

**Town of Northwood
Zoning Board Adjustment
April 28, 2014**

Chairman Roy Pender calls the meeting to order at 7:02 p.m.

PRESENT: Chairman Roy Pender, Vice-Chairman Tom Lavigne, Bruce Farr, Doug Pollock, Board Administrator Linda Smith, and Board Secretary Lisa Fellows-Weaver. *Curtis Naleid arrives at 7:04 p.m.*

VOTING DESIGNATION: Roy Pender, Tom Lavigne, Bruce Farr, and Doug Pollock. *Mr. Naleid arrives at 7:04 p.m.*

ABSENT: Alternate Robert Bailey

PUBLIC PRESENT: Approximately 20 people are present in the public.

MINUTES:

March 24, 2014

Mr. Farr makes a motion, second by Mr. Pollock, to accept the minutes of March 24, 2014, as written. Motion passes unanimously, 4/0.

Mr. Naleid arrives at 7:04 p.m. and is added to the voting designation.

NEW CASES:

Case #14:01: David Coish, Spruce Cove Rd. Map 214, Lot 5-1. Applicant seeks a variance to Article IV, Section (B)(1)(b)(2) of the Northwood Development Ordinance, to permit construction of a new single family residence on a private road; 150' of frontage is required, (lot has 150' frontage on a private road). (Property currently owned by Cheryl Heald.)

David Coish is present along with the property owners Cheryl and Doug Heald. Mr. Heald explains that they have moved out of the area and would like to sell the property to Mr. Coish, the builder.

Mr. Pender explains that the lot is 2 acres, has 150 ft. of frontage; however, the issue with this lot is frontage as it is a private road.

Ms. Smith states that the applicants are seeking relief from the board for the issue relative to the fact that this is not frontage that fits the standard in the zoning ordinance. She states that the option is that they can meet the frontage requirement or ask for a variance for relief from the ordinance. She states that if the variance is granted the applicant can proceed to build. She states that there is 150' of frontage, which is the requirement; however, it does not meet the road standard.

Mr. Lavigne asks if there is an association and an agreement for the road maintenance. Mr. Heald replies that there is a recorded maintenance

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agreement for the road and there is an association in place, which has been in place for only a few years. The agreement is provided and reviewed.

Ms. Smith states that when the original subdivision was created there was not the same requirement under subdivisions for a town road; a private road development was allowed at that time. She states that she believes that a private road met the standards at that time. She adds that the private road was conveyed in "fee simple" to the road association. The land under the road is considered a parcel and was conveyed to the association so that anyone that has to access the road in the development becomes a part of the association.

Mr. Pollock states he could not figure out where the two lots were laid out. He states that there appears to be a steep slope in the area, which could be a concern relative to the runoff. Mr. Lavigne asks how far it is from the house to the wetlands or where the water starts. A plot plan is provided and reviewed. A discussion is held on the lots and the slopes on the two lots. Mr. Pollock asks what the approximate grade of the slope is and Mr. Coish replies that he is not sure. Ms. Heald states that it is flat near the bottom. Ms. Smith adds that the building inspector did see the document with the septic design. She states that there is a steep slope ordinance and if it did not meet that requirement the applicant would be required to seek relief from that ordinance as well. She states that it is her understanding that the building department did review the documents and signed off on the septic.

Mr. Pender asks for abutters comments.

Abutter Bob Markarian states that he abuts both properties from across the street. He states that there is approximately 30°-40° degrees from the slope. He states that he feels that this is a very undesirable piece of property as it is small, and very narrow. It also obstructs views. He states that to add two more houses to this small area is a hardship because of the size. He adds that there have been many changes recently such as the association and to add two more houses would be a real disadvantage. In regards to the lots being undesirable, he states that this property is 1.47 acres and is assessed at \$70,000 and the property is being sold at \$20,000. He explains that he feels that this even means that the property owners believe that this is a poor quality lot for building. Mr. Markarian states that he does not feel that it is in the town's or neighbor's best interest to add two more house lots in this area. He also asks board members to view the area and see the existing slopes. He feels they are extremely steep.

