

**Town of Northwood
Zoning Board Adjustment
November 24, 2014**

Vice-Chair Tom Lavigne calls the meeting to order at 6:30 p.m.

PRESENT: Vice-Chairman Tom Lavigne, Bruce Farr, Curtis Naleid, Alternate Matthew Fowler, Board Administrator Linda Smith, and Board Secretary Lisa Fellows-Weaver.

ABSENT: Chairman Roy Pender, Doug Pollock, and Alternate Robert Bailey

Mr. Lavigne states that there are only four members present tonight and he asks if this is a sufficient amount of member to conduct business. Ms. Smith replies that a four member board is sufficient to conduct business. She suggests confirming that the applicant does not have any concerns and is willing to go forward with the four members present; otherwise the case can be continued to another time in hopes to have five members.

Mr. Krugman states that they would like to proceed tonight with the four member board.

VOTING DESIGNATION: Tom Lavigne, Bruce Farr, Curtis Naleid and Matt Fowler.

MINUTES:

October 27, 2014

Mr. Naleid makes a motion, second by Mr. Farr, to approve the minutes of October 27, 2014, as written. Motion passes unanimously, 4/0.

NEW CASES:

Case #14:14: Jeffrey & Heidi Krugman, 384 Bow Lake Rd. Map 105, Lot 53. Applicants seek a special exception to Article VII, Section (C)(3) to construct a new residence on a dimensionally non-conforming lot.

Mr. and Mrs. Krugman are present along with Bernard Cote of Geometres Blue Hills, LLS. Mr. Lavigne reads a letter of authorization allowing Mr. Cote to represent the Krugmans.

Mr. Cote asks if the board can make a decision on this case tonight being that there are only four members. Mr. Lavigne replies that a decision can be made with only four members.

Mr. Cote provides a narrative of the proposal. He explains that there are two different plans provided. One plan is the shoreland impact plan, which has been approved by NHDES. The other plan is a copy of a septic design which is replacement system design. He explains that the proposal is to demolish the existing 3 bedroom home and build a new 3 bedroom home in a different

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location with a slightly larger footprint. He states that they would like to construct the new home and continue to use the existing septic system and well, as they are functioning systems. He adds that the existing septic system is in good working order and the well is also in good standing. He explains that according to the state the existing septic system can be used with the new house as long as a new design is provided with a new approval, because the system is over 20 years old. He adds that in the event of failure, the new septic system will be installed in the existing location.

Mr. Cote states that the lot is 55,000 sq. ft. and falls short of the required 80,000 sq. ft. to be a considered as a conforming lot. He adds that the building is conforming to all other standards.

Mr. Cote states that they are requesting a special exception to building the new 3 bedroom house and demolish the existing structure.

Plans are reviewed and a discussion is held regarding the existing well. Mr. Lavigne asks if the existing well and the existing septic system will be used until they fail. Mr. Cote states that is correct and adds that per the state regulations the property owners will need to install a new well. He adds that a new well would have no impact to anyone. Mr. Cote states that the existing well, as it sits, is contained on the entire lot except for less than 10 feet, which is consistent with the state's standards; however, with the town's standards a new well would need to be contained in the same manner and it cannot be within 75' of the septic system which is why they are proposing to move it.

No abutters are present and no correspondence has been received pertaining to this case.

Mr. Naleid reads the conditions as follows:

VII. C. Non-Conforming Lots

The following control non-conforming lots:

(3) *Dimensionally nonconforming lots which were created or existed prior to December 31, 2005 and which contain less than 80,000 square feet may be developed without compliance with the requirements established by Section IV(B)(2) of this ordinance for lot size if granted a Special Exception by the ZBA. The ZBA shall grant the Special Exception only if the following conditions are met (Rev. 3/08):*

(a) *septic systems shall be located 75 feet or greater from open drainage or surface water, 50 feet or greater from hydric B soils, 75 feet or greater from existing wells; and septic systems must meet all other setback requirements set by the*

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*New Hampshire Department of Environmental Services,
unless a waiver has been granted by the appropriate state
regulatory agency; and,*

- (b) the well protection radius shall be 75' or greater and may not extend beyond the building setback on an adjoining lot. (Rev. 3/06)*

- (c) all other dimensional requirements shall be met. (Rev. 3/08)*

Mr. Lavigne asks if the dimensional requirements are relative to setbacks and Ms. Smith replies yes. Mr. Lavigne refers to criteria "B" and states that it appears that the proposed could encroach into the building setback. Ms. Smith states the requirement is 20' from the lot lines.

Mr. Naleid states that the applicant is relying on the existing septic system; however, the requirement is that the septic must be 75' or greater from existing wells. He states that this septic system does not meet the requirement. He adds that to meet the special exception the well would need to meet the 75' requirement. Ms. Smith states that is correct and adds that she understood the proposed well would meet the requirements.

