

**Town of Northwood  
Zoning Board of Adjustment Meeting  
December 18, 2017**

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

**PRESENT:** Chairman Matt Fowler, Tim Jandebour, Justin Miller, Brenda DiMatteo, Ruth Vultaggio, Babette Morrill, and Pam Sanderson.

**TOWN STAFF PRESENT:**

Board Administrator Linda Smith, Town Counsel Amy Manzelli, and Land Use Secretary Susan Austin.

**VOTING DESIGNATION:** Chairman Matt Fowler, Tim Jandebour, Ruth Vultaggio, Babette Morrill, and Pam Sanderson.

**Minutes**

**Ms. Sanderson made a motion to approve the minutes of November 27, 2017.**

**Ms. Morrill seconded. Motion carried 5/0.**

**CASE 17-11R: REHEARING 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 variance:**

- 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.

Maria Dolder, Becky Steed, and Grace Burr were present. Ms. Dolder stated that the applicants were adding a 512-foot addition with basement in order to create a bedroom and storage area, neither of which currently exist on the property. As part of the addition, 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. The Harvey Lake Estates community has been around since the 1950's. They consist of small lots all located on private roads. She stated that there was significant building in the area. Before getting into the specifics of the variance criteria itself, she stated that she would like to highlight a few items, specifically what is new. The applicant has been able to establish an association for the purposes of road maintenance. The board was provided with the association document that was recorded at the Rockingham County Registry of Deeds. The document provides for road maintenance in that area. They have also contracted with a contractor to clear and maintain roads including plowing, that is included in the paperwork provided. They have also obtained an estimate from K&K Landscape for the further work that they intend to have done in the Spring, that is provided as well. The applicant has been able to upgrade the section of Shore Drive between the bottom of Birch Street and the Community Beach. This is approximately 150 feet of roadway. Specifically, the roadway itself has been graded and the applicant has cut back a significant amount of the overgrown bushes. They realized that part of the problem with the width of the road was the overgrowth of bushes. Along the applicant's frontage, they have been

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able to widen this road area to around 22 feet. Based on measurements that they took on Harvey Lake Road, this is now wider. In analyzing this variance request, this board needs to look at how this specific request, a 512-square foot addition to an existing residence has an impact on the road. How does this addition change the fact that it's a private road, and why would that addition in and of itself make it so that this road would have to be upgraded to subdivision standards at this point in time? Another way to look at it is, how does this addition make it more likely that emergency vehicles would be needed as a result of it, or how does this particular addition cause greater hazards or require emergency assistance that is different than what exists on the property. This is just an addition, it's not a new house.

*Chair Fowler opened the public comment.*

Ms. Sanderson asked if there was any estimate of timeframe on the work that they had the estimate for. Ms. Steed stated that in order to do that she wanted to make sure they got the large trucks in first, and then put the asphalt in after the addition was complete. The goal is 2018. Ms. Sanderson asked about the specific areas that the plowing contract covered. Ms. Steed stated that it covered the entire length of Birch and Ash and Shore. Ms. Steed stated that as a community, they have all been working together. Next year is about fill and bringing up the road. Ms. Steed discussed the pictures that showed the work that has been done as far as grading and trimming on the roads. Mr. Jandebaur asked how many owners were in Harvey Lake Estates? Ms. Steed stated that there were over 100 at least. Mr. Jandebaur stated that it looks to him that there were only 4 properties participating in their association. Ms. Dolder stated that they are not required to maintain the roads outside of their area. Mr. Jandebaur clarified that they would be using the home as a summer residence. Ms. Steed stated that they were. Mr. Fowler stated that if they are looking at upgrading the road so that emergency vehicles could get in and out without being hazardous to themselves, he feels they should look at all the private roads from the town road until the residence. Ms. Dolder stated that she didn't disagree that they should look at that, but they can't require them to upgrade roads that they are not on. Mr. Fowler stated that he drove down to the area today. He stated that the applicant stated that the roads were 22 feet wide, and from those pictures they submitted, they look like they have widened the road, but he doesn't feel that they are wider than the town road. He showed the applicant and board some pictures he had taken, and by the width of his feet measuring what was plowed, it was roughly 13 feet wide. Ms. Steed stated that the plow person stated that because it's the first snow, it is so soft, he was digging up the ground and he was going to ruin his equipment. So, she stated that she told him to wait until the ground hardened. Mr. Fowler asked them when the association would be meeting. Ms. Steed stated that they would be meeting in January, and the dues would be set depending on what the costs will be year to year.

