

**Town of Northwood
Zoning Board Adjustment
December 17, 2013**

Chairman Roy Pender calls the meeting to order at 7:00 p.m.

PRESENT: Chairman Roy Pender, Vice-Chairman Tom Lavigne, Bruce Farr, Doug Pollock, Curtis Naleid, and Board Administrator Linda Smith, and Board Secretary Lisa Fellows-Weaver.

ABSENT: Alternate Robert Bailey

VOTING MEMBERS: Roy Pender, Tom Lavigne, Bruce Farr, Doug Pollock, and Curtis Naleid.

MINUTES:

Motion is made by Mr. Lavigne, second by Mr. Pollock, to approve the November 25, 2013, minutes, as written. Motion passes; 5/0.

New and Continued Applications

Case #13:06: Peter Horne, 153 Jenness Pond Rd. Map 206, Lot 26.

Applicant seeks a special exception from Article VI, Section (E)(2) of the Northwood Development Ordinance, to allow a section of a driveway to cross an area within the steep slope overlay district. *(Continued from November 25, 2013.)*

Scott Frankiewicz of Brown Engineering is present representing Peter Horne.

Mr. Frankiewicz states that the board requested he provide a suitable erosion control plan and suitable drainage plan. The board reviews the plans. He reviews the notes on the plan relative to landscaping, loam and seeding, and silt fence materials. He states that work will begin in the spring. He adds that the monuments need to be set. He states that the nothing will be built on the lot until the lot is sold. He states that the other lot has an existing home, which is being replaced.

Mr. Lavigne states that the applicant previously provided comments for the three special exception criteria.

Mr. Lavigne makes a motion, second by Mr. Farr, to grant the special exception based on the fact that all three criteria have met with the additional plan provided.

Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – yes

Mr. Lavigne – yes

Mr. Pender – yes

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Mr. Naleid – yes

Motion passes unanimously; 5/0.

Case #13:07: Peter Stoddard, 24 Association Dr. Map 108, Lot 55.

Applicant seeks a variance from Article IV, Section (B)(4)(b), to permit a septic system within 4' of property line, where 20' is required; and, a variance to Article VII, Section (C)(3) to develop a non-conforming, undersized lot (.16 acre) to include a proposed well with a protective well radius that extends beyond the setback on an adjoining lot. (Property currently owned by David and Susan Wentworth.)

Mr. Stoddard is present representing the applicant. Mr. Lavigne confirms that proper authorization has been received from the Wentworths.

Mr. Stoddard explains that there are two variances that he is requesting. One is from Article IV.B Section 4(b) to permit a proposed septic system (defined as a structure) to be 4 foot setback from the front property line where 20 feet is required. The second variance is from Article VII.C Section 3(b) to permit the well protection radius for the proposed well to extend beyond the setback on an adjoining lot.

Mr. Stoddard explains that due to the fact that this is a non-conforming lot there is really no alternate location for the leach field. He explains that the proposed leach field is 4 ft. from the front property line, where a 20' setback from a structure is required. He states that the zoning regulations require 75' for a well radius that cannot go over the setbacks of the adjoining property.

Mr. Lavigne asks what is currently on the property now. Mr. Stoddard replies that there is not much of a system now; it is not a state approved system. He believes that the system is approximately 50-60 years ago.

Mr. Stoddard states that the owners would like to raise the structure and add a foundation. The structure will remain a seasonal dwelling. He states that currently there is no well on the property and the water comes in from the lake. He states that part of the proposed renovation is to add a well and upgrade the septic system.

A discussion is held regarding the abutters. The abutters are confirmed to be correct, as provided. Mr. Pender states that no correspondence has been received from any abutters.

Ms. Smith states that there is an existing shed shown within the setbacks. She explains that there is no building permit for the shed and the board should note that the plot plan does not include a shed. She mentions early 1970's

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when a permit was not necessary. Mr. Stoddard states that he believes that the shed is newer than that. Chairman Pender states that for the record the board is not taking any action on the shed tonight.

Mr. Pollock asks about a shoreline permit. Mr. Stoddard states that a permit will be required prior to any construction.

Additional discussion is held regarding the need for a well release. Mr. Stoddard explains the process that the state requires including recording of the well release. He adds that this will be required before approval will be granted.

A discussion is held regarding the proposal to raise the house and if a special exception would be required. Mr. Stoddard replies that he did have discussions with staff regarding this matter and it is not necessary to have a special exception because the structure is within the setback.

Mr. Lavigne asks if the variance is for the criteria in non-conforming lots. Ms. Smith explains that you must meet all conditions to be exempt from the size requirement of 2 acres. Because there are special criteria with the special exception in the non-conforming lot section that cannot be met, they must apply for a variance. A variance may be applied for in any section of the zoning ordinance to meet the requirement. An applicant may apply for a variance to seek relief from any requirement in the zoning ordinance.

Mr. Pender states that the two variances will be addressed separately. He states that the well will be addressed first.

5 Variance Criteria

1. The variance would not be contrary to the public interest because:

Mr. Stoddard states that a well is common to every lot. He explains that currently the property owners are taking water from the lake. He states that this is not sufficient to protect the public health, safety, and welfare. The well will be more conforming and will be a benefit to the public health, safety, and welfare.