Ms. Smith reminds board members and the public that when speaking, to only speak in reference to this lot at this time, lot 5.1.

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Mr. Pender asks how long the lot has been for sale. Mr. Heald replies that it has been for sale for 5 years. He explains that 30+ years ago there were two, 1 acre lots that were grandfathered. He states that he made a lot line adjustment and made this parcel into a 2 acre parcel and what was left was the 1.5 acre lot, lot 5.2. He states that he did a boundary line adjustment (BLA) in 2003.

Mr. Naleid asks for a large map showing the area. To clarify he asks if lots 5.1 and 5.2 were originally three lots. Mr. Heald replies that originally there were 2, one acre lots and they were made larger by the BLA. He states that he adjusted the property line on the original lot, lot 5. Discussion ensues regarding the three lots. Mr. Naleid explains that lot 5 was the largest and it was reduced to add acreage to the other two lots, 5.1 and 5.2.

Abutter Jane Nardi, lot 5 owner, expresses concern with adding a house as it will be right in their view. She notes that lot 5.1 does slope and she is concerned with the possibility of the run off. She states that there is a wetland at the bottom of the lot. Mr. Pender asks if the slope of lot 5.1 slopes to the Nardi's property or towards the wetlands. Ms. Nardi replies that the slope is towards the wetlands. She mentions the addition of two wells and that may have an effect on her well. She adds that there will also be additional vehicles on the road causing more wear and tear.

5. Variance Criteria

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

Mr. Heald states that the proposal of a new house on this lot will be an upgrade to the existing situation. He states that the proposal is a medium-sized home with lot improvements. He states that there will not be any impact to the wetlands. The new owners will contribute dues to the road association agreement and any construction damages to the road will be addressed accordingly. Every step of the process is being followed.

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

Mr. Heald states that the lot has been approved by the State of NH and the Northwood Planning Board as a residential lot. He states that this is an existing non-conforming lot of record and is taxed as a house lot. There will be no altering of neighborhood properties or adverse effects to the health, safety, or general welfare of the community. No overcrowding would result as a part of granting this variance.

3. Granting the variance would do substantial justice because:

Mr. Heald states that granting the variance would re-affirm that lot 5.1 is a residential lot in a residential subdivision. There are already 9 houses on this private road that were allowed to build.

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

Mr. Heald states that a new house tastefully done and completed within 4 months is more likely to increase surrounding property values than decrease them.

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. Heald states that what distinguishes this property from the others around it is, they have been built on and this lot has not been developed.

(A) Owing to the special conditions, 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. Heald states that there is an existing working road maintenance association that maintains an open, clear, unimpeded access to all of the lots on this road.

(II) The proposed use is a reasonable one because:

Mr. Heald states that the lot currently has state subdivision approval along with planning board approval and a current state and town approved three bedroom septic design. It is a reasonable request to ask to build on this lot at this time.

Mr. Farr asks for clarification regarding the lot requirements. He states that lot 5.1 meets the standard lot size of 2 acres, meets the septic requirements, and is an existing lot of record. Mr. Pender replies yes to all. Mr. Farr states that the only issue for this lot is the fact that it does not have 150' of frontage on a town road. Mr. Farr asks if any of the abutters have any comments as to why this lot needs frontage. Ms. Smith states that this does not mean frontage on a town road. She explains that there is an allowance of a private road to be improved to the rural road standards and it is possible that this road meets that requirement, which would be determined by borings, determining the width and depth, etc. She states that the road may not meet the standards and will need to be brought up in order to meet the standards in the zoning ordinance. She states that the applicant is seeking relief from having to bring the road up to the road standard. Mr. Naleid asks if the road was town maintained and Ms. Smith states that if it was a building permit could be obtained.

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Mr. Lavigne asks about the existing homes being built on the road. Ms. Smith states that private road subdivisions were allowed at the time when these homes were built.

Mr. Lavigne asks if any additional homes have been built since the BLA in 2003. Ms. Heald states that they built another home in 2004.

