

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

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

2

3 **Present: Tom Johnson, Matt Fowler, Vice Chairman Curtis Naleid, Doug**
4 **Pollock, Chairman Roy Pender, Board Administrator Linda Smith, and**
5 **Land Use Secretary Susan Jastremski-Pastor.**

6 **Voting Designation: Tom Johnson, Matt Fowler, Vice Chairman Curtis**
7 **Naleid, Doug Pollock, and Chairman Roy Pender**

8 **MINUTES:**

9 **June 27, 2016**

10 *Mr. Johnson makes a change to page 4, line 25. Strike what is written, and*
11 *replace with "Motion is made by Tom Johnson, second by Doug Pollock to*
12 *approve the variance based on the condition that Lot 15 and Lot 5, Parcel A and*
13 *Parcel B are all merged into one lot."*

14 **Mr. Johnson makes a motion, second by Mr. Pollock, to approve the**
15 **minutes of June 27, 2016 with changes. Motion passes unanimously, 5/0.**

16

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

- 19 • A variance to Art. IV Section B (1)(b) (3) for upgrading Class VI road;
20 applicant requests upgrading to NH DOT Rural Road Standards in order
21 to construct a single family residence and barn.

22

23 **Mr. Cleasby is present.**

24

25 *Chairman Pender recuses himself.*

26 **Voting designation for case #16-07: Tom Johnson, Matt Fowler, Doug**
27 **Pollock, and Vice Chairman Curtis Naleid.**

28 Ms. Smith distributes the zoning board attorney's correspondence to the board.
29 The board reviews the correspondence.

30 *Mr. Pollock makes a motion to keep the correspondence private, second by Mr.*
31 *Fowler. Vote 4/0*

32

Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016

1 Mr. Naleid states that there is a previous application from 2011 which was
2 denied. The board needs to decide if the previous application is identical to the
3 current application.

4 Mr. Naleid asks Mr. Cleasby if he was aware that the board needed to make
5 that decision.

6 Mr. Naleid asks Mr. Cleasby if he can state without arguing the case, what is
7 different about this current case from the previous application.

8 Mr. Cleasby states that the road has been improved with permission from the
9 selectmen. The selectmen gave him permission to widen the road. The culvert
10 has been replaced. The road is better than Sunset Road and Old Canterbury
11 Road, both of which are Class VI roads.

12 Mr. Naleid states that the board needs to look at both applications to decide if
13 they are different.

14 Mr. Naleid states to clarify to the board: the current application is for a
15 variance to Art. IV Section B (1)(b) (3) for upgrading Class VI road; applicant
16 requests upgrading to NH DOT Rural Road Standards in order to construct a
17 single family residence and barn. The previous application was for relief from
18 the same ordinance and was denied, the current application is for relief from
19 the same ordinance, which reads: That all lots for new building development
20 must front on..... a Class VI road proposed to be improved to current town
21 standards as found in the subdivision regulations, and for which adequate
22 financial security has been posted with the town to ensure completion of the
23 improvements. If frontage is on Class VI road, the owner must also comply with
24 RSA 674:41.

25
26 Mr. Naleid states that it appears to him that the two are similar applications,
27 but the board needs to review the applications to decide if the applications are
28 identical, and if they are going to take the next step.

29
30 Attorney Tim Britain steps up to the table and asks to distribute a memo from
31 his clients, the Clarks, showing that this case is identical to the 2011
32 application.

33 Chairman Naleid states that the public discussion has not opened yet, and Mr.
34 Britan must wait until it does to speak.

35 Mr. Britain would like the board to note his objection to the public hearing not
36 being opened yet, and that he would like to distribute the memo to the board.

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 Ms. Smith states that the board is going by the legal advice that they have
2 received.

3
4 Mr. Johnson states that he would like to make a motion to continue until next
5 month. The reason being is that the board has received two correspondences
6 from the attorney. One of which that they haven't had the time to review. Mr.
7 Johnson states that by continuing this case, it would give time for any abutters
8 to submit any memos they might have. Ms. Smith clarifies for the board that
9 the second correspondence was generated solely for the purpose of how the
10 question of whether to hear the case would be handled procedurally. She adds
11 that the question was sent by her (not the board) to the attorney for
12 clarification.

