

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

Mr. Fowler calls the meeting to order at 6:30 p.m.

PRESENT: Matt Fowler, Roger Belanger, Brenda DiMatteo, Ruth Vultaggio, Tim Jandebour, and Pam Sanderson.

TOWN STAFF PRESENT:

Board Administrator Linda Smith and Land Use Secretary Susan Austin.

VOTING DESIGNATION: Matt Fowler, Brenda DiMatteo, Ruth Vultaggio, Tim Jandebour, and Pam Sanderson.

MOTION FOR REHEARING

Case 17-11: Suzanne Steed and Grace Burr, 32 Shore Drive, Map 122/39. Motion for Rehearing on decision of August 28, 2017.

Chairman Fowler stated that this part of the meeting would not be a public hearing.

Ms. Smith presented the board with a document from the attorney. She stated that it was attorney-client privileged. The process is that they should read the document and then they will act on whether or not they would like to keep the document confidential.

Ms. Sanderson made a motion to keep the document confidential Mr. Jandebour seconded. Motion carried 5/0.

Ms. Smith distributed a document that contained an excerpt from NH OEP relative to rehearing for informational purposes.

Ms. Sanderson made a motion to suspend the decision until November 13, pending further consideration. Ms. Dimatteo seconded. Motion carried 5/0.

CONTINUED CASES:

CASE 17-18: Mark and Kelli Wentzell, Map 116 Lot 36, 7 Fiore Road. Applicant proposes to construct a single-family home and are requesting the following:

- A variance to Article IV.B(2)(b) for lot size that does not meet the zoning ordinance, lot has .30 acres, where two acres are required.
- A variance to Article IV.B (1)(b)(2) for type of road frontage that does not meet the zoning ordinance, lot is on a private road.
- A variance to Article IV.B (1)(c)(1) for length of road frontage that does not meet the zoning ordinance, lot has 120 feet, where 150 feet is required.

Kelli and Mark Wentzell were present to discuss their application. Ms. Wentzell stated that they would like to construct a single-family home.

Criteria supporting the request for a variance to Article IV.B(2)(b) for lot size that does not meet the zoning ordinance, lot has .30 acre, where two acres are required.

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

1. *Granting the variance would not be contrary to the public interest because:* We are not proposing to construct anything that is out of character for the neighborhood. We are requesting to construct a single-family home, ranch style two bedroom. Also, there are no abutting properties that will be impacted by the proposed construction. No homes have views blocked. We will maintain the required setbacks under the zoning ordinance.
2. *The use is not contrary to the spirit of the ordinance because:* All required setbacks will be maintained on the property. The proposed use complies with the zoning ordinance and the variance relief requested will not alter the character of the neighborhood.
3. *Granting the variance would do substantial justice because:* We are simply requesting to build a single-family home while maintaining all setbacks on the property required under the zoning ordinance.
4. *The proposed use would not diminish surrounding property values because:* We are requesting to construct a single-family home, ranch style two bedroom. We will maintain the required setbacks under the zoning ordinance and keep the character of the neighborhood. The square footage is average if not less than some of the surrounding homes. The use has no adverse impact on the neighboring properties. It will not diminish the surrounding property values but instead add value to the general area.
5. *Literal enforcement of the 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:* Previously, we combined two lots to satisfy unnecessary hardship while constructing the garage. We will maintain the required setbacks per the zoning ordinance. No views will be obstructed of the construction of this home.

Ms. Sanderson clarified that they had combined two lots to build a garage. She asked the applicant if the home was included in the proposal at the time of the garage? Ms. Wentzell stated that it wasn't. Ms. Sanderson asked if there were any affected abutters? Ms. Wentzell stated that it was a vacant lot beside her lot.

