Town of Northwood
Zoning Board Adjustment
September 22, 2014

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, Board Administrator Linda Smith, and Board Secretary Lisa Fellows-Weaver.

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

ABSENT: Alternate Robert Bailey and Alternate Matthew Fowler

MINUTES:
August 25, 2014
Mr. Lavigne makes a motion, second by Mr. Farr, to approve the minutes of August 25, 2014, as written. Motion passes unanimously, 5/0.

NEW CASES:
Case #14:11: Eric Mitchell & Associates, Inc., Range Rd. Map 218, Lot 36-1. Applicant seeks relief from Article IV(B)(5)(b) of the Northwood Development Ordinance to allow the construction of a single family home exceeding the maximum height limit of 35'. Property owned by Robert & Susan Donahue.

Mr. Mitchell is present along with the property owner Robert Donahue.

Mr. Mitchell explains that the property is on the corner of Range Rd. and Sherburne Hill Rd. The lot is 5.7 acres and is currently vacant. An approved septic system design has been obtained for a four bedroom house. A copy of this plan has been provided.

Mr. Mitchell explains that the proposal is for a multi-story building and the current building height requirement is 35'. He states that the building itself is 45' high, from one end to the other end; however, no portion of the building is higher than 35' from the ground. A plan is reviewed. He explains that the building area is no more than 35' to the peak and one story is actually in the ground. The elevation plan is provided for review. Mr. Mitchell explains that from the ground to the peak is 32' on the south side of the building, from the side view from the east, the northern end of the building is a story higher; however, it is built into the bank. He states that the ground elevation on the east side is not more than 35'.

Mr. Mitchell states that what the building inspector has looked at was the differences in height where it is 45' because it is one story higher at the other end of the house. In review of the elevations on the west side and south side, it

is shown that there is 34. 3' exposed. He states that the ground slopes from the south to the north.

Mr. Mitchell states that there are two parking areas proposed, one is an upper parking area approximately 10 ft. higher in elevation. He adds that the foundation is all one elevation; however, what is exposed on the low side is three stories or 35 ft.

Mr. Lavigne asks if there is no point on the proposed house that a 40 ft. ladder would not reach. Mr. Mitchell replies that is correct.

Mr. Naleid asks at what point the building inspector measures the 35 ft. and at what point is the lower level added in. Ms. Smith replies that the building inspector explained to her that his view with this project is that with the sloping, he is taking both ends and does a mean difference between the two and because it was over 35' that was his decision. She adds that the building inspector made this decision and the applicant has a applied for a variance, which indicates that they agree that they don't meet the regulation and need relief. She states that they are not appealing the decision of the building inspector.

Mr. Pender asks if there are any abutters present. There are no abutters present for this case.

Mr. Mitchell states that they are requesting a variance as opposed to an administrative decision. He explains that there is a definition of height; however, it does not indicate where to measure it from. He states that no portion of the building is higher than 35', a ladder will reach any place it lays against the building that is 35' tall.

Variance to Article IV(B)(5)(b)
5. Variance Criteria
1. Granting the variance would not be contrary to the public interest.
Mr. Mitchell states that no portion of the building will be 35' higher than any point on the ground.

2. The use is not contrary to the spirit of the ordinance.
Mr. Mitchell states that the building is no higher than 35' from any point on the ground.

3. Granting the variance would do substantial justice because:
Mr. Mitchell states that the owners can build on a building lot; building into the slope on the land, where there is no more than 35 ft. on the ground shown and would be the least impact to the land.

4. The proposed use would not diminish surrounding property values.
Mr. Mitchell states that no abutter would view a building side that is more than 35' high because no side is more than 35' high.

5. Literal enforcment of provisions of the ordinance would result in an unnecesary 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 reasonable used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:
Mr. Mitchell states that the site is a sloping site and any construction would be built into the slope to prevent a complete flattening of the lot resulting in a reduction in trees. He adds that no portion of the house would be more than 35' above the ground, at any point. He states that the proposed use is reasonable. He adds that because the lot slopes, in order to maintain 35' in all areas they would need to cut the bank down, flatten it out, and have a fill slope, which would require them to take down many more trees to make a flat area.