13 Mr. Pollock seconds the motion put forth by Mr. Johnson to continue to next
14 regularly scheduled meeting. Vote 4/0

15 ***Application is continued until August 22, 6:30 PM.***

16 Attorney Tim Britain distributes a memo from his clients, the Clarks.

17
18 **Case # 16-08: Troy Osgood and Katherine Howell, 92 Harvey Lake Road,**
19 **Map 122 Lot 125**

- 20 • A variance to Art. IV Section B (4) Construction of an open carport with
21 one end extending into the setback 5 feet.

22
23
24 ***Chairman Pender returns to the table.***

25 **Voting designation for Case #16-08: Tom Johnson, Matt Fowler, Vice**
26 **Chairman Curtis Naleid, Doug Pollock, and Chairman Roy Pender**

27 Troy Osgood is present.

28 Mr. Osgood states that they would like to build a carport on their property. It
29 goes five feet into the setback because that's where the driveway is. They want
30 to do a carport as opposed to a full garage because they want to maintain drive
31 access to the back of the property. A retaining wall prevents access on the
32 other side.

33 The current garage will stay as it is. It is functionally too small to be a garage,
34 as even compact cars don't really fit in it. They would like to keep it for storage.

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 Also, he adds that a propane and oil tank in the back yard prevent them from
2 putting the carport further back.

3 Mr. Naleid states that he appreciates the need for additional storage, but he
4 still feels that it is a large enough lot to put the carport elsewhere.

5 Since the applicant did not submit a certified plot plan, the board recommends
6 postponing until the applicant has one.

7 ***Mr. Fowler makes a motion to postpone this case until the August 22***
8 ***meeting. Mr. Pollock seconds the motion. Vote 5/0.***

9 **Voting designation for Case #16-09: Tom Johnson, Matt Fowler, Vice**
10 **Chairman Curtis Naleid, Doug Pollock, and Chairman Roy Pender**

11
12 **Case # 16-09: Scott and Tonya Knightly, Gulf Road, Map 118, Lot 4 and**
13 **Map 119, lot 22.** A variance to Art. IV Section B (6)(b) Construction of more
14 than one principal residential structure on one lot. The variance is based on
15 receiving approval for boundary line adjustment with lots: 119/22, 118/4 &
16 119/21, and merger of lots 118/4 & 119/2.

17
18 Scott Knightly and Chris Boldt are present.

19 Applicant is asking for a variance to allow two residential structures on one lot.

20 Ms. Smith states that the applicant has come in and spoken with her, Town
21 Planner Matt Sullivan, and Building Inspector Dale Sylvia, to achieve this plan.

22 Mr. Boldt states that this is a lakefront lot and large inland lot. Inland lot has
23 frontage on Gulf Road.

24 Chairman Pender asks the five criteria questions:

25 **Variance Criteria**

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

27 Both structures already exist on their separate adjoining lots. Joining the
28 lots turns a nonconforming lot into a conforming lot. The second
29 structure was built as an accessory building for the comfort and
30 convenience of the primary residence by creating storage and
31 entertainment space, as well as guest housing and cold weather housing.

32

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

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 The spirit of the ordinance was to limit the amount of residences on a
2 single lot. This is a single apartment within a barn/garage that was
3 intended to be used as an accessory to the primary house and is not
4 intended to be separated from the house in the two combined parcels;
5 both share the same septic.
6

7 **3. *Granting the variance would do substantial justice***

8 The sole purpose for merging the adjoining lot is to allow for the
9 improvement of the main residence on the lake front parcel by creating a
10 conforming lot and allowing for an improved septic system. The second
11 structure was built well off the lake to allow the improved lakefront
12 structure to be built in a way that would be less impactful to the shore
13 front and more pleasing to the abutters.
14

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

16 By allowing us to replace the dilapidated residential home on the lake
17 with a new residential home that fits into the neighborhood, it will
18 increase the property values of the surrounding homes.
19

20 **5. *Literal enforcement of the provisions of the ordinance would result***
21 ***in an unnecessary hardship.***

