

**Town of Northwood
Zoning Board of Adjustment Meeting
July 24, 2017**

Chairman Naleid calls the meeting to order at 6:30 p.m.

PRESENT: Chairman Curtis Naleid, Matt Fowler, Timothy Jandebaur, Ruth Vulaggio, Roger Belanger, Brenda Dimatteo and Pam Sanderson.

TOWN STAFF PRESENT:

Board Administrator Linda Smith and Land Use Secretary Susan Austin.

VOTING DESIGNATION: Chairman Curtis Naleid, Matt Fowler, Ruth Vultaggio, Tim Jandebaur, and Brenda DiMatteo.

Mr. Fowler made a motion to accept the minutes of June 26, 2017 as amended. Mr. Jandebaur seconded. Motion carried 5/0.

NEW CASES:

CASE 17-11: Suzanne Steed and Grace Burr, 32 Shore Drive, Map 122/39.

Applicant seeks to construct a 512-foot addition with a basement, and relocate the utilities from the shed to the house and requests the following variances:

- A variance to Article IV.B(2)(b) for lot size that does not meet the zoning ordinance, lot has .28 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 100 feet, where 150 feet is required.

Maria Dolder, attorney for the applicants was representing the applicants. Ms. Dolder stated that the applicants were adding a 5X12 addition with basement in order to create a bedroom and storage area. They are also relocating the utilities that are located in the outdoor shed. They are also planning on upgrading their septic system, they have approval for a two-bedroom septic system. Ms. Dolder stated that the home will stay seasonal. Chairman Naleid asked if there were abutters present, Ms. Dolder presented six abutter letters in favor of the project. Mr. Fowler asked if they planned on tearing anything down. Ms. Dolder stated that they are just tearing down the porch. Mr. Fowler asked if there was a homeowner's association. Ms. Dolder stated that there is no association, but each homeowner takes care of their own area. Ms. Dimatteo asked if the home was in the same condition that it was at the time that the deed was filed with the registry of deeds, such as have there been any major improvements or has it deteriorated significantly since 2014. Ms. Dolder stated that there wasn't anything significant, they did have to clean it out, but that was because the property was all but abandoned for three years. Ms. Steed stated that they added a new roof, they have added sheet rock. It is not necessarily in the current state that it was in when they recorded the deed. They are going to finish a lot of things with this addition. They are going to side it to make it more esthetically pleasing. They have made inside improvements. The electrical was updated. The plumbing will be upgraded. The plumbing is in the pump shed, and they plan to bring that all inside. Ms. DiMatteo asked if the applicant could address the deed restriction that states "there shall be no more than one single family dwelling house of less than 320 square

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feet or be more than one and a half stories in height on any one lot.” Ms. Dolder stated that she wasn’t sure what the benefit of that was put into the deed, but she stated that it’s not being enforced. She doesn’t believe that the grantors are taking any action. Ms. DiMatteo stated that even so, that’s the wording in the deed. Ms. Dolder stated that it was a private issue, not a town issue. Chairman Naleid stated that there is an approval for construction for a sewage disposal system, and there is an existing septic system in place. What does that consist of? Ms. Steed stated that there is conflicting data of what it actually is. When they bought the property, they said it was a holding tank of unknown size. There is a possible leech field. They have pumped it out and it is working. Ms. Dolder stated that they have approval for a two-bedroom septic. Chairman Naleid stated that the approval is a fast track approval for a failing system to improve an existing situation. It’s not a system that’s designed with the anticipation of an addition and a larger home. There’s a different process for applying for this permit to build the septic system than there is for a new system. Ms. Dolder stated that she didn’t file the application for the septic, so she’s not sure if there are any further details. Ms. Steed stated that it was her understanding that it was a regular submittal to the state. It was not failing, so they did not ask for anything to be fast tracked. It was being done as a part of the process with the shoreline permits. Chairman Naleid stated that the approval is only valid for 90 days. At this point it’s expired. Ms. Dolder stated that they will have to go back and reapply. Ms. Steed stated that they weren’t able to get in front of the board in time so they would need to reapply. Chairman Naleid stated that some of the concern with the board and the town would be that the deed restrictions on these properties have not been followed. There is a lot of development on these small undersized lots and issues are being created that are affecting the sewage disposal and the groundwater runoff and impacting the lake as the development on these lots increases. This is a huge concern for the board. Ms. Dolder stated that to those points, there is no increase in use or density. The same two people who live there now are going to continue to use it as a seasonal camp. It’s only one bedroom that’s being created. There are currently none in this house, which is unusual. This is not a request to increase the density or the use. Chairman Naleid stated that a structure without a bedroom is not unusual, but the deed states that it’s restricted to a 300-square foot structure, and these were camp lots. That’s how these were created. A lot of these lots have drifted away from that, but that’s what they are and that’s how they were created. There is a lot of concern in town about the expanded use. There may be two occupants now, but in 6 months this renovation could be done, and in 9 months it could be sold and there could be a much different use of the property, even though it might not be the intention, but things happen. Ms. Dolder stated that there are much larger homes in this neighborhood, and this is modest in comparison. She stated that she understood the concern, but not allowing them to add a bedroom, when others have two or three, is a hardship. Mr. Fowler stated that they have had concerns with small lots since March. He stated that he had been to the property earlier that day and he noticed a few big rocks sticking out of the road and there are some very tight areas with the tree line encroaching on the road. For him to put his name on something, it’s very difficult without some sort of written agreement to maintain that road and make it possible for the larger fire trucks and emergency vehicles to get through. He asked what the depth of the basement was going to be. Ms. Steed stated that they haven’t really discussed that. They haven’t looked into options yet. Mr. Fowler asked what they felt seasonal meant as far as their