Mr. Cote states that the lot is already developed and this is re-developing the lot. He states that the well and septic system exist and are grandfathered. He states that there is nothing wrong with the existing septic system and well. They felt that by providing a replacement system design, showing that all conditions would be met, it would be an undo cost to drill a new well and replace a functioning system that has been in place for 20 years.

Ms. Smith states that the building inspector/code enforcement officer made a decision on the permit application and the applicant has applied for a special exception. She states that if the applicant disagrees with the decision that they are required to get the special exception then they need to file for an appeal to an administrative decision of the building inspector and not go through the special exception process. Ms. Smith states that all of the criteria in the regulation must be met before the board can grant a special exception. Discussion ensues as to the process of applying for a special exception and an administrative appeal. Ms. Smith states that the board is not at liberty to discuss whether or not it is appropriate because the applicant did not appeal the decision of the building inspector.

Mr. Naleid asks if the conditions for the special exception have not been met for the well in its current location than they would need to apply for a variance.

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Ms. Smith replies that is correct. She adds that Mr. Cote was questioning whether they were subject to the criteria or not.

Mr. Cote states that he did apply to the building inspector and they were denied a building permit for the non-conforming lot, which is why they are here appealing his decision. He states that the building inspector did approve the septic design as well as the NHDES. Mr. Farr asks for clarification as to the application being submitted and what was posted. Mr. Cote states that they applied for the special exception as a result of being denied for their building permit. He adds that they are seeking a special exception for relief. He states that they are not applying to the board to appeal the denial decision of the building inspector.

The board proceeds with the application process for a special exception.

Mr. Cote reviews the criteria as follows:

A.) The proposed septic system is more than 75' from surface water and wells.

Mr. Cote states that the portion of criteria "A" where it is to 75" or greater from the existing well has not been met with the current conditions; however, the proposed design does meet the criteria.

Mr. Naleid states that if it were to be a new septic it would not be able to be built in the current location. Mr. Cote states that the new system will be a replaced failed system and it will be allowed to be replaced in the same place. He adds that if it were a new design on a functioning system they would not be able to permit the leach field in that area.

Mr. Naleid notes that the setback must meet all other setback requirements. Ms. Smith states a waiver would need to be granted by the state. She adds that the building inspector did not raise the issue relative to the septic because it was proposed to be an in kind replacement, which is allowed by the state. Mr. Naleid refers to criteria "C" and states if all dimensional requirements must be met would also not apply. Ms. Smith replies yes and adds that she understood that the new well would be installed. She notes that she is not sure if the building inspector knew that the well was not going to be installed. Mr. Cote refers to the notes on the plans noting that the well would be decommissioned if the system were to fail.

Additional discussion ensues regarding a new well being drilled. Mr. Cote states that the well would be installed if the existing failed.

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B.) The well protection radius shall be 75' or greater and may not extend beyond the building setback on an adjoining lot.

Mr. Cote states that the protective well radius is 75' and does not extend beyond the building setback of the adjoining lot. He states that neither the existing or proposed well do not extend beyond the setbacks. The board agrees that criteria "B" has been met. Mr. Naleid states that the existing radius meets the requirement.

C.) All other dimensional requirements shall be met.

Mr. Cote states that all other dimensional requirements will be met. He states that the proposed system does fall within the building setback line; however, the building inspector has indicated that if this were a failed system replacement, in kind, it would be allowed to be replaced in the existing location. He adds that the building itself meets all other requirements.

Mr. Cote states that the Krugmans have been trying to get the project going and he asks if it is possible to approve the project with the condition that a new septic design be provided that meets all requirements as well as replacing the well as opposed to continuing to use the existing system.

Mr. Naleid states that all of the criteria has been met and asks if they are willing to drill a new well as part of this project. Mr. Cote replies yes as a conditional approval the Krugmans will drill a well as part of this project. Mr. Naleid feels that drilling the well will put the project in compliance for the special exception. Mr. Cote states that the well will be drilled prior to receiving a certificate of occupancy.

Mr. Naleid makes a motion, second by Mr. Farr, to approve the special exception based on the fact that all criteria are met with the condition that a new well is installed at this time with the proposed project. Further discussion is held regarding the well being decommissioned prior to receiving an occupancy permit. The plan is amended to include a new location for the well as shown on the septic design submitted.

The motion and second are withdrawn.

Mr. Naleid makes a motion, second by Mr. Farr, to grant the special exception to Article VII, Section (C)(3) of the Northwood Development Ordinance to construct a new residence on a dimensionally non-conforming lot with the following condition: the new well is to be drilled, as shown on plan #SS2157 dated 9/15/2014, and the existing well is to be

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decommissioned, prior to the certificate of occupancy being issued for the new residence.

Roll Call Vote:

Mr. Farr - in favor

Mr. Fowler – in favor

Mr. Lavigne – in favor

Mr. Naleid – in favor

Motion passes unanimously; 4/0.

ADJOURNMENT

Mr. Farr makes a motion, second by Mr. Naleid, to adjourn. Motion passes unanimously at 7:10 p.m.

Respectfully submitted,

Lisa Fellows-Weaver
Board Secretary