Mr. Naleid states that based on how all of the abutting properties are being used and how the neighborhood has developed, it is nothing out of the ordinary for the area and how the other properties are being used. He states that this is a reasonable expectation that this lot will be used in the same manner as the other lots on the road. He states that this request is not asking for anything outside of that or more than that.

Mr. Farr makes a motion, second by Mr. Naleid, to grant the variance to Article IV, Section (B)(1)(b)(2) for frontage to permit construction of a new single family residence on a private road where the lot has 150' frontage; however, it is on a private road, when 150' is required, based on the fact that all 5 criteria have been met.

Mr. Farr states that the frontage is the issue. He understands the abutters' concerns relative to additional homes; however, whether these lots should exist or not is not the matter before the board. He references the approved plan and he agrees that the assumption was that a home would be built on the lot someday. He states that the issue before the board is if the frontage is reasonable. He adds that there is a maintenance agreement. He states that he feels that the intent was to build homes in this area pre-dating the current standards. He adds that he does not have any evidence that two more homes will be a negative impact to the abutters and the new homes will contribute to the association for road maintenance. He states that based on the testimony, he feels that this is a reasonable use of the land and the board would be remiss if the application was denied.

Mr. Pender asks if the lots are being built on speculation. Mr. Coish replies yes, and adds that the taxes have been paid on the lots as buildable lots.

Ms. Nardi asks if any board members have visited the area. Mr. Farr and Mr. Pollock reply yes. Mr. Farr states that whether or not the lot should exist or not is not the issue for the board at this time; however, the issue is if it meets the standard of the road.

Mr. Pender states that the board is very limited as to what is being voted on. He states that the board is not voting on the condition of the lot, the board is voting on the frontage on a private road vs. frontage on an accepted road.

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Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – yes

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes unanimously; 5/0.

Case #14:02: David Coish, Spruce Cove Rd. Map 214, Lot 5-2. Applicant is seeking the following variances from the Northwood Development Ordinance, to permit construction of a new single family residence:

- A variance to Dimensions Table IV-1 and Article IV, Section (B)(2)(b); lot is 1.47 Acs. where 2 Acs. is required;
- A variance to Dimensions Table IV-1 and Article IV, Section (B)(1)(c)(1); lot has 150 ft. of frontage on a private road;
- A variance to Dimensions Table IV-1 and Article IV, Section (B)(1)(b)(2); frontage is on a private road.
(Property currently owned by Cheryl Heald.)

The board agrees to address each item separately.

Lot Size

A lengthy discussion is held regarding the lot size and the lot line adjustment that occurred in 2003. Mr. Heald states that this lot was not reduced; it was made larger and became 1.47 acres. Ms. Smith states that this lot was made larger through the BLA. She explains that a lot cannot be made smaller or more non-conforming and this lot was made to become more toward the standard. She states that originally the lot was 1.02 acres; it was made to be more conforming towards the standard when it became 1.47.

Further discussion ensues regarding the size of the neighboring lots. After discussion, it is determined that there is a total of 9 lots on Spruce Cove Road and three of the lots are less than 2 acres.

Mr. Lavigne asks if this lot is any steeper than lot 5.1. Mr. Heald states that it is flat near the road and tapers off to the marsh area. He estimates that the slope is 20%. Abutters state they believe that it is much steeper. He states that there will be a silt fence added during the construction process.

A discussion is held regarding steep slopes. Ms. Smith reads the steep slope overlay district requirements. She states that she does not know if the building inspector reviewed for steep slopes. She suggests that if the board has a concern, the board could grant a conditional approval noting that the slope must be determined to see if it is in compliance with the ordinance. She adds

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that if a special exception is required, the applicant will need to apply for that approval, which will be necessary prior to obtaining the building permit. Mr. Lavigne states that he is concerned with the fact that the steep slope may have been overlooked. Ms. Smith agrees and states that the board can make that determination relative to the lot size.

Mr. Pender opens the public portion for abutter's comments. Matthew Gravlin, Lot 4, states that he abuts this lot. He invites board members to view this property from his yard. He states that the slope is very high and expresses concern with the location of his well and septic as his house is in the lower area of the lot.