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plans to stay at the house. Ms. Dolder stated that in terms of use of the road, there are two main roads that connect to the road which are Birch and Ash. All of the homes on Birch are year-round homes. Nine of the eleven homes on Ash are year-round homes. So, the reality is there are people who already live in that area who may need emergency access year-round. This isn't creating any new situation where the emergency vehicles would have to get to this property. The other issue is that the lot that is right next to their property is classified as a community beach and owned by the town. It was created for the Harvey Lakes Estates community. The public access that. There is a lot of public traffic that goes through that road and in front of their property to get to that beach, which creates some of the difficulties that they have with the road. Ms. Smith stated that the community beach is only for Harvey Lake Estates. If other people are going there that's an enforcement issue that has nothing to do with this request. Chairman Naleid stated that their shoreland impact permit description states that they will be removing the porch and the shed to allow for construction. Ms. Dolder stated that they were proposing a garage at first, but they have scaled down. Ms. Smith stated that past practice is to not hear a case that does not have proper approvals, in this case there is not a valid septic design, and the shoreland protection permit needs to be amended to reflect the actual project. Ms. Dolder stated that the only difference is that they are removing the garage. Ms. Smith stated that the board can make a conditional approval, but it can become problematic going forward.

Mr. Fowler made a motion to postpone this case until August 28 so they can get the current approvals for the septic and shoreland. Mr. Jandebour seconded. Motion carried 5/0.

CASE 17-12: Randy Pelletier, 331 Winding Hill Road, Map 240/3. Applicant seeks to add an accessory dwelling unit to the existing garage, without the required frontage, and requests the following variance:

A variance to Article IV. B(6)(d)(8) for type of road frontage.

Mr. Pelletier was present to present his case to the board. He stated that he wanted to add an accessory dwelling unit to his home in the garage for his parents to live in. Chairman Naleid asked if any abutters were present. No abutters present. Mr. Fowler asked if there was a road maintenance agreement? Mr. Pelletier stated that there was no formal association, but the road was well maintained. It was all on a voluntary basis, with 4 or 5 people doing the maintenance. Mr. Jandebour asked if the structure was changing at all. Mr. Pelletier stated that the only changes that would be made to the outside would be the garage doors would be removed and replaced with a wall. Ms. Vultaggio asked if there was a current approved septic system. Mr. Pelletier provided a copy to the board.

Five criteria for granting a variance to Article IV. B(6)(d)(8) for type of road frontage:

Granting the variance would not be contrary to the public interest.

The renovation of the interior of this already existing and attached structure would not detract from scenic views, public travel, property values and daily functions of abutters.

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The use is not contrary to the spirit of ordinance

It does not oppose or challenge any aspect of the ordinance, less the presence in the ordinance that specifically lists a way in the state of New Hampshire as Class VI or private.

Granting the variance would do substantial justice

It would perpetuate the spirit of multi-generational familial co-habitation, in the spirit of the Town of Northwood and the state of New Hampshire's strong emphasis on familial bonds, values and togetherness.

The proposed use would not diminish surrounding property values

No new structure has been proposed, or alterations put forth to change the exterior of the building in any ways to alter its current appearance, less covering over the current garage doors with identical material from the structure.

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 property is one of the largest privately-owned lots at 11.1 acres being used in a residential capacity for year-round living. This further contributes to the scenic values of the land and the abutting lots which directly correlates with property values.