22 ***(b) Owing to the special conditions, set forth above, the property***
23 ***cannot be reasonably used in strict conformance with the***
24 ***ordinance, and a variance is therefore necessary to enable the***
25 ***reasonable use of it because:***

26 Both buildings are already in existence and in use. The purpose of the
27 voluntary merger is to meet the current building ordinances based on the
28 Town of Northwood's current regulations and turn a small non-
29 conforming lot into a much larger conforming lot. It would be a severe
30 hardship as it would force the dismantling and destruction of portions of
31 the second structure (apartment) if the variance was not allowed. The
32 second structure was never intended to be classified as a residential
33 unit, just an accessory unit. We have gone to great expense and time, 12
34 years, to purchase and swap land with our neighbor to meet the setback
35 requirements, septic requirements, and to connect the two lots based on
36 the new required ordinances with the least impact on the shorefront and
37 neighborhood.

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 A motion is made by Mr. Fowler to approve with the conditions that the
2 shoreline permits are obtained and the voluntary merger is completed.

3 Mr. Naleid states that he has conditions to add, so Mr. Fowler withdraws his
4 motion.

5 Mr. Naleid lists the condition he would like to add:

- 6 • **The buildings will only be used for residential use; no commercial**
7 **use.**
- 8 • **The new primary residence and all structures meet all zoning**
9 **requirements.**
- 10 • **Applicant must obtain a state approved septic design for all uses on**
11 **the lot.**
- 12 • **All shoreline permits must be obtained.**
- 13 • **A voluntary merger, signed by the Planning Board, is recorded at**
14 **registry of deeds.**

15 ***Mr. Naleid makes a motion to approve the application with the noted***
16 ***conditions. Mr. Fowler seconds. Vote 5/0***

17 **Case # 16-10 George Hatfield and Julie Crosby, 4 Circle Street, Map# 116**
18 **Lot 95.**

19 A variance to Art. IV Section B (2)(b) lot size; a variance to Art. IV Section B
20 (1)(b)(2) type of road frontage; a variance to Article IV B (4)(j) applicant is not
21 providing a certified plot plan; and a variance to Article IV Section B (4) for
22 septic in the structure setback. Applicant seeks to permit the replacement of a
23 470 square foot 2 bedroom mobile home with a new 1056 square foot, 2
24 bedroom mobile home, on a non-conforming lot.

25
26 George Hatfield and Dave Tousignant are present.

27 The applicant would like to replace the existing 1960 mobile home with a brand
28 new modular home. The replacement home has larger rooms, but bedroom
29 count remains the same. Mr. Tousignant has provided the board with a septic
30 design showing well radius with all abutting neighbors. The location of the
31 septic system is being dictated by maintaining DES stated well radii. The septic
32 field is in the only location allowed by DES. That is why the applicant is
33 requesting a setback variance.

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 The property is on a private road. However, there is a road association that
2 maintains the road, Pine Point Association. The lot has frontage on two roads.
3 There is clear access for emergency vehicles.

4 The applicant is asking for five variance requests. Chairman Pender states that
5 they will go over each one individually.

6 **The first variance request is from Article IV. B Section (2)(b)**

7 Minimum lot size with an existing structure on a .18 acre lot.

8 Mr. Pollock states that he has concerns about doubling the size of the footprint
9 on that size of a lot.

10 Mr. Tousignant states that he isn't aware of any square footage requirements in
11 the ordinance that says that there is a square footage of house to square
12 footage of land. He's keeping it out of the setbacks, so he doesn't understand
13 the issue.

14 Mr. Naleid states that he appreciates the work that's being done to make this
15 fit within the setbacks, and he's impressed with the way the septic fits.

16 Mr. Tousignant states that the motivation for getting on this month's agenda
17 was that the modular unit will take six to eight weeks to be delivered. The
18 water supply is seasonal as well. Mr. Hatfield would like to get this project
19 underway in order to see in completed before the season ends and the water is
20 turned off.

21 Chairman Pender asks for public input.

22 Bob Strobel states that he has a question about the lot size. If the house is
23 1000 square feet, and the lot is 10000 square feet, does it fall into the allowed
24 amount?