Mr. Farr asks where the nearest abutters are located. Mr. Mitchell replies that the nearest abutter to the lot line is 110 ft. He adds that to the rear lot line is 385' to the closest point to the lot line. He notes that there is no other area to build as there is a marshy area approximately 55' away.

Mr. Farr asks if there is plenty of frontage. Mr. Mitchell replies yes. Mr. Farr asks about accessibility for fire apparatus to access the area and if there is access via a town road. Mr. Mitchell replies yes. He asks about the parking areas. Mr. Mitchell explains that there are two areas for parking, upper and lower and each area is only 35' tall to the peaks on each side.

Mr. Naleid asks about the floor height of the living space in the upper level. Mr. Mitchell states that the floor system is 12-14' lower.

Mr. Farr makes a motion, second by Mr. Pollock, to grant the variance to Article IV(B)(5)(b) of the Northwood Development Ordinance to allow the construction of a single family home exceeding the maximum height limit of 35', based on the fact that all 5 criteria have been met.
Mr. Farr states that the slope of land is the hardship. He states that the applicants could have chosen to flatten the land, but this would not have any net gain in terms of access of fire apparatus. He states that this is a good compromise relative to 35 ft. He states that the intent is to keep it down so not to block abutters views. He adds that the intent in this case is fire safety in terms of the occupants being up there and the town not owning a ladder fire truck.

Roll Call Vote:
Mr. Farr - in favor
Mr. Pollock – in favor
Mr. Lavigne – in favor
Mr. Naleid – in favor
Mr. Pender – in favor
Motion passes unanimously; 5/0.

Mr. Pender explains the appeal process.

Case #14:12: Barbara Dobbins, 15 Bennett Bridge Rd. Map 105, Lot 56.
Applicant seeks a special exception to Article VII, Section (B)(3) for an upward expansion of an existing non-conforming structure located within the setbacks.

Bernard Cote of Geometres Blue Hills, LLC., is present along with the applicant, Ms. Dobbins as well as Tom Dobbins. Mr. Cote explains that the proposal is to rebuild the existing cottage and add a second floor. He states that they need a special exception in order to add the upward expansion.

Mr. Cote refers to the plan and states that there are three buildings shown on the lot, which are grandfathered as they have been there since the 1960's. He states that the structure being discussed is shown as "Building A". He states that the only other property that may be affected is on the western side of the property, Lot 55, Stephen and Danielle Osoff. He notes that this property has a right of way access to the lot. He states that an affidavit has been provided suggesting that they have no issues with adding a second floor. He adds that the building location does not affect the potential view as the other property is only on one floor.

Mr. Pender states that these folks do not have a view. Mr. Pollock adds that he visited the area and notes that there is currently no view. Mr. Cote states that the affidavit states that the Osoffs do not have any issues should the second story be built.

Mr. Lavigne inquires if the parcel is only .62 acres and there are actually three, three bedroom cottages on the site at this time. Mr. Cote replies yes.

Mr. Pollock asks what the height of the building will be when it is completed. Mr. Cote states that the house will be 30 ft. including the second floor and roof, which is below the 35' maximum; however, because the building is an existing non-conforming structure the special exception is necessary to expand the structure upward.

Mr. Lavigne asks if the number of bedrooms will be changing. Mr. Cote replies no and adds that they have obtained a NHDES state approved septic system, which will be a part of the upgrade. He states that they intend to make the new structure as nearly conforming as possible for state shoreland and town regulations. He adds that this is an individual, stand-alone system for this house only.

Mr. Farr asks for clarification that the application is for a special exception, not a variance. Mr. Cote replies that is correct.

Mr. Lavigne asks if any of the three existing cottages are year-round homes. Mr. Cote replies that all of the cottages are seasonal and this new proposed cottage will remain as a seasonal dwelling as these are not full-time residences.

Mr. Pender states that the building code will state that the intent is for a seasonal dwelling. He asks if the new structure will have three bedrooms the same as the existing structure. Mr. Cote replies yes. Mr. Pender asks what is being added. Ms. Dobbins replies that they are only adding living space, everything is very small. She adds that the condition of the existing structure is poor and it is falling apart.