Steve Arling, owner of the duplex of Lot 3, states that he is concerned with the quality of life, wear and tear of the road, the drainage, as well as concern for his tenants. He asks what the plan is relative to any necessary repairs required during the construction. Mr. Lavigne asks if Mr. Arling was aware that there were two additional lots on the road when he bought the duplex. Mr. Arling replies no they did not know the lots existed and he adds that they were not for sale at that time. He adds that it was about one year later that they were made aware that there were two lots there and they were for sale when a realtor approached them to purchase the two lots, which they refused to purchase.

Mr. Markarian asks what would happen if the road association stopped paying dues and maintaining the road and what would it do to the property values. Ms. Smith explains that the road is private property and is no different than a private driveway. She states that it would not become a town matter; it would be a civil matter. Mr. Pender states that he is also a part of an association and because he wants to maintain his property value, he maintains the association.

Mr. Heald states that typically when a builder comes in to an area and utilizes the road, when he is completed with his project the road's condition is better than what existed.

Mr. Naleid states that these are undersized lots and asks if there is any opportunity to make the lots more conforming by merging with another property. He feels that this should be looked into. Mr. Coish replies that it is impossible and explains that the one lot is two acres and barely meets the criteria. Mr. Heald states that the other neighboring lot is 1.47 acre and there are no other options to make the lot any larger. He adds that this plan was approved by the planning board and he has been paying the taxes on this lot since that point.

Ms. Kean states that she lives at Lot 14. She states that they are not willing to change their land to accommodate the applicant. She asks where the houses

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will be located. Mr. Coish replies that the houses will be located approximately 70 ft. off of the road. Plans are reviewed.

Ms. Heald asks why they have been paying taxes on a buildable lot for all of these years. Ms. Smith states that until a building permit is issued a lot is not a building lot. She states that the potential is there for building lots and they are assessed on the value of the land; however, this does not necessarily make them building lots if they are non-conforming lots.

Mr. Lavigne confirms that out of the three lots that are less than 2 acres, only one has a structure on it. Mr. Heald replies that is correct.

Mr. Heald states that the prior building inspector told him that a variance would be required prior to obtaining a building permit. He states that he is now following the process. He explains that he improved the lots by doing the BLA and he has been paying building lot taxes on these wood lots. He adds that the proposal will allow two new homes to be built, and add money to the association to help the owners better maintain the road.

Mr. Naleid asks who owns lot 1. Mr. Markarian states that he bought the lot to protect his property in Epsom, has no intention to build on it, and it was solely to protect his lot. He feels that the lot is an undesirable lot for building purposes.

5. Variance Criteria

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

Mr. Heald states that the Spruce Cove Road is a residential development with 9 houses plus out buildings. There would be no measurable increase in traffic, no decrease in traffic safety, no decreases in the town's tax base, no creation of potential sewage or septic overloading, and no increased risk in damaging water quality of surrounding wells; therefore, no adverse effect on the public interest.

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

Mr. Heald states that the lot has twice received state subdivision and town planning board approval. There will be no altering of the neighboring properties, or adverse effects to the health, safety, or general welfare of the community. No overcrowding would result as a part of granting the variance.

3. Granting the variance would do substantial justice because:

Mr. Heald states that many people on this private road have been allowed to build and several of them were on lots less than 2 acres.

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

Mr. Heald states that a well done new home will most likely increase property value not decrease it. The design is a cape style with farmer's porches and will increase the values of 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:

Mr. Heald states that lot 5.2 is different from the surrounding lots in that they have been built on and this lot has not yet been developed. He states that this lot is a non-conforming lot of record. What distinguishes this property from the others around it is, they have been built on and this lot has not been developed.

(A) Owing to the special conditions, 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. Heald states there is an existing working road maintenance association that maintains an open, clear, unimpeded access to all of the lots on this road.

(II) The proposed use is a reasonable one because:

This lot currently has state subdivision approval along with planning board approval and a current state and town approved 3 bedroom septic design. It is a reasonable request to ask to build on this lot at this time.

