

**Town of Northwood  
Zoning Board Adjustment  
June 22, 2015**

Chairman Roy Pender calls the meeting to order at 6:30 p.m.

**PRESENT:** Chairman Roy Pender, Vice-Chairman Tom Lavigne, Matthew Fowler, Doug Pollock, and Board Secretary Lisa Fellows-Weaver.

**ABSENT:** Curtis Naleid, Alternate Bruce Farr, and Alternate Robert Bailey.

Mr. Pender states that there is only a four member board this evening. He explains that any decisions that the board makes must pass with at least three votes in favor. Mr. Pender states that the applicants can request to proceed or can request a full board of five members and the meeting would be postponed until next month with a five member board. Mr. and Mrs. Wentzell agree to proceed with a four member board.

**VOTING DESIGNATION:** Roy Pender, Tom Lavigne, Matthew Fowler, and Doug Pollock.

**MINUTES:**

**May 18, 2015**

**Mr. Lavigne makes a motion, second by Mr. Pollock, to approve the minutes of May 18, 2015, as amended, with edits that do not alter the content of the wording. Motion passes unanimously, 4/0.**

**Case #15-03: Mark and Kelli Wentzell, Fiore Rd. Map 116, Lot 36 sublots 56 & 57.** Applicants seek the following variances from the Northwood Development Ordinance, to permit construction of a garage:

- A variance to Table IV-1 & Art. IV, Section (B)(2)(b); lot is 0.30 Acs. where 2 Acs. is required;
- A variance to Table IV-1; Art. IV, Section (B)(1)(b)(2); and Art. IV, Section (B)(1)(c)(1). Lot has 120 ft. of frontage on a private road, which is not proposed to be upgraded;
- Relief from RSA 674:41, frontage is on a private road.

Mr. and Mrs. Wentzell are present along with abutters Mr. and Mrs. Tymowicz.

Mr. Pender states that each variance will be addressed individually.

Ms. Wentzell states that they have merged both of the lots. Ms. Weaver states that the Wentzells applied for a voluntary merger to combine sublots 56 & 57. She states that the merger was granted by the planning board at their June 11, 2015 meeting. She adds that the voluntary merger and the notice of decision have been sent to the Rockingham County Registry of Deeds for recording.

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Ms. Wentzell explains that they have reduced the size of the garage and also removed the 12' overhang/carport from the original proposal submitted last month.

Mr. Pender states that the town's ordinance requires a lot to be two acres. This lot is less than two acres. Mr. Pender notes that much information was addressed last month; however, if there are any concerns it needs to be addressed for this case.

Mr. Pollock states that this is a non-conforming lot. He asks if there is any additional land that could be acquired to make this lot more conforming. Mr. Wentzell replies no.

Mr. Pollock states that combining the lots has increased the setbacks to 20'.

Abutter Martin Tymowicz requests to see a plan of the garage. Mr. Lavigne asks where the Tymowicz property is located. Mr. Tymowicz explains that their property is a cottage on the left, lot 58 and half of lot 59 and he notes that they have recently installed a new septic system.

**Variance to Article IV; Section (B)(2)(b) ~ Lot Size**

**5 Variance Criteria**

***1. Granting the variance would not be contrary to the public interest.***

Ms. Wentzell states that the proposal will not be an impact to the area or the road. They are not living on this lot; it is a garage. They are not adding a residence. She adds that they cannot make the lot any larger.

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

Ms. Wentzell states that they have merged the lots to make the area larger for the garage.

***3. Granting the variance would do substantial justice because:***

Ms. Wentzell states that the area is very congested. The garage will make it easier for fire apparatus to access the area as it will remove vehicles from being parked along the side of Lynn Lane, a 15' right-of-way. She adds that this will be very beneficial in the winter months.

***4. The proposed use would not diminish surrounding property values.***

Ms. Wentzell states that the garage will increase the property values. She explains that this lot has been used as a dumping ground for trash and junk. She states that this lot will now have a new structure on it. Mr. Wentzell adds that the new structure will clean up the area.

