Town of Northwood
Zoning Board of Adjustment Work Session
October 17, 2016

Vice Chair Curtis Naleid calls the meeting to order at 6:30 p.m.

PRESENT: Vice Chair Curtis Naleid, Tom Johnson, Bruce Farr, Matt Fowler, and Board Administrator Linda Smith.

VOTING DESIGNATION: Vice Chair Curtis Naleid, Bruce Farr, Matt Fowler and Tom Johnson.

Case #16-07: Larry & Denise Cleasby, 303 Old Pittsfield Road, Map 205, Lot 1.

- A variance to Art. IV Section B (1)(b) (3) for upgrading Class VI road in order to construct a single family residence and barn.

Vice Chair Naleid starts the meeting by stating that the board is meeting to consider an application for rehearing. He states that this request is not necessarily a request that the board hears the case, but it is taking the board back to the decision as to whether or not they should hear the case. He asks the board if they had the chance to review the letter of September 25th from Mr. Cleasby's attorney. The board states that they have. Chair Naleid also asks the board if they have reviewed a letter that they received from the Clark's attorney.

Mr. Johnson states that he's glanced at it and doesn't feel it is appropriate because they are supposed to act solely on the correspondence they have received from Mr. Cleasby's attorney. This letter would only come into play if they do grant Mr. Cleasby a new hearing. Chair Nalied states that Mr. Johnson is correct; they are not getting into any discussion about the application itself. They are only considering going back to step one. The question is whether or not anything in the letter from Mr. Cleasby's attorney gives them indication that they may have missed something, or not considered something that should have been looked at differently that would require the board to say that they may have erred in their decision and should hear this case.

Mr. Johnson states that he wasn't at the meeting when the case was heard, but he would defer to the town's attorney recommendation, in that since this is the first step in possibly going to court by the applicant, it's almost always good to have a rehearing heard so that you can close up any loopholes, site any additional cases and look at any additional evidence. It also helps the town attorney prepare for that eventual lawsuit. Her recommendation is that she almost always advises granting a rehearing and she would advise that in this case. Chair Naleid states that it has been the board's history to do that as well.

Mr. Farr states that he would focus slightly different with the same conclusion. He's not worried about whether or not they can take him to court; he's more worried whether or not they have made a clear decision. In the history of the

twenty some years of doing this, the board has generally erred on the side of rehearing whenever we thought it would help clarifying the situation, including sometimes when, quite frankly, he wasn't sure a rehearing was necessary. Having been through a number of those cases, he has yet to feel that a rehearing has not been beneficial, whether or not it changed the outcome. It did clarify the issues and gave us a chance to be sure that they made the right call. He states that he would not say that they have made any error in law whatsoever, although Mr. Cleasby's attorney may disagree with that statement. It may be important to rehear the case to be sure they have handled all aspects of it. He states that he is in favor of rehearing the case.

Mr. Fowler states that he initially was not in favor of the rehearing because he feels they made correct decision looking at other cases that were similar. He would concur with the other members that a rehearing would help them decide the case.

Mr. Johnson makes a motion that they grant the request of September 21st to have a new hearing on Case #16-07 on November 28, 2016 at 6:30pm. Mr. Farr seconds. Motion carries; 4/0.

Ms. Smith clarifies that the rehearing will go back to the beginning of the application submittal only.

Mr. Fowler makes a motion to adjourn at 6:38 pm. Chair Naleid seconds. Motion carries; 4/0.

Respectfully submitted,

Susan Jastremski-Austin
Land Use Secretary