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**Five criteria for granting a variance to Article IV.B (1)(b)(2) for type of road frontage:**

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

To be contrary to the public interest, the variance must be unduly, and in a marked degree conflict with the ordinance such that violates the ordinance's basic zoning objectives. To ascertain whether granting the variance would violate basic zoning objectives you must examine whether it would alter the essential characteristics of the neighborhood or would threaten the public health, safety or welfare of the public. The Applicants are not proposing to construct anything that is out of character for the neighborhood, but instead are simply requesting to construct a modest addition to the home that already exists on the property. This is typical for this area. In fact, even with the addition, the home will be comparable or smaller to the other homes within the area. Furthermore, the majority of the homes within this area have at least two bedrooms. Similarly, no abutting properties will be impacted by the proposed addition because the applicants are able to construct the entire addition on their property while maintaining all of the required setbacks under the zoning ordinance. The property has a natural, wooded buffer from its abutting neighbors. In fact, the lot on the side where the addition is to be constructed, consists of a community beach and the owners of the other direct abutting lot are in support of the proposal. Finally, although the property is located on Shore Drive, a private road, this road has already been heavily built on. In fact, the applicants lot currently houses a residence. This property will not be the first along this road to have recent construction on it. Clearly the road in its current state can support the proposed use without the necessity of being upgraded at this time. The applicants are not changing the use of this property, nor increasing the amount of people that will be using the property. Accordingly, the granting of the relief requested herein shall have no impact on public safety, health or general welfare of the public. As such, the variance relief requested will not be contrary to public interest, but instead will allow the applicants to utilize the property in a reasonable manner.

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

One of the expressed general purposes of the ordinance is to balance the process of growth, development and change with the need to preserve and enhance those qualities which make Northwood a safe and desirable place to live. The Variance relief being requested by the applicant is certainly in keeping with that general purpose. The underlying use of the property itself is expressly permitted in the zoning ordinance. Amongst the stated purposes of Articles IV.B(1) & (2) of the zoning ordinance is the desire to prevent congestion in the streets, overcrowding and avoid undue concentration of population. The variance relief being requested by the applicant is also keeping with this specific purpose. The property also has a natural, wooded buffer which allows for less crowding in the area. In fact, the lot on the side where the addition is to be constructed, consists of a community beach. Furthermore, Article VII.B(2) of the zoning ordinance specifically allows for the construction of an addition to a non-conforming structure when the expansion is in the direction away from the lot line at issue. That is clearly the situation in

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this case. Given that the proposed use itself complies with the zoning ordinance and the variance relief requested will not alter the essential characteristics of the neighborhood, nor alter the character of the property as it exists today, it is clear that the relief requested does not sacrifice the spirit or purpose of the ordinance, either, either under its general purposes or the specific rationale for minimum lot size and frontage requirements.