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**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:**

**(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because:**

Mr. Pender states that the ordinance requires 150' on a public road with 2 acres. Ms. Wentzell states that there is no way that they can increase the lot to two acres as there is no land available to purchase.

**(ii) The proposed use is a reasonable one because:**

Ms. Wentzell replies that the proposal is for a garage and for storage. She notes that the garage size was reduced. She explains that there is minimal area at their home for parking and that area is at the bottom of a hill. She adds that the area is difficult in the winter months because of the hill. She states that the garage will alleviate some issues with plowing and will help with congestion in their own driveway.

**Mr. Lavigne makes a motion, second by Mr. Pollock, to grant the variance to Article IV; Section (B)(2)(b) for lot size based on the fact that all 5 criteria have been met.**

**Roll Call Vote:**

**Mr. Fowler – in favor**

**Mr. Pollock - in favor**

**Mr. Lavigne – in favor**

**Mr. Pender – in favor**

**Motion passes; 4/0.**

**Variance to Article IV; Section (B)(1)(c)(1) ~ Road Frontage-Length**

Mr. Lavigne states that the lot has been merged and the frontage is now 120' where 150' is required. Mr. Wentzell replies yes.

**5 Variance Criteria**

**1. Granting the variance would not be contrary to the public interest.**

Mr. Wentzell states that they are not able to expand the frontage beyond 120'.

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

Mr. Pender explains that the spirit of the ordinance is that there must be 2 acres with 150' of frontage. He asks if the garage will encumber the neighborhood in any way. Ms. Wentzell replies no and refers to the pictures. Mr. Lavigne notes that they have owned the lot for many years. He adds that the requirements may have changed. Ms. Wentzell states that they have thought that keeping the lots separate and adding garages to each lot was a possibility.

**3. Granting the variance would do substantial justice because:**

Ms. Wentzell states that there is another house beyond theirs on the left and they have a difficult time getting by their road section. She states that the garage will improve the safety of the neighbors and open the road up for better access. She adds that the neighbors will also be utilizing the garage. She explains that there have been many occasions where there has been no parking available and this garage will help with that and allow emergency vehicles to access the area.

**4. The proposed use would not diminish surrounding property values.**

Ms. Wentzell states that this will improve the surrounding property values. She states that this is cleaning up the area; it helps to open up the area.

**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:***

***(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:***

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because:***

Mr. Pender explains that the hardship is to the land not to the owners. Ms. Wentzell states that they are not able to increase the property size.

- (ii) The proposed use is a reasonable one because:***

Ms. Wentzell states that the proposed use is not impacting the neighborhood. Mr. Lavigne asks if it is the applicant's contention that by building the garage and removing items off of the road it will improve the neighborhood for them as well as everyone that passes by. Ms. Wentzell replies yes. Ms. Wentzell states that the road is a very difficult area in the winter months. She explains that there is an association that does maintain the road. She adds that in the winter when the vehicles block the road the plow cannot get through and plowing is done only

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when there is 4 inches of snow or more. She further describes the conditions of the road during other seasons.

Mr. Tymowicz asks about the proposed culvert and asks if the garage and culvert are the only projects being proposed at this time. Mr. Pollock states that the building permit notes the garage and culvert only. He adds that anything in addition the applicant would need to come back to the ZBA for approval. Mr. Pender adds that there is no septic or well proposed.

**Mr. Fowler makes a motion, second by Mr. Pollock, to grant the variance to Article IV; Section (B)(1)(c)(1) for road frontage-length based on the fact that all 5 criteria have been met.**

***Roll Call Vote:***

**Mr. Fowler – in favor**

**Mr. Pollock - in favor**

**Mr. Lavigne – in favor**

**Mr. Pender – in favor**

**Motion passes; 4/0.**

**Variance to Article IV; Section (B)(1)(b)(2) ~ Road Frontage-Type of Frontage**

Mr. Pender asks if there is an association for the road. Mr. Wentzell explains that there is an association for the road and there is a road committee who hires outside contractors based on bids for snow removal and general maintenance.