Mr. Naleid states that based on the community, there are three existing lots out of the 9 that are under the 2 acre requirement. He states that there are two lots that have duplexes built on them and would not meet the 4 acre requirement. He states that there are some undersized lots that have been built on, thus setting the standard for the neighborhood. He adds that it is not out of the realm of the area to have a lot of 1.5 acres.

Mr. Lavigne states that the lot is undersized; however, there is no problem meeting the setbacks or distances from the well and septic. He states that this is usually an issue and requires additional variances. He adds that his issue is that the board should discuss the matter relative to the steep slope.

Mr. Pollock states that he did view the area and there definitely is a steep slope in this area. He feels that it should be addressed as part of the approval.

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Mr., Farr makes a motion, second by Mr. Lavigne, to grant the variance for Article IV, Section (B)(2)(b); for lot size, lot is 1.47 Acs. where 2 Acs. is required, based on the fact that all 5 criteria have been met.

Mr. Lavigne requests an amendment be made to the motion to add a condition that the **building inspector/code enforcement officer needs to determine if there is a steep slope issue, prior to issuing a building permit. Mr. Farr accepts that amendment proposal and it is added to the motion. Mr. Pollock second the amendment to the motion.**

Mr. Pender calls for the vote for the amended motion.

Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – yes

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes unanimously; 5/0.

Frontage ~Length

Mr. Pender states that the proposal does not comply with the frontage requirements. He states that there is 149.17 ft. where 150 ft. is required.

Mr. Lavigne asks when the lot line adjustment was done in 2003, was it his intention that both of the lots had the proper amount of frontage necessary, 150 ft. Mr. Heald replies yes and now it has been determined that there are a few inches missing.

5. Variance Criteria

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

Mr. Heald states that Spruce Cove Road is a residential development with 9 houses plus out buildings. There would be no measurable increase in traffic, no decrease in traffic safety, no decreases in the town's tax base, no creation of potential sewage or septic overloading and no increased risk in damaging water quality of surrounding wells; therefore, no adverse effect on the public interest.

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

Mr. Heald states that the lot has received state subdivision and town planning board approval. There will be no changes to the neighboring health. No overcrowding would result as a part of granting the variance. He adds that the lot is within 4-6 inches.

3. Granting the variance would do substantial justice because:

Mr. Heald states that many people on this private road have been allowed to build and several of the lots are less than 2 acres.

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

Mr. Heald states that a well done new home will most likely increase property value, not decrease it. The land itself will be improved, and the property will be easier on the eyes when the project is completed. The entire neighborhood will be improved.

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. Heald states that Lot 5.2 is different from the surrounding lots in that they have been built on and this lot has not yet been developed. He states that this lot is a non-conforming lot of record.

(A) Owing to the special conditions, 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. Heald states that there is an existing working, road maintenance agreement and an association that maintains an open, clear, unimpeded access to all of the lots on this road.

(II) The proposed use is a reasonable one because:

This lot currently has state subdivision approval along with planning board approval and a current state and town approved 3 bedroom septic design. He adds that this is a reasonable request and will improve the area more than what exists.

Mr. Markarian states that his main concern is that the Healds really have no vested interest in the area. He states that every abutter that is present has a strong opinion that this project should not be allowed to go through. He states that the applicants have left the area and taken a nice piece of property and made it horrible by adding so many smaller homes. He states that combining the lots is a reasonable and acceptable idea. He adds that the abutters chose to come out tonight and voice their opinions to stop the approval of this proposal.

Mr. Greer, Lot 4, states that the house on the 1.47 acre lot will be overlooking another house. He states that the property owner moved out of the Manchester area for a more private area. He adds that combining lots would be a great compromise and suggests adding a tree line from the Nardis' and themselves.

Mr. Heald provides a history of the ownership of the property and the creation of the road association.

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Ms. Nardi states that she does not want another house on the road. She states that this is a ridiculous proposal. She suggests that the lots be combined and only build one house.

Mr. Farr makes a motion, second by Mr. Lavigne to grant the variance to Dimensions Table IV-1 and Article IV, Section (B)(1)(c)(1); for frontage, based on the fact that all 5 criteria have been met. Mr. Farr states that the 1" is not a negative impact.

Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – yes

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes unanimously; 5/0.