Chairman Fowler opened public comment

David Kull, 4 Summer Street. He stated that his primary concern was runoff that is coming off since they built the garage. Since they graded the lot, it slopes toward the road. He stated he sees a substantial amount of runoff. So much ends up at the end of his driveway, he's had to regrade it twice. In addition, it is eroding the road to the point where they have had to do work on the side slopes. When they lower the lake level, you can see how much more sediment has been transported into the lake. He stated that he is a civil engineer and he does storm water runoff for a living, he can see a fourfold increase in the amount of water that's been coming off, because when you go from a wooded lot to a lot that's flat and has no vegetation, it's just pavement that its running off of. He stated that all he's asking from the Zoning Board is that a

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

good faith effort has been made in regards to the lot to make sure it's graded away from the existing road so there is no additional runoff going into the lake or his driveway. He also stated that on the survey plans he saw for this application, the neighboring wells weren't noted. He stated that these lots are close together and small, it's important to note where they are located.

Bill Upton stated that he lives across the street from the lot, he does not own the land, but he is a tenant for life. He referenced the Wentzell's septic design. He stated that it showed the well radius, and it was his understanding that a septic system could not be within the well radius. Mr. Fowler stated that they refer to the state for that. Mr. Upton stated that his well was 35 feet from the septic system. The wells are not shown on the plan, and DES stated that the wells never appeared on the map that they approved for the septic system, and he would be checking into why. If they can't put a septic next to their well, why can it be 35 feet away from mine? He presented the board with a copy of his septic design that showed his well. If their septic fails, his well would be contaminated.

Ms. Smith stated that she noticed that there was no signature on the plot plan. Ms. Smith stated that the board could make it a condition of approval to get a certified plot plan, or they could continue the case until they obtained one. Ms. Wentzell stated that she was emailed the plot plan, but Mr. Frankowycz would be able to provide a signed plot plan.

Martin Tymowycz stated that he was president of the Lynn Grove Road Association. He stated that the Wentzells were granted a variance in 2015, and there were conditions that needed to be met. One of them was runoff. The plan called for culverts. He stated that they have dirt roads, so they crown the roads so that they have a 2% grade on each side, so the runoff will run off each side of the road. In this case, the runoff goes down into the lake. On the side where their garage is, the runoff goes down the hill into the lake. Since 2015, because of grading and runoff, the road is flat now. So, they are experiencing erosion on the other side of the road. There are two issues, if the road was crowned correctly, if the road was crowned correctly, and there was no silt, then the water would run off evenly on both sides of the road. It's affecting the properties on the water. Ms. Sanderson asked if since 2015 there was a noticeable difference, Mr. Tymowycz stated that there was. Ms. Sanderson clarified that the Lynn Grove Association minutes stated that they have set up reserves for culvert repairs, have they incurred additional expenses since 2015 on culvert repair having to do with this runoff issue? Mr. Tymowycz stated that they haven't. The culvert issues that they are looking at are aging culverts.

Debra Reale, 13 Lynn Lane stated that she felt it will be an improvement for them to build this house. It will increase the property values. They did a very nice job on the garage, and they will do a nice job on the house. She stated that she was the president for 6 years of the Lynn Grove Association. She has a home down below where this is going has been an issue for years before they even touched their land. It's not because of them building a garage.

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

Mary Ellen Lomburg, she is not an abutter but an interested party. She stated that the association is always doing repairs and they have drainage problems. She stated that she lives right down the road from the lot. There is always runoff. The Association have made no attempts to fix the problem. They say that the road needs to be fixed but they don't have the funds to do it so it is ignored. She stated that she doesn't even get plowed in the winter, she has to depend on the neighbors. There are things in the association that aren't working well. The Wentzells built a very good garage there, and it's one of the highlights of the neighborhood. The home that they are planning to make will be just as spectacular. It will raise the value of the homes there.

Mr. Fowler asked if there were any lots available to make the lot bigger? Ms. Wentzell stated that there weren't. He asked what makes this property different from the others that would allow them to grant the variance? Ms. Wentzell stated there isn't really a difference. There has been construction in the neighborhood of huge houses. It's not that the lot is any different, it's just no less. The house proposed is very conservative.