Owing to the special conditions of this property, set forth above, that distinguishes it from other properties in the area:

No fair and substantial relationship exists between the general public and purposes of the ordinance and specific application of that provision of the property because:

The renovation of the attached garage does not detract from the distinguishing features of the lot visually or intrinsically, nor does it inhibit or enhance the general public's use of the ordinance.

The proposed use is a reasonable one because:

It increases the functionality and creates greater human purpose, for an already existing structure that was previously used for secondary non-essential functions, which will now serve the greater use of familial human occupation, in the spirit of close family bonds and ties.

Chairman Naleid stated that this a new ordinance that the town voted on and adopted where previous to this the state law said that if this was not addressed in the town zoning, it was the right of a landowner to have an accessory dwelling unit. He stated that Northwood has written into the ordinance defining what allows this in our town. They have chosen to put into the zoning the restriction that the lot must be 80,000 square feet or greater, which yours obviously is, but then it has 150 feet or greater frontage on a state or town road with a class of 1, 2, 3 or 5 as laid out in the RSA. He stated that he doesn't know that he's heard yet why the applicant's lot is unique that the zoning that the town voted on shouldn't apply to his situation. Mr. Pelletier stated that his lot is unique in its size, it's 11.1 acres with 392 feet of frontage. There is nothing different from his lot than a lot located on a class 5 road. The only difference is that it happens to be on a class 6 road. Chairman Naled stated that isn't that the purpose of why they wrote that in, that they wanted to restrict that an ADU is not on a class 6 road. Mr. Pelletier stated that this particular road they are committed to maintaining it to a standard. He stated that the road is maintained to a good

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standard, this year they have put in a lot of work, time and money into adding material. He stated that he has purchased additional machines to maintain the road. One of his neighbors has also purchased a grader. He also has a dump truck. They have also done significant tree trimming. The road is quite smooth. They have added ditching and culverts. Vehicles of any size travel the road without issue. It's not anything close to a logging road, you certainly don't need a 4-wheel drive or a truck to drive it. He stated that it's plowed vigilantly in the winter, which is important given that he is a public servant that at times is on call and has to leave even in the worst weather. There are 12 homes on the road, and to his knowledge only one is seasonal. Ms. Smith stated that the history of this particular road was that there is a gravel pit on the road that goes back many years. The road was put in to handle the large trucks going in and out. Mr. Fowler stated that he didn't travel all the way down to the property, but he knows it goes all the way down to Deerfield. He asked the applicant how far it was from Harmony Hill Road to the applicant's lot versus the applicant's lot to 43 in Deerfield. Mr. Pelletier stated he was located about in the center of those two locations. He stated just beyond his lot the road is owned by Deerfield and they classify it as a Class 6 road as well. Mr. Fowler stated that he only asked because he felt that it was unique in that there are two access points to this road, rather than one.

Mr. Fowler made a motion to close the public discussion. Mr. Jandebour seconded. Motion carried 5/0.

Mr. Fowler stated that he felt this was a valid application, and although it's on a class 6 road, it was unique because there are two ways to get there. It's well maintained, it's wide open. The applicant isn't proposing any new construction and it's got a four-bedroom septic system in place. Mr. Jandebour stated that he was very much in favor of this as long as the town is covered with the agreement and release. Chairman Naleid stated that the history of the lot, and how it comes from a sand pit, that it was designed for heavy equipment and the applicant and the abutters are obviously aware of not having the town backing them up and they have invested a lot in equipment and materials to maintain that road. It's definitely different from some of the other Class 6 roads that they have seen in that there are two access points. He stated it's good for the community to see twelve neighbors working together to keep a road as well maintained. He stated that he sees it as a positive.

Mr. Fowler made a motion to approve the variance to Article IV. B(6)(d)(8). Mr. Jandebour seconded. Motion carried 5/0.

Internal Business:

Chairman Naleid stated that they have been putting off voting on a Chairman and a Vice Chairman. He stated that he had mentioned a few months ago that his intention is to step back from being involved with the board to focus on family and kids. He stated that the board can have the vote tonight, or they could wait until the next meeting. Mr. Jandebour stated that he felt that they should reflect and get back to it at the next meeting.

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Mr. Jandebaur made a motion to table the election of officers until the next meeting. Mr. Fowler seconded. Motion carried 5/0.

Mr. Jandebaur made a motion to adjourn at 7:39. Mr. Fowler seconded. Motion carried 5/0.

Respectfully submitted,

**Susan Austin
Land Use Secretary**