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

One of the guiding rules in evaluating substantial justice is that any loss to the individual that is not outweighed by a gain to the general public is an injustice. Under this standard, the applicant clearly satisfies this requirement. The property has already been built on and currently houses a residence. The applicant is simply requesting to construct an addition onto the existing home. Although the proposed addition will result in a larger home on the property that currently exists, the applicant will still maintain all of the required setbacks on the property. Substantial justice is also achieved by granting variances which do not adversely impact on nearby property owners and which allow a property to be used reasonably. As stated above, even with the requested relief, the difference between that required under the ordinance and that provided shall not create any adverse effect on the adjoining neighborhood. As previously stated, the property has a natural, wooded buffer from its abutting neighbors. In fact, the lot on the side where the addition is to be constructed, consists of a community beach. Furthermore, the applicants have obtained a letter from their direct abutters expressing their support for this proposal. Accordingly, there will be no adverse impact on the adjoining neighborhood. On the other hand, without the requested variance, the applicants will not have a bedroom or any storage area on this property, therefore, granting the variance will result in substantial justice.

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

The applicant is proposing to construct an addition on their residence by obtaining the proper building permits and in compliance with applicable public health regulations. The proposed addition itself will not be out of the norm or character for the neighborhood, and it is a use that is clearly permitted under the zoning ordinance. It is also important to note that there are no lots within the community that are two acres in size. Given that the applicants will be able to construct the addition while maintaining all required setbacks from its neighboring property lines, the use will have no adverse impact on neighboring properties, nor will it diminish surrounding property values. Instead, the newly updated residence, with an updated septic system will add value to the general neighborhood. The proposed residence will not be out of the norm or character for the neighborhood. The applicants are simply requesting to construct an addition onto the existing home.

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**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:*** This property is unique in this area in several ways. First of all, unlike the neighboring properties, it has a natural, wooded buffer from its abutting neighbors. Even given the fact that the property has comparable acreage to many properties in the area, the addition being proposed will not result in the home being the largest in the area. In fact, even with the addition, the home will be comparable or smaller than others in the area. Furthermore, the majority of homes within the area have at least 2 bedrooms. At this point in time, this property does not even have 1 bedroom. In addition, the utilities for this house are located in a shed outside of the home, which is both unique and unusual for this community. As part of this addition, the applicants will be able to re-locate the utilities into the residence. Similarly, the applicants are able to maintain all of the required setbacks for the addition, even with the variance relief requested. The property is also unique in the fact that it abuts the community beach. The beach has been utilized by the general public, which impacts the private road in the area of the applicant’s property. Finally, the relief being requested by the applicants is the minimum relief required in order to allow the applicants to construct the addition to the property for a much-needed bedroom and storage area.

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

This property is unique in several ways, including the fact that the residence already exists on the property and the applicants are not requesting a change in the current use. Instead, the applicants are simply requesting an addition, which will be constructed while maintaining all of the required setbacks, even with the variance relief requested. Even with the addition, this shall not be the largest home in the area, but will allow the applicants to have a bedroom and storage area, both of which are reasonable. At this point in time, this property does not even have 1 bedroom. In addition, the utilities for this property are located in a shed outside of the home, which is both unique and unusual in this community. As part of this addition, the applicants will be able to relocate the utilities into the residence. These are clear indications that the use being proposed is reasonable and consistent with the area. With that said, the relief being requested by the applicant is the minimum relief required in order to allow this use.

***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:*** As stated before, the actual use proposed for this property, a single-family residence, is expressly permitted under the zoning ordinance. The applicants are simply requesting to construct a modest addition to the single-family home. Although the proposed addition will result in a larger residence on the property, the addition will be constructed in a manner that will maintain all of the required setbacks on the property. It is also important to note that there are

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no lots within the community that are two acres in size, but many lots have much larger homes on them. Given that the proposed use will not alter the essential characteristics of the neighborhood or the property, but instead will allow the property to be used for and in the same spirit as permitted, there is no fair and substantial relationship between the general purposes of the zoning ordinance and the specific restrictions on the property. The same can be stated in connection with the requirement to upgrade Shore Drive. The road has already been heavily built upon, some of which include much larger residences. The applicants maintain and plow the section of the roadway in front of their property and shall continue to do so. Although the applicants do not intend to upgrade the road to town standards, they do intend to upgrade their section of road with reclaimed asphalt. It is also important to note that one of the abutting properties is a community beach which has been allowing use by the general public. As part of this use, the general public have traveled upon the section of road in front of the applicant's property, causing impact on the road which is not caused by the applicants. Given this and given the fact that the applicants are not changing their use of the property, there is no fair and substantial relationship between the general purposes of the ordinance and the specific restrictions on the property.