Mr. Pender asks about the current water supply. Mr. Cote states that the well is on the northeast side of the property, close to the lake. He states that the dug well services all three of the structures on the lot.

Mr. Naleid asks if the septic system services all three buildings. Mr. Cote replies that each building has their own septic system. Mr. Pender asks about the other septic systems. Mr. Cote states that he believes the other two systems predate the record and would be substandard by today's terms. He adds that the other two systems are functioning.

Mr. Lavigne asks if there will be a full basement under the proposed structure. Mr. Cote replies that there will only be a slab.

Special Exception 3 Conditions:
1. If an upward expansion, it shall not have any adverse impact on any neighboring property, including but not limited to blocking of views and/or sunlight.
Mr. Pender states that this has been addressed.

2. If an upward expansion, it shall not exceed the maximum height limitations specified in this Ordinance.
Mr. Pender states that the height has been addressed.

3. The expansion shall not increase any other non-conforming aspect of the structure or lot.
Mr. Pender states that the proposal is not increasing the amount of the bedrooms; they are just increasing the size of the rooms.

The applicant's written responses are reviewed.

Mr. Lavigne makes a motion to grant the special exception based on the fact that all 3 criteria have been met. Mr. Naleid requests that a **certified foundation plan be provided to the building department as a condition of approval** due to the fact that this proposal is a complete tear down and the board is relying on the building being the exact same size and on the exact same footprint as the existing structure that will be torn down. **Mr. Farr seconds the motion with the condition noted. Mr. Lavigne agrees to the condition.**

Abutter, Mr. Krugman, is present and states that he does not have any objections. Written comments of support from abutters are submitted to the file.

Roll Call Vote:
Mr. Farr - in favor
Mr. Pollock – in favor
Mr. Lavigne – in favor
Mr. Naleid – in favor
Mr. Pender – in favor
Motion passes unanimously; 5/0.

Mr. Pender explains the appeal process.

INTERNAL BUSINESS:
Proposed Ordinance Changes – 2015
A discussion is held regarding a definition of seasonal and the process of changing a seasonal dwelling to a year round dwelling. Ms. Smith states that for the zoning board when looking at a seasonal property and the applicant is requesting relief then the aspect of the increase in use is based on the existing use. She states that the board is basing their decision on the concept of how the use affects the board's decision with the criteria for a variance or special exception. Mr. Naleid states that if someone is living in home year-round, what authority does the town have to remove them from the home. Mr. Pollock suggests that there be something in the ordinances that requires certain criteria to be met if a structure is being changed from a seasonal structure to a year-round dwelling.

Mr. Naleid states that he was under the impression that it couldn't be differentiated. He adds that you can't build a home now without heating/insulation, etc.

Mr. Pender states that there is nothing that says that someone can't live in the house; it is the town's liability to get the kids to school and maintain the road in front of the property. Mr. Naleid states that it is reasonable to ask what the intention is. He states that he does not feel that we can classify a structure as seasonal as anyone can move in any time of year and make it year-round or the property can be sold. He adds that he treats everything that it will be a year-round home. Discussion ensues.

Mr. Pender states that the selectmen may be interested in this issue. Ms. Smith states that the town's building inspector has been looking into this as well and has expressed a concern with seasonal and year-round. Further discussion is held regarding the liability to the town for seasonal and year-round homes. Mr. Pender notes that the Town of Hampton has addressed seasonal homes. He adds that he will contact the building department in Hampton and will talk to the town's building inspector.

Board Procedures – Alternate Members
Mr. Pender states that the board currently has a rule that alternate members are not able to ask questions about cases and he would like to change this rule. Mr. Farr states that there was some discussions held regarding this matter previously and he recalls receiving comments from counsel. Ms. Smith offers to contact counsel for an opinion. The board agrees.

Update Legal Case
Ms. Smith states that the certified record is completed and has been sent to all involved parties. She adds that the board's counsel has been scheduled for the first week in December.

ADJOURNMENT
Mr. Lavigne makes a motion, second by Mr. Naleid, to adjourn. Motion passes unanimously at 7:51 p.m.

Respectfully submitted,

Lisa Fellows-Weaver
Board Secretary