the Planning Director reviewed the situation. His decision to unmerged was, of course, allowed to be challenged to the ZBA by abutters or anyone else with standing. So far no challenges. The town increased its tax base and avoided expensive litigation. A win win for everyone involved. Contrary to the Gilford Planning Boards concern, chaos did not erupt, and they were not swamped with folks trying to build on tiny lots. It was if the lots had different owners all along.

Now I would like to address the last portion of Mr. Mayer’s letter.

The real trick to past merged lots is record keeping. Unfortunately, towns with this type of ordinance have not maintained good records, or indeed any records at all. So a lot of these contiguous, nonconforming lots got away (*e.g.*, owner sold them separately and Town did not pay attention) or the assessing records never were coordinated with the zoning ordinance. That is probably something Bedford needs to do: inventory the town and identify those lots that met the criteria of the zoning ordinance and were merged before the new law took effect. It would even be better if a notice was sent to all of the affected land owners. Thereafter, it is a matter of policing sales to make sure that someone is not trying to bypass the past affect of the ordinance.

So what this attorney is suggesting is that you spend allot of time and money combing through old records to make sure you screw the folks that he thinks you can. He then suggests that you send them a letter, one that I'm sure he will provide, and inform them that the local government has just robbed them of their property rights. I can just hear an evil cackle in the background as folks open their letters. In addition he suggests that you set up 'policing' to check every property sale here in Bedford to make sure that you rule with an iron fist. What you will need to consider on this last point is that the town will not know about the sale until after it has taken place. So then the town is in the enviable position of informing both the buyer and the seller that they have participated in an illegal transaction. I'm sure all of this will put the town into the position of needing to use an attorney to sort things out which of course is why Mr. Mayer has suggested all of this in the first place. I do hope the Planning Board sees the conflict of interest here?

Sarcasm aside you need to recognize the advice you are receiving. Is his advice really in the best interest of the citizens and property owners of the Town of Bedford? It is clearly not.

As the main evangelist behind SB406 I have been asked to speak to several legislative and political groups on property rights and it appears we may have more legislation in this area. When I stand up in front of the people of the State of New Hampshire and our elected representatives I would like to point to Bedford as one of the enlightened towns who embraces property rights and as such is a desirable place to live. I will certainly be reading Mr. Mayer's letter and hopefully will be reporting on Bedford's rejection of his advice.

Mr. Sawyer has sent me his draft amendment for dealing with this issue and I applaud his efforts. It is certainly not the cure that I am proposing above but I am happy to see the discussion moving in the right direction. As I have stated in the past, I am willing to meet with the Planning Board to discuss this issue. I can be reached at:

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Yours in Liberty,



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