***The proposed use is a reasonable one because:***

The underlying use of the property itself is permitted in the zoning ordinance. The design of the addition, even with the variance relief requested, exceeds the required setbacks under the zoning ordinance. The design of the addition, even with the relief requested, exceeds the required setbacks under the zoning ordinance, and therefore, shall not impact the neighboring properties. Given that the property has already been built upon and currently houses a single-family residence, the proposed use of the property is clearly reasonable. The variance relief will simply allow the applicants to have a bedroom and storage space, something that it does not currently have. There are other residences within the area that larger than what is being proposed by the applicants, which is a clear indication that the use being proposed is reasonable and consistent with the area. Similarly, the fact that the applicants are not changing their use of this property makes it clear that the addition is reasonable without the road to be further upgraded.

Ms. Sanderson stated that the association is a good start, but she is hesitant because it is brand new, it's not quite a month old, with no budget and only estimates for upcoming work, it is a tough weather time to assess what has been done at this point. She is wondering if there is some openness to looking at this a little further down the road, or if they want to go through the entire process this evening. She would like to see where they might be in about four months, maybe after the winter season to get a better assessment of where they are.

Ms. Dolder stated that part of the problem is that this has been ongoing for 6 months as it is. They were quite frankly hoping to complete this project in 2017. The concern is that if they continue another 4 months, do they lose that window to build again. Frankly, many associations don't have a budget year to year, right now, they are

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contracted to take care of this winter. The fact that they are going to sit down in January and see what they need for Spring. They are all on the hook for doing that now. They have signed on saying they will cooperate. The goal is to get more members, but this is a start. Ms. Sanderson stated that looking down the road, what does seasonal as it is today mean. Ms. Dolder stated that it means that it is seasonal today, and it will be seasonal once this project is complete. This won't increase their use of the property.

Mr. Fowler stated that he wanted to make sure that he was clear, the only road that he is looking at is Shore Drive, as far as first responders, as far as any vehicle needing access to the property. Ms. Manzelli stated that Article 4, Section B 1. b. "All lots for new building developments shall front..." The last sentence states that they need to comply with 674:41. Ms. Smith stated that would be addressed with the Board of Selectmen. If the road going to Shore Drive was narrow or inaccessible, then that discussion would happen with the Board of Selectmen.

Chair Fowler asked if there was any further public comment.

John Kane, 18 Shore Drive, stated that he lives down the street from the applicant. He stated that he wanted to point out that he drives a 1995 Peterbilt that is three hundred inches long and eight and a half feet wide and 12 feet tall and weighs 12,000 pounds and he can drive up and down that street all day long.

*Chair Fowler closed the public hearing*

Chair Fowler stated that looking at the photos, it looks like what we want, it probably measures 22 feet, but a lot of it is probably soft soil. The new association is a great start, although it's in its infancy and there are only 4 people in it. History is saying that it's been plowed every year. The letter from the fire chief didn't praise the road, but it didn't condemn it either. The current conditions were addressed. He stated that he has a lot of pros and cons, and he'd like to do the right thing.

Ms. Sanderson stated that she agrees that in September the road looked very good. After that, there was a wind storm and then it snowed and she personally hasn't witnessed the September photographs, but having been down through there nearly 6 times in the past 3 months, she would like to see a track record for this association, showing that the situation has changed, and not years, but even how it's doing after this first winter.