Frontage – Private Road

Mr. Heald states that this lot is similar to the now approved lot 5.1. Mr. Pender states that this is a different lot for discussion.

Mr. Farr asks if the chair would allow for the applicant to submit his written testimony on the record for this item, a variance to Dimensions Table IV-1 and Article IV, Section (B)(1)(b)(2); frontage is on a private road. Mr. Pender asks Mr. Heald if he would like to submit the previously read statements again for this issue. Mr. Heald replies yes.

Mr. Farr states that if the abutters were in favor of the proposal, these issues would have proceeded rather quickly through the board. He states that all of the pieces are here except the abutters have very strong objections. He states that he is not making light of that. He states that if the applicants meet the conditions than the board must grant the variances. He states that he cannot justify reasons to vote against the proposal. He adds that this is an established subdivision, does have a maintenance agreement for the road, and he feels that all conditions have been met.

Mr. Farr makes a motion, second by Mr. Pollock to grant the variance to Article IV, Section (B)(1)(b)(2); frontage is on a private road based on the fact that all 5 criteria have been met.

Mr. Lavigne states that there are four houses on the road that were built on private road. He states that if the requirements have been met, then he does not see any reason that there cannot be two more houses added to this private road. He adds that he feels that the conditions have been met.

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Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – yes

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes unanimously; 5/0.

Mr. Pender explains the appeal process based on the fact that something was overlooked in what has been presented or there is an error in law.

Mr. Pender calls for a recess at 8:42 p.m. Session resumes at 8:52 p.m.

Case #14:03: Roy & Ruth Duddy, 10 Association Dr. Map 108, Lot 61.

Applicant is seeking a variance to VII, Section (B)(2) of the Northwood Development Ordinance, to allow the expansion of a dwelling beyond the existing building dimensions on a non-conforming lot; lot has .17 Acs., where 2 Acs. is required; and, a variance to IV, Section (B)(1)(b)(2) of the Northwood Development Ordinance, for frontage as the existing frontage is on a private road.

Mr. Duddy and his contractor Jim Griffin are present. Mr. Pender asks if there are any abutters present. Mr. and Mrs. Jean are present.

Mr. Duddy explains that he is proposing to expand upwards to add a second floor. The house is a small ranch style home and the expansion will increase the living space allowing for a better quality of life.

Mr. Griffin states that the proposal is to extend out 3 ft. beyond the existing dimensions, towards the road. He states that currently the setbacks are 18 ft., which will become 15 ft. He states that they are proposing a second floor and are going up 8 ft. and adding 566 more sq. ft. He states that the pitch of the roof will remain the same.

Mr. Pender states that the board would like an actual figure of the ridge line. Mr. Griffin states that it will be 33 ft. from the finished grade. Discussion ensues regarding the dimensions. Ms. Smith states that the building permit states 32 ft. Mr. Pender asks if that is an expectable figure and Mr. Griffin replies yes. Mr. Griffin states that he is cantilevering the second floor, only on the front as the shoreland will not allow for the back side.

Mr. Lavigne states that this is an upward expansion and he asks why the applicant has not requested a special exception. Ms. Smith states that there has been a change in staff of the building department which has resulted in

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different views of the development ordinance. She states that it is her understanding, in the past, if an upward expansion and the lot was undersized but outside the setbacks, a permit was issued. The current staff feels that based on the statute on non-conforming lots, an applicant could ask for a special exception or for a variance. She notes that the building department is holding the variance to the entire structure. She states that this applicant is requesting an upward expansion on the entire structure on the undersized lot.

Mr. Pollock asks if the 3 ft. is necessary or would it be possible to proceed on the existing footprint. Mr. Duddy states that the house is so small as it is and this proposal is a compromise on something that would be acceptable. He states that there is an overhang so it really is more like 1½' to 2'.

Mr. Pender states that the 12.18' shown to the corner of the house from the lot line is to the foundation, not to the lot line and the overhang is approximately 18". Mr. Griffin replies yes.