25 Mr. Fowler states that yes, it does.

26 ***Chairman Pender asks the five criteria questions for this variance***
27 ***request.***

28 **Variance Criteria**

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

Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016

1 By allowing the variance there will be no change of usage to the lot other
2 than what already exists. There will be no change in road usage, traffic
3 count, and town or school services. Granting the variance would
4 promote the continued contribution to the Pine Point Association which
5 maintains the common areas.
6

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

8 This is an existing lot and not a new lot. The ordinance was not meant to
9 prevent an update to existing property. This property was developed
10 specifically for its current use and mobile homes have a shelf life. There
11 was no size restrictions placed on homes when the lot was first developed
12 and the ordinance was not meant to restrict square footage. The existing
13 home is at the end of its shelf life. The new building will be built to meet
14 the current building and energy codes which cannot be obtained by
15 renovating the existing structure. The existing The increased square
16 footage of the building does not change the area vehicle congestion,
17 significantly change sunlight or air circulation patterns, change the
18 overcrowding of the land or concentration of population, change
19 pedestrian patterns or hinder the ability of emergency vehicles, delivery
20 vehicles, and other visitors to service the area.

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

22 Each of the lots in the Pine Point Association pay a dues to maintain the
23 roads, beach and building upkeep that are used by all the residents of
24 this area. The ordinance was enacted after the lot was purchased. By
25 granting the variance, the property shall continue to be used for the
26 original purpose it was intended for.

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

28 The proposed lot use is not changing. The existing house is an eye sore
29 and a new home will be more aesthetically pleasing. It will also promote
30 pride in ownership with the exterior landscaping. A neighborhood of new
31 homes is more valuable than one with old homes. The project will include
32 a new septic system which will improve the surrounding ground quality.

33 **5. *Literal enforcement of the provisions of the ordinance would result***
34 ***in an unnecessary hardship.***

35 ***(B) Owing to the special conditions, set forth above, the property***
36 ***cannot be reasonably used in strict conformance with the***
37 ***ordinance, and a variance is therefore necessary to enable a***
38 ***reasonable use of it because:***

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 The use is not changing. All of the neighborhood and surrounding lots
2 abut the private roads servicing the area. None of these lots are two
3 acres. There are no available lots to be purchased to make it more
4 complying with the 2 acres minimum.

5 ***Mr. Johnson makes a motion to grant the variance, Article IV, Section (B).***
6 ***Mr. Naleid seconds. Vote 4/1. Motion passes***

7 **Article VII.B Section 4. Certified plot plan.**

8 Mr. Tousignant states that he started out getting the DES septic plan approval,
9 and then the Building Inspector told him that he would need a certified plot
10 plan. Because of the timing constraints, Mr. Tousegnet felt it necessary to get
11 on the ZBA agenda as soon as possible, and requested the variance to not to
12 provide a certified plot plan for this meeting. The surveyor has done an initial
13 survey, but the survey is not complete yet because he has to verify the pins.
14 They will have a certified plot plan prior to building. He distributes a draft
15 survey.

16 Mr. Naleid feels that the applicant is going to obtain a certified plot plan,
17 therefore a variance request isn't necessary at this time. Ms. Smith states that
18 the board can consider attaching a condition to the setback variance.
19 Chairman Pender suggests holding this application to the end of the meeting.

20 **Article IV Section (B) (4) Septic set back.**

21 **The septic setback will be 10 feet from the lot line, with the other corner**
22 **being 13 feet from the lot line.**

23 Mr. Naleid states that since the lot is less than 100 feet; the calculation for the
24 setbacks would be based on Article 7 Section (C) 5, which would take the
25 setback down to 16 feet, rather than the 20 feet. So that changes the variance
26 to 6 feet but without a certified plan he can't be sure.

27 Chairman Pender asks the board if they would like to move along without a
28 certified plot plan. Chairman Pender states that for the sake of consistent
29 paper work; let's agree it's a 20 foot setback.

30 Mr. Johnson states that he would like to allow this to continue because of the
31 short construction period.

32

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

Variance Criteria

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

By allowing the variance, the location of the upgraded septic system would provide the maximum distance from the surrounding wells and would increase the ground water quality.