Ms. Sanderson stated that if there are in fact other wells in the area, she really needed to see the well overlap on a certified plot plan.

Ms. Wentzell stated that when a homeowner has a well and they put it on the property, there is a 75-foot radius. There is RSA-485 which the homeowner suffers the consequences when they chose to put their well on their property line. The state approves the septic design and you can put it within 10 feet of that. The abutter that is saying he is 35 feet, that's impossible because if you look at the maps, his well sits on his property line, which is in his driveway, he parks his vehicle on top of it, he does all kinds of work with oil on top of it. The road is 30 feet. In addition, they are going another 35 feet off of the property to keep within the guidelines. Ms. Sanderson stated that her septic is 24 feet back from the property line. The road is not 30 feet wide. Ms. Wentzell stated that he encroaches on the road. She stated that they have a state approved septic system, they are 20 feet within the boundary, as well as RSA 485, it states that if you put your well on your property line, you can't prevent other people from trying to develop their property. Ms. Sanderson clarified the statute 485-A: b. Ms. Smith stated that it is a release that Ms. Wentzell signs relative to her septic system Ms. Smith asked if the abutter also signed the same release. Ms. Wentzell stated that the state allows you to install up to 10 feet from your property line. She is signing the release form because when they install the well on the property where the lot is small, they don't have the 75-foot radius.

Ms. Smith stated that it was within the purview of the board to ask for additional information. Mr. Fowler stated that if one of the 5 criteria is not fulfilled, it is his duty to deny the variance. He stated that because they don't have the well radius information, then the question about the proposed use not diminishing property values was an unknown. Right now, it seems as though there is some evidence that it would diminish property values. So, before he can say that with solid foundation, having the extra wells located would help him make the decision.

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

Ms. Sanderson made a motion to request that the applicant bring information showing all wells within 75 feet. Mr. Jandebaur seconded. Motion carried 5/0.

Ms. Sanderson made a motion to continue the variance to Article IV.B(2)(b) for lot size until November 27. Ms. Dimatteo seconded. Motion carried 5/0.

A variance to Article IV.B (1)(b)(2) for type of road frontage that does not meet the zoning ordinance, lot is on a private road.

Criteria supporting the request for a variance to Article IV. B(6)(d)(8) for type of road frontage (private road)

1. *Granting the variance would not be contrary to the public interest because:* This is a private road. Lynn Grove Road to Fiore Road where our property is located. It is across the street from Lynn Lane. There is an established association as well as a road committee who hire outside contractors based off of bids from general maintenance and snow removal. Currently we are seeking to change the association to a village district.
2. *The use is not contrary to the spirit of the ordinance because:* This is a private road with the closest public road is one mile away It is maintained where emergency vehicles can pass during any type of weather.
3. *Granting the variance would do substantial justice because:* Our lot has provided extra parking for us as well as neighbors during heavy traffic months over the summer as well as winter making it easier to clear snow for emergency vehicles.
4. *The proposed use would not diminish surrounding property values because:* We are requesting to construct a single-family home, ranch style two bedroom. We will maintain the required setbacks under the zoning ordinance and keep the character of the neighborhood. The square footage is average if not less than some of the surrounding homes. The use has no adverse impact on the neighboring properties. It will not diminish the surrounding property values but instead add value to the general area.
5. *Literal enforcement of the 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:* Previously, we combined two lots to satisfy unnecessary hardship while constructing the garage. We will maintain the required setbacks per the zoning ordinance. No views will be obstructed of the construction of this home.