Ms. Morrill stated that she thinks she is okay with it. The Fire Rescue addresses all of the roads going to the Shore Drive, and we can only consider where it fronts and not the whole thing, and that is the biggest point they have to look at. Ms. Smith stated that she wanted to clarify the issue about what needs to be upgraded. The Zoning ordinance says the private road, it doesn't say a portion. It is her understanding that they have only submitted a maintenance agreement for four properties. The regulation says the private road, meaning all of the road that it fronts on. Ms. Manzelli stated that as most laws are, it is not written as clearly as it should be, but it does say "shall front on" and then it uses the word "road" It doesn't say it shall front on a portion of

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the road that is brought up to these standards. Chair Fowler asked how many residents were on Shore Drive, because there are more than 4 properties on Shore Drive.

Chair Fowler stated that he'd like to take a recess while they look up the information.

*Chair Fowler called a five-minute recess at 7:40 PM*

*Returned from recess at 7:45 PM*

Chair Fowler stated that there were 37 residential structures on Shore Drive. He stated that he wasn't sure which way to go, there is no harm to the public, in fact, the applicant could be considered public and there is potential harm because of the conditions that the building is in. They have established an association and want to maintain the road. He stated that he was ready to vote in favor of this motion until he looked at 4 residences out of 37 residences that are in the association and legally we have to consider the entire road. So, there is more work to be done to include more residents. How could 4 people afford to plow and maintain that entire road? Ms. Morrill stated that she feels it's a good start. Mr. Jandebour stated that "no harm to the public" is kind of a wide-open statement that, in a lawyer's hand could argued immensely either way. The town has spent somewhere in the area of \$3,000 to haul town vehicles out of the Harvey Lake area, that seems like a harm to the public. He stated that his understanding is that the Selectmen would look at the whole road, and their job is to look at what the applicant has done to improve it, and from when he can see, they have been doing a good job. Chair Fowler stated that he meant unnecessary hardship, rather harm to the public. Chair Fowler stated that after looking at where the other members of the association were located, he was hoping it would have been more spread out, but what he does see that between Birch Street, Ash Street, into Oak Court and Oak Street, that area will be taken care of with this association. So, there are almost three ways to get to that property, through private roads but onto this private road, and those roads will be maintained. Chair Fowler stated that he feels that what makes this property unique, are where the 4 members of the association are located are right there where three other roads make that property accessible.

*Chair Fowler opened public comment.*

Ms. Dolder stated that she wanted to make sure that she clarified a few things that at the last meeting seemed to lead them down the path of being denied. The first is, there is always some talk about the future. If this is denied, but for the appeals process, they cannot come back again. In terms of the association, the variance request has no requirement for a homeowner's association. At the previous meetings, they were told it would be a game changer, and it would make a big difference to this board, so the applicant took that and that is why they formed the association. Clearly, there is not going to be a track record yet. The intent is to get more members into it, but at this point in time, given the feedback that they have just gotten from the board, this is where we are starting. They are covering the three access points in and making sure that this property could be accessed. The fact is, even though the ordinance may say

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they need to upgrade the entire road, they are requesting a variance to that. She stated that she just wanted to make sure it was clear that when they talk about upgrading the road and the things that they are doing to get to this property, those are their reasons that this variance can be granted. Because of the work the applicant has done, the access to this lot is better now than it has been. Just to get to the point about long term maintenance, since these owners have owned the property, they have personally maintained this roadway. They have contracted every year to have it plowed, they have owned it for three years so for three years they have been maintaining it and plowing it. If that were not the case, they would have heard it from the Fire Chief. They have been doing it, and they intend to continue. The association is a way to push that forward and get other people on board.