Mr. Pender asks if Mr. and Mrs. Tymowicz are members of the association. Mr. Tymowicz replies yes, he is a trustee. Mr. Pollock asks if there is a copy of the association by laws in the file. Ms. Weaver replies no. Mr. Tymowicz will email a copy for the board.

A discussion is held regarding the culvert and drainage. Mr. Wentzell explains that this lot is higher than the road. He explains the direction of the drainage. Ms. Wentzell notes that she does not believe that there are any requirements for the culvert. She adds that they may not even need the culvert but will install if necessary. Mr. Wentzell states that if there are issues with drainage the water will flow from the garage down to their house lot. Mr. Tymowicz verifies the water flow of the road.

**5 Variance Criteria**

***1. Granting the variance would not be contrary to the public interest.***

Mr. Pender states that this item is relative to the fact that the road is a private

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road and the lack of frontage on a public road. Ms. Wentzell replies that this is a private road and the closest public road is approximately a mile away.

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

Ms. Wentzell states that they are not able to expand the road in the area.

**3. Granting the variance would do substantial justice because:**

Ms. Wentzell states that the garage will improve the area and the safety of all who live down the road below the garage lot. She states that their house is on the corner and the garage will move the vehicles up from the corner area and off the roadway.

**4. The proposed use would not diminish surrounding property values.**

Mr. Wentzell states that this will improve the surrounding property values.

**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:**

**(A) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:**

**(i) No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because:**

Mr. Pender asks if there is anything that can be done relative to the private road. Mr. Wentzell replies no, there is nothing that can be done.

**(ii) The proposed use is a reasonable one because:**

Ms. Wentzell states that there is no parking where they live. The garage will also allow other neighbors to park off of the road.

**Mr. Lavigne makes a motion, second by Mr. Fowler, to grant the variance to Article IV; Section (B)(1)(b)(2) ~ Road Frontage-Type of Frontage based on the fact that all 5 criteria have been met.**

Mr. Lavigne states that he feels that the proposal is good and the garage does not have an impact. He believes that the garage will improve the area as well as improve parking in the area. He states that they have met all of the conditions and adds that the garage is a reasonable use for this small piece of property.

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Mr. Fowler adds that the applicant did what they could do to increase the size of their property.

***Roll Call Vote:***

**Mr. Fowler – in favor**

**Mr. Pollock - in favor**

**Mr. Lavigne – in favor**

**Mr. Pender – in favor**

**Motion passes; 4/0.**

**Appeal to RSA 674:41 ~ Private Right of Way**

Mr. Pender explains that RSA 674:41 is one of the state laws that gives the ZBA the responsibility to decide whether to issue a permit or erection of a structure and make sure that this proposal will not increase the difficulty of carrying out the master plan, will not cause a hardship to future purchasers, or undue financial impact on the municipality. He states that the board needs to determine if these criteria have been met by the applicants.

Mr. Pender states that with the previous testimony provided by the applicants he states that the master plan is to keep the town neat and to maintain the rural atmosphere; no future purchaser would find this proposal to be a hardship; and the proposal will not cause undue financial impacts to the town. He adds that the garage will be a taxed structure.

Mr. Lavigne states that the appeal for relief from RSA 674:41 has been met by the applicants and the four conditions have been met. **Mr. Lavigne makes a motion, second by Mr. Pollock, to grant the appeal to RSA 674:41.** Mr. Pender states that he agrees and does not feel that any of the four criteria have been violated. He adds that the garage will enhance the area.

***Roll Call Vote:***

**Mr. Fowler – in favor**

**Mr. Pollock - in favor**

**Mr. Lavigne – in favor**

**Mr. Pender – in favor**

**Motion passes; 4/0.**

Mr. Pender explains that the appeal process.

**ADJOURNMENT**

**Mr. Lavigne makes a motion, second by Mr. Fowler, to adjourn. Motion passes unanimously at 7:24 p.m.**

Respectfully submitted,

Lisa Fellows-Weaver Board Secretary

*Official as of August 24, 2015*