Ms. Sanderson stated that she would like to know how wide the road is. She stated that she would like more road detail as far as could an emergency vehicle turn around. Ms. Wentzell stated that the road going down into Fiore road is 30 feet wide, Lynn Lane is 20 feet wide, and the other half is 15 feet wide, and that is the loop that they could easily turn around in if they needed to. Ms. Sanderson stated that she

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

would think that the Association would be able to present that information, especially if they are going for village district status. Ms. Wentzell asked what they would have to provide to satisfy the board? Ms. Sanderson stated that a surveyed map with all of the association road property widths were shown would be good. Ms. Wentzell stated that the association doesn't have anything like that. Ms. Sanderson stated that she would like additional information on the road widths.

Chairman Fowler opened public comment.

Martin Tymowycz spoke as an abutter. He stated that as far as becoming a village district, that doesn't look good now at all. They will not have enough support to form a district. They do not have any intentions of surveying the roads. He stated that they do not have the funds to maintain the roads. They have several neighbors that do not pay their share of the dues.

Ms. Sanderson made a motion to continue the variance to Article IV.B (1)(b)(2) for type of road frontage until November 27. Ms. Vultaggio seconded. Motion carried 5/0.

A variance to Article IV.B(1)(c)(1) Length of frontage, lot has 120 feet where 150 feet is required.

Criteria supporting the request for a variance to Article IV.B(1)(c)(1) Length of frontage, lot has 120 feet where 150 feet is required.

1. *Granting the variance would not be contrary to the public interest because:*
Currently there is an association formed, Lynn Grove Association (By-Laws attached) Each member totaling 59 homes pay annual dues that maintain the roads and beach area. There is a road committee formed that works with outside contractors for general maintenance and snow removal. Several homeowners will continue helping with overgrowth drainage and other items. The road is well maintained where any emergency vehicles can pass under any weather conditions.
2. *The use is not contrary to the spirit of the ordinance because:*
We are unable to increase the size of the lot having previously done that.
3. *Granting the variance would do substantial justice because:*
We are simply requesting to build a single-family home while maintaining all setbacks on the property required under the zoning ordinance.
4. *The proposed use would not diminish surrounding property values because:*
Having merged our two lots, we are proposing to construct a home with similar character of the neighborhood. The proposed home will not diminish the surrounding property values, rather it will add value.
5. *Literal enforcement of the 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:* Prior to being granted construction of the garage, we combined two lots to satisfy unnecessary

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

hardship. The construction proposed will maintain the required setbacks under the zoning ordinance.

Ms. Sanderson stated that she likes the frontage, it's flat it's not an obstructed view, and rather typical to the region.

Mr. Fowler stated that as he understands there is no opportunity to purchase more property, and this is typical to the small lots.

Mr. Jandebaur made a motion to approve the variance to Article IV.B(1)(c)(1) Length of frontage. Ms. Vultaggio seconded. Motion carried 5/0.

Chairman Fowler called a recess at 8:40 PM

The Board returned from recess at 8:47 PM

CASE 17-19: George Hatfield, Map 116 Lot 95, 8 Circle Street. Applicant proposes to construct a single-family home and is requesting the following:

- A variance to Article IV.B(2)(b) for lot size that does not meet the zoning ordinance, lot has .24 acres, where two acres are required.
- A variance to Article IV.B (1)(b)(2) for type of road frontage that does not meet the zoning ordinance, lot is on a private road.

Dave Tousignet was present to speak for Mr. Hatfield's application. He presented the board with the Pine Point Park Association information including minutes from the most recent meeting, bylaws, a complete listing of the money spent on repairs and maintenance, and road information maintenance information, which included a five-year road plan. The existing home is from the 1960's. The plan shows that the existing structure extends beyond the town setback. They are proposing to put the house on the lot that will be within the setback. There is an existing septic and well and they will be using them. Mr. Hatfield has had a septic design done in case of failure, it's been approved by DES. Last year they did the abutting house and replaced it. This is the third house in this little development that is ultimately being replaced.