**Mr. Fowler made a motion to grant the 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. Mr. Jandebeur seconded.**

**Ms. Sanderson- No**

**Mr. Jandebeur -Yes**

**Ms. Morrill – Yes**

**Ms. Vultaggio – Yes**

**Mr. Fowler – Yes**

**Motion carried 4/1/0**

**CASE 17-14: Dan Moore for Steve Kutftnec, 9 Pleasant View Ave, Map 109 Lot 35. Applicant seeks to build a new two-bedroom single family home and is requesting the following variances:**

- A variance to Article IV.B (1)(b)(2) for type of road frontage (private road)

Dan Moore, and Eric Gundrum were present to discuss the application. Mr. Gundrum stated that since the last meeting, they have put in place a formal agreement for secondary access and a parking area for the applicant on his sister's lot. They have also started the development of a road maintenance agreement with the neighbors. He presented the board with copies of the agreement for the easement, if the variance is approved, they will register it with the Rockingham County Registry of Deeds. He stated that the applicant had sent around a certified copy of a letter to the neighbors stating their intent to start a road maintenance association. He presented a list of which neighbors had responded to the letter. He stated that they plan to record it if they were granted the variance.

*Chair Fowler opened up the public comment.*

Charles Brown, 3 Pleasant View, stated that the agreement was not comprehensive enough, it needs to cover the use of the road. He stated that he would like to get that cleared up, otherwise he is in total agreement, but would like more time for a plan for the use of the road.

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Victoria Parmele was present and read a letter from her and Charles Brown into the record.

*The Past: 34 years ago, when we came here, what is now Pleasant View Ave had no name, and was an uncluttered right of way to properties along it and Northwood Lake. It allowed cars to come in and out and park on their properties. It also provided clear access to Northwood Lake, which it is fair to say is the reason that people living along this right of way choose to live so close to each other. They want to live near the lake and have easy access to it. Over time, the right of way came to be known Pleasant View Ave, and also started to get filled up with various other uses. There was an old narrow dock, about 3 feet wide to the left of the right of way, coming off of the Kuftnec property. That dock was removed by Dave Elliot, and sometime after Mr. Kuftnec asked Charlie what happened to the dock. Around the same time. Mr. Elliot built a wide dock at the end of the road, which blocked people from getting to the water unless they went on the dock. At some point, this dock was connected to the Barton's dock, and this connection is also at the end of the right of way and blocks the water even more. Since the dock was built, someone's boats have been tied up to it which further blocks access to the lake. There is also a barbecue, etc. on the dock itself.*

*The Present:*

*Cars are parked beyond property boundaries, Vegetables and flowers are grown in the road each year, there is storage of equipment down by the water, the dock blocks the water and chickens wander the road.*

*Imagine if this activity was going on at the opposite end of Pleasant View, blocking cars coming out onto Lake Shore Drive. Would it seem appropriate then? Who owns Pleasant View Ave, a private road? Everyone living on it owns it, and individuals should not use it in anyway other than as access for cars and pedestrians to properties and to Northwood Lake.*

*The Future:*

*The above uses have been clogging the road for many years, when 4 of the 6 properties have been occupied. Imagine how crowded things could get on Pleasant View if in the future all six properties have people living on them. It should be noted that the two Barton properties right next to the lake are for sale, and there could be changing and more people living there in the future. The draft agreement sent to us last week only addresses road maintenance. We believe the agreement needs to be improved so it addresses the usage of Pleasant View, and just not maintenance. We'd hoped to have the opportunity to discuss this with the Kuftnecs before the meeting.*

*We are glad to be a part of an agreement concerning ongoing maintenance of Pleasant View Ave, but we believe that any road agreement should address the issues of usage on that road. An improved agreement, which includes wording on usage as well as maintenance, is for the good of everyone living on Pleasant View Ave, now and in the future and it is also in the public interest.*

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*The primary public interest is the protection and preservation of Northwood Lake. The various uses taking place on Pleasant View Ave. create potential environmental impacts, from cars (spillage of pollutants, erosion of the roadway); fertilizing of gardens; chickens; etc. Pleasant View Ave is a straight shot into Northwood Lake, making it especially easy for pollutants to get to the lake.*

*Here is some suggested wording for the Road Agreement, concerning uses:*

*The use of Pleasant View Ave for anything other than allowing cars, including emergency vehicles to enter and exit, and allowing people to walk down and access Northwood Lake is prohibited. Specifically:*