2. The use is not contrary to the spirit of the ordinance because:

Mr. Stoddard states that it is common for lots to have a well. He states that each abutting lot has their own water supply. He adds that granting the variance would be reasonable as wells are allowed throughout Northwood.

3. Granting the variance would do substantial justice because:

Mr. Stoddard states that this lot has limited areas. He feels that there is no other possible location on the property where a well radius would be contained

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on the lot. Therefore, it is common for existing and new lots to have a well. He states that it would be a benefit to have the well.

4. The proposed use would not diminish surrounding property values because:

Mr. Stoddard states that a well is a common use to have your own water supply. He explains that the renovations that will occur with this project will increase values to surrounding properties.

5. Literal enforcement of provisions of the ordinance would result in an unnecessary hardship because:

The special conditions of this property that distinguish it from other properties in the area are as follows:

(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:

Mr. Stoddard states that the lot is very small and has a non-compliant septic system. He states that there are no other practical areas to place the well. If this variance were denied the homeowner would not be able to reasonably use the property as all of the other surrounding properties are used.

Mr. Farr states that with the nature of the property; the water is not for drinking and is inadequate. This project is a joint project to improve the area. He states that he does not believe that there will be any negative effect to the abutters or properties, and is an improvement with the addition of the new well and septic system.

Mr. Farr makes a motion, second by Mr. Lavigne, to grant the variance for Article VII, Section (C)(3) to develop a non-conforming, undersized lot, to include a proposed well with a protective well radius that extends beyond the setback on an adjoining lot.

Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – yes

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes unanimously; 5/0.

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Septic

5 Variance Criteria

1. The variance would not be contrary to the public interest because:

Mr. Stoddard states that the proposed system is 4 ft. off the property line. He states that the proposed septic system will upgrade the existing septic system to conform to current standards and will be a benefit to the public health, safety and welfare.

2. The use is not contrary to the spirit of the ordinance because:

Mr. Stoddard states that upgrading the existing septic system and water supply will improve the sewage treatment on the lot and therefore, promote the health and safety of the existing lot owners on the lake.

3. Granting the variance would do substantial justice because:

Mr. Stoddard states that because of the conditions on the lot, specifically, the location of the existing structure and the limited areas to place a septic system based upon the setbacks, there is no other practical place to locate a new leach field. A new septic system and water supply will vastly improve the on-site sewage treatment, thus granting a variance will benefit the public and denying the variance may cause harm to the public.

4. The proposed use would not diminish surrounding property values because:

Mr. Stoddard states that the proposed septic system will improve sewage treatment on the lot and thus will raise property values rather than diminish property values because insufficient sewage treatment could negatively impact the water quality of the lake.

5. Literal enforcement of provisions of the ordinance would result in an unnecessary hardship because:

The special conditions of this property that distinguish it from other properties in the area are as follows:

Mr. Stoddard states that the placement of the existing house in relation to the property lines and the size of the existing lot, prohibits the placement of a new septic system and well that conform with the current regulations.

(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:

Mr. Stoddard states that because of the conditions on the lot, specifically, the location of the existing house in relation to the lot lines and the lake, there is no practical area to place a new septic system to comply with the front setback and a new well where the protective radius does not extend beyond the

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setbacks of the adjoining lot. By granting this variance the property owners will be able to upgrade their non-compliant septic system to conform with current regulations for better sewage treatment. Denying the variance will be a detriment to the public health where the existing septic system is insufficient for proper sewage treatment.

Mr. Farr asks about paving over the system. Mr. Stoddard states that the system will be covered with gravel; it is load bearing with 18" of gravel cover. Mr. Naleid states that this is a very small lot and he expresses concern with the size of vehicles such as fire trucks parking on the septic system. Mr. Stoddard states that he did try to install a chambered system; however, the layout did not fit on the property. He notes that the enviro system is rated to allow parking. The variance is to allow a structure to be within the setbacks. He notes that the system is approximately 11-12 ft. in from the center of the road.

Mr. Lavigne states that this is a very vital plan and improving the septic systems around the lake is a wonderful thing. He states that this is making the area safer and better, and is an overall improvement that is better for the community.

Mr. Farr states he is in favor because the new system will not prevent abutters from installing wells/septics and it will improve the quality of the septic treatment on the lot.

Mr. Lavigne makes a motion, second by Mr. Pollock, to grant the variance from Article IV, Section (B)(4)(b), to permit a septic system within 4' of property line, where 20' is required, based on the fact that all five criteria have been met.

Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – yes

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes unanimously; 5/0.

Ms. Smith mentions the shed that is on the plan. Mr. Pender states that he has signed the plan and added a note that the existing shed is not a part of the variance.

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INTERNAL BUSINESS:

Septic Systems - Structures

Ms. Smith explains that with this application the current building inspector determined, per the town's regulations, that septic systems are an accessory structure. General discussion is held. Mr. Lavigne states that he agrees. Ms. Smith states that the board would need to make that decision based on what it presented. Mr. Farr states that an applicant could appeal the decision of the building inspector as a possible option.

Mr. Farr makes a motion, second by Mr. Lavigne to adjourn. Motion passes unanimously; 7:46 p.m.

Respectfully submitted,

Lisa Fellows-Weaver
Board Secretary