Ms. Smith states that if the applicant wants to proceed with the expansion into the setback then there should be a setback variance for an expansion. She asks if there is any portion of the overhang in the space currently. Mr. Griffin replies yes and adds that it will come out another 18". Mr. Naleid asks if the roof eave will extend out. Mr. Griffin replies no and states that the roof eave will only be 12" so that they will gain 2 ft. of living space. Mr. Griffin states that they are only extending out 6" for living space.

Mr. Pollock states that the submitted drawing and description are not clear. Additional discussion ensues regarding the overhang. Ms. Smith states that she is not sure as to why the additional or difference was not picked up or determined to be necessary. She states that she is sure that the building inspector has reviewed the proposal. Mr. Griffin states that they are here for the 3' overhang, not going upward as they are within the 32' maximum height.

Ms. Smith states that an upward expansion can be done on an existing structure that is not within the setbacks. She states that a building permit can be issued if the proposed expansion is in a direction away from the lot line. So a permit could have been issued if the increase was away; however, because of the difference of the 6-12", the building inspector felt that he could not grant a permit and the applicant should apply for a variance from the regulation. Mr. Pender states that there is an encroachment on the front lot line.

Mr. Naleid states that the expansion is not going into conformity. He states that the dimensions of the expansion are not shown on the plot plan. He states that it would have been important to see all dimensions provided. Mr. Griffin states that he has provided a plot plan. Ms. Smith notes that there is a hand

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drawn line on the plan provided and she adds that a surveyed plan cannot be amended. Mr. Griffin provides an original plan for the board without that line drawn.

Mr. Pender asks what size the bump out will be from the existing house line. Mr. Griffin states that it will exceed out an additional 18". He notes that the plan shows a dotted line, which is the overhang, and the solid line shown is the foundation. Mr. Naleid clarifies that if the 18.7" is to the foundation, then it is 15.7" to the overhang. Mr. Griffin replies yes and adds that it is 3' from the foundation. Mr. Naleid states that if that is the case, then the board needs to look at the 12.18" as 9.8". Mr. Griffin indicates that the plan is to scale. Further discussion ensues regarding the differences in footage figures. Mr. Naleid states that he believes that the overhang is actually 10 ft.

Mr. Lavigne refers to the road area and asks if it is actually a 20' right of way. Mr. Duddy explains that the road is paved and ends at his house. Mr. Griffin states that the setback is parallel to the paved road. He states that there is 20' indicated on the plan and that is the width from the setback, to the setback of the other side of the road. Mr. Duddy states that the road is really only 10' wide. He explains that this is a village district and many lot lines are within the road.

Mr. Pollock refers to the requirements of a non-conforming lot and asks if the proposal will be beyond the width of the existing building. Mr. Griffin replies no. Further discussion ensues regarding width and depth of the proposal and the existing building. Mr. Pender states that with this proposal the front setback will be encroached upon by 18".

Abutter Maureen Croteau, 6 Association Drive, states that she and her husband are present in support of the applicant's proposal. She states that the proposed addition will allow the Duddys to remain within the community and the property will be enhanced by the proposal.

Mr. Lavigne asks if this is a year-round residence. Mr. Duddy replies yes. Mr. Lavigne asks about the septic system. Mr. Duddy explains that the septic was new last April. Mr. Lavigne states that the proposal is just going up and using the same foundation. Mr. Duddy replies yes. Mr. Griffin states that the main floor is staying; however, they are removing the roof and adding a second floor.

Mr. Pollock states that he still feels that there are still some issues that need to be addressed. He asks if the 3' is increasing the footprint and it will be less conforming. Ms. Smith states that this is why they are asking for the variance. Mr. Pollock states that to make the setback less conforming is an issue.

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Mr. Pender asks if the non-conformity will hurt the town in any way. Mr. Pender states that the abutters have testified that this will improve the area and they spoke in favor of the proposal.

The board agrees to address the variances separately.

Setbacks

5 Variance Criteria

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

Mr. Griffin states that the addition will add value to the applicants' house and the surrounding areas.

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

Mr. Griffin states that the addition will allow for a more comfortable living area.