- *Cars may not be parked beyond property boundaries.*
- *Flowers and vegetables may not be grown in the road.*
- *There may be no other structures or equipment located in the road.*
- *Tying up of boats, etc. to the dock that extends into Northwood Lake from the right of way, and placement of barbecues, etc. on the dock are prohibited.*
- *Washing of cars on Pleasant View Ave. is not permitted*

*The language in the agreement concerning usage, and road maintenance needs to address future owners of property along Pleasant View Ave. We expect a lot of changes in this neighborhood in the years to come, making it imperative that there be a solid, comprehensive document that protects current and future property owners, and the environment.*

*Charles Brown and Victoria Parmele*

Mr. Gundrum stated that Mr. Kuftnec is willing to discuss these issues, and perhaps come up with a separate agreement or revised version, however at this point, what they would like to do is get the road maintenance association in place. Ms. Smith stated that the focus of the zoning ordinance is access to the property, and making sure that it is kept open and accessible. The applicant has asked for a variance to upgrading it, and the board has asked to show proof that the road would be accessible and maintained. The other issue brought up by the abutters are homeowner issues amongst neighbors. This board has no jurisdiction whatsoever to be discussing homeowner's issues.

**Five criteria for granting a variance to Article IV.B (1)(b)(2) for type of road frontage:**

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

It would not conflict with the original intended use of the private road, which is to provide access to the property owners. The applicant has incorporated a driveway to accommodate parking for two cars This was done to prevent any

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additional on street parking and congestion. The applicant also has secondary access and a parking area (off of Lake Ave.) available to him to help reduce use and congestion on Pleasant View Ave.

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

The applicant is not requesting a change of use for an existing road and has made accommodations for a driveway with two parking spaces and an agreement for secondary access to prevent negatively impacting the existing conditions.

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

It would allow the applicant to upgrade and make significant positive changes from the current uninhabitable seasonal Home. With adequate accommodations in place to prevent additional congestion on the road while not altering the property from its last use as a seasonal home.

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

The existing structure is uninhabitable and is in disrepair. In addition, the lot is overgrown and un-kept. The proposed project would address both of these conditions improving property values. Removing the existing structure would decrease potential hazards and safety concerns for the community.

**5. *Literal enforcement of the provisions of the ordinance would result an unnecessary hardship because:***

***The Special Conditions of this property that distinguish it from other properties in the area are as follows:***

- It is the largest lot on Pleasant View at .19 acres.
- The proposed project has the smallest percentage of lot density (12%) as compared to the neighbors.
- It has a proposed driveway to accommodate two parking spaces.
- The applicant has a secondary access and a secondary parking area, granted by his sister on the abutting lot.
- It is the only seasonal house on the road.
- The proposed driveway is 149 feet to Lakeshore Drive.

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

The current conditions (existing lot size and road dimensions) make it impossible to meet the new road requirements. Without granting the variance, the applicant will be unable to build on the lot or make improvements to the current existing conditions, utilizing the private road upon which they have frontage on. The

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applicant has made attempts and has been sensitive to the concerns of the ZBA (representing the community) and the neighbors. The house was redesigned to provide a driveway for parking and a formal agreement was put in place for secondary access and a parking area for the applicant. With the development of a maintenance agreement, the neighbors and emergency service vehicles can expect that the road will be kept in good working condition.

**Ms. Sanderson made a motion to grant the variance to Article IV.B (1)(b)(2) for type of road frontage, conditional to the recording of the Road Maintenance Agreement and letter of easement, and that the property remains seasonal. Ms. Morrill seconded.**

**Ms. Sanderson – yes**

**Ms. Morrill – yes**

**Mr. Jandebour – yes**

**Ms. Vultaggio – yes**

**Mr. Fowler – yes**

**Motion carried 5/0.**

Chair Fowler stated that they had received correspondence from Jeffrey Street in regards to Case #17-20 requesting that the Board continue the case.