Criteria supporting the request for a variance to Article IV. B(6)(d)(8) for type of road frontage (private road)

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

By allowing the variance there will be no change of usage to the lot than what already exists. There will be no change of the road usage, traffic count or town or school services. Granting the variance will continue the contribution to Pine Point Association which maintains the common areas.

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

The ordinance was not meant to prevent an update to an existing property This property was developed specifically for its current use and mobile homes have a shelf life. The new building will be built to meet the current building and energy

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

codes which cannot be obtained by renovating the current structure. The increased square footage of the building does not change the fact that the lot is on a private road.

3. *Granting the variance would do substantial justice because:*
Each of the lots in the Pine Point Associations pays dues to maintain the roads, beach and building upkeep that are used by the residences in the area. The ordinance was enacted after the lot was purchased. By granting the variance, the property shall continue to be used for the original purpose it was intended for.
4. *The proposed use would not diminish surrounding property values because:*
The proposed use is not changing. The existing house is an eyesore and a new home would be more aesthetically pleasing. It will also promote pride in ownership with the exterior landscaping. A neighborhood of new homes is more valuable than one with older homes. The project will include a new septic system which will improve the surrounding ground quality.
5. *Literal enforcement of the 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:*
The use of the property is not changing. All of the neighborhood and surrounding lots about the private roads servicing the area and it would be unobtainable to change this. All of the lots are of similar size and constraints.

Ms. Sanderson made a motion to grant the variance to Article IV. B(6)(d)(8) for type of road frontage (private road). Mr. Jandebuer seconded. Motion carried 5/0.

Criteria supporting the request for a variance to Article IV.B(2)(b) for lot size that does not meet the zoning ordinance, lot has .24 acre, where two acres are required.

1. *Granting the variance would not be contrary to the public interest because:*
By allowing the variance there will be no change of usage to the lot than what already exists. There will be no change of the road usage, traffic count or town or school services. Granting the variance will continue the contribution to Pine Point Association which maintains the common areas.
2. *The use is not contrary to the spirit of the ordinance because:*
This is an existing lot and not a new lot. The ordinance was not meant to prevent an update to an existing property This property was developed specifically for its current use and mobile homes have a shelf life. The new building will be built to meet the current building and energy codes which

**Town of Northwood
Zoning Board of Adjustment Meeting
October 16, 2017**

cannot be obtained by renovating the current structure. The increased square footage of the building does not change the area vehicle congestion, significantly change sunlight or air circulation patterns, change the overcrowding of the land or concentration of population, change pedestrian patterns, or hinder the ability of emergency vehicles, delivery vehicles, and other visitors to the service in the area.

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

Each of the lots in the Pine Point Associations pays dues to maintain the roads, beach and building upkeep that are used by the residences in the area. The ordinance was enacted after the lot was purchased. By granting the variance, the property shall continue to be used for the original purpose it was intended for.

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

The proposed use is not changing. The existing house is an eyesore and a new home would be more aesthetically pleasing. It will also promote pride in ownership with the exterior landscaping. A neighborhood of new homes is more valuable than one with older homes. The project will include a new septic system which will improve the surrounding ground quality.

5. *Literal enforcement of the 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:*

The use of the property is not changing. All of the neighborhood and surrounding lots abut the private roads servicing the area. None of the lots are two acres. There are no available lots to be purchased to make it more complying to the two-acre minimum.

Ms. Sanderson made a motion to approve the variance to Article IV.B(2)(b) for lot size. Mr. Jandebaur seconded. Motion carried 5/0.

Internal business

Ms. Smith stated that the Planning Board was compiling a list of possible changes to the Zoning Ordinance. She stated that if the Zoning Board had any concerns in any particular areas, they would be open to suggestions.

Ms. Smith reminded the Board that they were meeting again on the 23rd.

Ms. Sanderson made a motion to adjourn at 9:54 PM. Ms. Dimatteo seconded. Motion carried 5/0.

Respectfully Submitted

Susan M. Austin, Land Use Secretary