3. Granting the variance would do substantial justice because:

Mr. Griffin states that currently there is less than a standard size house (896 sq. ft.) on a non-conforming lot. He states that changes will allow for a more standard size house. The proposal will only be going closer to the street and will not be encroaching towards either house on the left or right.

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

Mr. Griffin states that the increased value from the completion of the remodel will only add value to the 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:

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

Mr. Griffin states that they are only asking to extend the current house dimensions by 3' including the overhang and they are still within the property boundaries. He states that the proposed used is a reasonable use because no abutters views are diminished from raising the roof and adding the second floor. He adds that the current size is not large enough for comfortable living conditions.

Mr. Lavigne makes a motion, to not grant the variance based on the fact that none of the 5 criteria have been met. He states that this property is already close to the road. He states that there is not much space and he asks if there are any other options. Mr. Griffin replies that they did try to go on the backside; however, the shoreland would not allow it because they are within

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50' to the water. Mr. Duddy states that the majority of the lots about the road in the village district and one main reason is that the road is where it is and not where it should have been. Mr. Griffin states that the corner of the house that is within the 12' will still be within 12'. Mr. Duddy states that most of the lots are non-conforming and over the years many homes have been built. He states that they are trying to make the best of a small, awkward shaped lot.

In addition, Mr. Duddy states that he has been a part of the community and the village district, and he feels that this design is a compromise. He states that he has talked with the abutters and he is just trying to gain an extra few feet of living space.

Mr. Pender asks if the overhang/bumpout area will be closer than 12.18 ft. Mr. Duddy replies that this is almost 19 ft. now.

Mr. Lavigne withdraws the motion as no second was provided.

Figures are reviewed again and additional discussion is held. Mr. Pender asks the length of the house and Mr. Griffin replies 30'. Mr. Duddy states that the bumpout will be 28 ft. Mr. Pender asks if it is 4 ft. back from the corner. Mr. Griffin states that the measurement is 3 ft.

Mr. Pollock asks if the overhang will become a part of the footprint of the building. Mr. Naleid states that the footprint is the setback; it does not measure to the edge of the eaves. Ms. Smith states that it is considered to be measured to where the foundation edge is. Mr. Farr states that the building is the widest area possible, not the foundation. Mr. Griffin states that it definitely includes drip edge. Mr. Pender states that the area will exceed out 18" beyond the drip edge.

Mr. Farr makes a motion, second by Mr. Lavigne, to grant the variance for Article VII, Section (B)(2) of the Northwood Development Ordinance, to allow the expansion of a dwelling beyond the existing building dimensions on a non-conforming lot; extending outward 18" from the existing drip edge and no more than 28' in length along the front of the property, based on the fact that all 5 criteria have been met.

Mr. Farr states that he shares the concerns with the road size and to encroach into is a concern. He states that the applicant has stated that this is as minimal of an impact as possible and yet still will maintain a living space. He states that they have already compromised from what could be proposed and are continuing to try to remain in compliance as much as possible. He adds that the board has discussed house sizes in the past and he feels that this is a reasonable request given the area and the fact that there is an association.

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Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – no

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes; 4/1.

Frontage

Mr. Pender asks if the same remarks can be used as previously read into the record. The applicant replies yes.

There are no additional comments from the abutters.

Mr. Lavigne makes a motion, second by Mr. Naleid, to grant the variance to Article IV, Section (B)(1)(b)(2) of the Northwood Development Ordinance, for frontage as the existing frontage is on a private road, based on the fact that all 5 criteria have been met.

Roll Call Vote:

Mr. Farr – yes

Mr. Pollock – no

Mr. Lavigne – yes

Mr. Pender – yes

Mr. Naleid – yes

Motion passes; 4/1.

Mr. Pender notes that there is a 30 day time frame for appeals.

INTERNAL BUSINESS

May Meeting

A discussion is held regarding an alternate date for the May meeting due to the Memorial Day holiday, May 26, 2014. The board agrees to meet May 19, 2014, 7:00 p.m.

Mr. Farr makes a motion, second by Mr. Naleid, to adjourn. Motion passes unanimously; 5/0.

Respectfully submitted,

Lisa Fellows-Weaver
Board Secretary

Official as of May 19, 2014