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

The ordinance was not meant to prevent an update of an existing property. The building is currently not meeting setbacks and will become more conforming and fit within the setbacks when constructed, it is just the septic system requiring the variance. It will be below ground and not visible when complete.

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

Each of the lots in the Pine Point Association pay a dues to maintain the roads, beach and building upkeep that are used by all the residents of this 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*

The proposed use and capacity is not changing. 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.*

(B) Owing to the special conditions, set forth above, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it because:

DES dictates the septic system locations and this best serves this lot and the abutting properties.

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 **Mr. Johnson makes a motion to approve the variance with the 10 foot**
2 **maximum setback for the septic system leech field to the property line.**
3 **Mr. Naleid seconds. Vote 5/0**

4 **Article IV. B Section (1) (b) (2) Frontage on a private road.**

5 Chairman Pender asks if it's a paved road, and if there is a road association
6 involved. Mr. Tousignant states that Cole Road is paved, while Circle Street is
7 not. Pine Point Association takes care of the road maintenance.

8 **Variance Criteria**

9

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

12 By allowing the variance there will be no change of usage to the lot
13 other than what already exists. There will be no change of road
14 usage, traffic count, and town or school services. Granting the
15 variance would promote the continued contribution to the Pine Point
16 Association which maintains the common areas.

17

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

19 The ordinance was not meant to prevent an update to existing
20 property. This property was developed specifically for its current use
21 and mobile homes have a shelf life the existing home is at the end of
22 its shelf life. The new building will be built to meet the current
23 building and energy codes which cannot be obtained by renovating
24 the existing structure. The existing the increased square footage of
25 the building does not change the fact that the lot is on a private road.
26 The ability of emergency vehicles, delivery vehicles, and other visitors
27 will not change.

28

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

30 Each of the lots in Pine Point Association pays dues to maintain the
31 roads, beach and building upkeep that are used by the residents of
32 this area. The ordinance was enacted after the lot was purchased. By
33 granting the variance, the property shall continue to be used for the
34 original intended purpose.

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

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

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

7 **5. *Literal enforcement of the provisions of the ordinance would***
8 ***result in an unnecessary hardship.***

9 ***(B) Owing to the special conditions, set forth above, the property***
10 ***cannot be reasonably used in strict conformance with the***
11 ***ordinance, and a variance is therefore necessary to enable a***
12 ***reasonable use of it because:***

13 The use of the property is not changing. All of the neighborhood and
14 surrounding lots abut the private roads servicing the area and it
15 would be unattainable to change this.

16 ***Mr. Fowler makes a motion to approve the variance Article IV. B Section***
17 ***(1) (b) (2) Frontage on a private road. Mr. Naleid seconds. Vote 5/0***

18 Discussion continues on Article VII.B Section 4. Certified plot plan. Chairman
19 Pender states that they don't know if there are any discrepancies without a plot
20 plan. Mr. Naleid states that if we don't address this, then we are leaving it up to
21 the Building inspector to enforce this.

22 Ms. Smith suggests that the board could make it a condition of approval that
23 the plot plan be submitted to the building inspector prior to beginning
24 construction. If the applicant withdraws, the certified plot plan is still required.
25 The board can not act with the variance request. He will still be required to
26 present the plot plan.

27 Mr. Johnson states that he feels comfortable accepting the draft plot plan and
28 the septic plan, with the idea that if the certified plot plan comes back
29 drastically different, then the applicant will have to build a smaller structure in
30 order to conform to the setback requirements.

31 The applicant will provide the building inspector with the certified plot plan
32 before they start building. The applicant understands that he is taking a risk
33 that the plan could come back drastically different than the draft, and that an
34 abutter could appeal the application.

35 Applicant withdraws the variance request for Article VII B Section (4)

**Town of Northwood
Zoning Board of Adjustment Meeting
July 25, 2016**

1 ***Internal business.***

2 None

3 ***Mr. Naleid makes a motion to adjourn at 8:45 PM. Mr. Fowler seconds.***

4 ***Vote 5/0***

5

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