**Ms. Sanderson made a motion to continue Case #17-20 until February 26, 2018. Ms. Morrill seconded. Motion carried 5/0.**

**Zoning Procedure Changes**

Chair Fowler read the proposed changes into the record. (underlined)

**DESIGNATION OF ALTERNATES:**

Whenever a regular member is not present at a meeting, the chair shall designate an alternate member to be a voting member in the meeting if one is present. When more than one alternate is present, the chair shall designate which alternate shall be a voting member. For applications/cases which are continued to successive meetings, the same alternate shall be designated for voting purposes when necessary. When a regular member is present for a continued case in which he/she was not present for previous meeting(s), the regular member may step aside and allow the same alternate to be designated for voting purposes. The chair shall inform the public of the status of alternate members present during the meeting and identify the voting members for each case and/or matter.

**PARTICIPATION OF ALTERNATES:**

**Town of Northwood  
Zoning Board of Adjustment Meeting  
December 18, 2017**

All alternates present at a meeting may fully participate in the meeting with regular board members on any matters before the board except that only designated alternates may participate in deliberations and voting, which includes making and seconding motions and discussion on the motions.

CHAIRMAN.

The chairman shall preside over all meetings. In the absence of the chairman, the vice-chairman or chairman Pro-Tem shall preside.

PUBLIC HEARING.

The conduct of public hearings shall be governed by the following rules:

- The chairman (or the designated chairman Pro-Tem) shall call the meeting to order and call for the report on the first case.
- The board secretary, or the board administrator in her absence, shall read the case number and name and report on the manner in which public notice was given. If there is more than one request for appeal, the chairman shall announce the first appeal.
- The applicant shall present a brief summary of the appeal(s).
- Board members will be asked one at a time if they have any general questions.
- The chairman shall ask if there are any abutters present for the case and if they wish to speak to the appeal.
- The chairman or his/her designee shall ask the applicant to provide testimony on all criteria for the appeal
- The chairman shall ask if there are any additional comments from abutters.
- The chairman shall ask board members if they have any questions of the applicant.
- The chairman shall announce the close of the public hearing on the appeal, which closes discussion to the applicant and public.
- The board will open deliberations on the appeal. One of the members of the board shall present a motion to take action on the case. Board members shall state their findings of fact regarding the motion on the floor. After discussion on the motion, the chairman shall present a summary, setting forth the facts of the case.
- The board will proceed to take action on the case, including (but not limited to): deny or grant the appeal, request further information, or to continue the case for reasons deemed necessary by the board.
- The hearing on the appeal shall be declared closed.
- If there is more than one appeal in a case, the board shall proceed using the same process.

APPEALS:

**Town of Northwood  
Zoning Board of Adjustment Meeting  
December 18, 2017**

The board shall reject any petition not properly filled out. Zoning board staff will post the day and time of hearing as required by state statutes.

**PUBLIC NOTICE**

Public notice of public hearings on each appeal shall be given in a newspaper of the general circulation of the area and shall be posted as required for public notice under state statutes.

Such notice shall include the name of the applicant, description of property, action desired by the applicant, provision of the zoning ordinance concerned, the type of appeal being made, and the time and place of the hearing.

Personal notice shall be made by certified mail to abutters, as required by state statute before the date of the hearing. Notice shall also be given to the planning board, and other parties deemed by the board to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.

**AMENDMENT**

These by-laws may be amended by majority vote of the members provided that such amendment is read at two successive meetings prior to adoption.

**Ms. Sanderson made a motion to accept the procedural changes. Ms. Morrill seconded. Motion carried 5/0.**

Election of Vice Chair:

**Ms. Morrill made a motion to appoint Pam Sanderson as the Vice Chair. Mr. Jandebeur seconded. Motion carried 5/0.**

**Ms. Sanderson made a motion to adjourn at 9:20 PM. Ms. Morrill seconded. Motion carried 5/0.**

***Respectfully Submitted***

***Susan M. Austin, Land Use Secretary***