

Notice of Decision
Lyme Zoning Board of Adjustment
Tyler Rich, Applicant
Permit Application 2008-ZB-019, Map 421, Lot 18
Hearing Date: December 18, 2008

You are hereby notified that your Application for a Variance to build a drive and a Special Exception to build a dwelling and drive at **50 Old Dorchester Road** in the East Lyme and Mountain and Forest Districts has been Approved, based on the following findings of fact by the vote of five members of the Zoning Board of Adjustment.

Findings of Fact:

1. Tyler Rich is the owner of the vacant lot defined under section 8.31
2. He wishes to build a single dwelling on the lot of about 105 acres.
3. The applicant has obtained an easement for access to a Class V road through Lots 7 and 10, Map 421.
4. The current drive passes over agricultural soils on these lots.
5. A special exception under section 4.64B7 is required to use agricultural soils for a drive.
6. Because access is to a Class V town road only via easement, this requires a variance to complete the drive to the Class V road because it does not meet the requirements of section 8.31C.
7. The applicant proposes building a dwelling on agricultural soils of local importance, which are estimated to cover approximately 50 acres on the property.
8. The applicant is required by section 4.64B to set aside 75% of these agricultural soils and protect them with a zoning easement prohibiting all but agriculture using best management practices, forestry and tree farming using best management practices, wildlife refuges, parks and outdoor recreation uses, conservation areas and nature trails, structures accessory to these uses, underground utility lines, wells, and waterlines, and fire protection structures approved by the Planning Board. The applicant has indicated acceptance of this provision.
9. After considering the expense of defining the location of the agricultural soils and designating specific areas to protect, the Zoning Board of Adjustment grants approval to develop a house site and surrounding five acres to use for a dwelling and accessory buildings, marked with permanent boundary monuments, with the remainder protected under easement.
10. A variance is granted to construct the access, since the proposed use will not diminish surrounding property values, granting the variance will not be contrary to the public interest, the use will not be contrary to the spirit and intent of the ordinance, granting the variance will allow substantial justice to be done, and denial of the variance would result in unnecessary hardship to the owner.
11. Two abutters have testified in favor of the application, one with concerns about business use which will not occur.

Conditions:

1. The easement is accepted by the town or a conservation organization.
2. The applicant will not develop the property for business use. The property is inappropriate for this use because of the nature of access from a Class V road.
3. Best construction practices will be used.
4. An appropriate septic design will be approved.

Alan Greatorex, Chair

Date

Date Submitted to Applicant

Note: Any person affected has a right to request a rehearing within 21 calendar days of the date on which the ZBA approved or disapproved the application. Before any appeal may be taken to the courts, a request to the ZBA for a rehearing must have been made. The motion for rehearing must set forth all the grounds on which you will base your rehearing request and potential court appeal. See New Hampshire Statutes, RSA Chapter 677, for details. The NH RSAs are available in the Town Clerk's office.