Town of Northwood
Zoning Board of Adjustment Meeting
May 23, 2016

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

PRESENT: Chairman Roy Pender, Vice Chairman Curtis Naleid, Tom Johnson, Matt Fowler, Tom Lavigne, Doug Pollock, Board Administrator Linda Smith, Land Use Secretary Susan Jastremski–Pastor.

VOTING DESIGNATION: Chairman Roy Pender, Vice Chairman Curtis Naleid, Tom Johnson, Matt Fowler, Doug Pollock.
Tom Lavigne abstains

Case #16-03: Patrick Doyle/Garry Barnes 324/336 Jenness Pond Road Map 206 Lots 5&6
A variance to Art. IV Section B (2) Boundary line adjustment that would leave both lots below the minimum lot size requirements.

Tom Huot from S&H Land Services presents for homeowners, Garry Barnes and Patrick Doyle, who are also present. Mr. Huot explains the details of the boundary line adjustment. He explains that Mr. Doyle is looking to purchase two "parcels" of land from Mr. Barnes. One of which requires a variance from the ZBA because both lots are already substandard to what the minimum lot size is. They are looking to change the boundary of one of the lots, and it does not bring it closer to conformity which is why they are asking for relief.

Mr. Naleid asks about ownership of lots. Mr. Huot explains that each property owner owns a small parcel on the lake side of the road. They are looking to change the land on the lake side in order to match the lots across the road. Mr. Doyle would like to purchase 70' of frontage from Mr. Barnes along Jenness Pond that abuts his lot. It would make the smaller lot three times more compliant. Mr. Naleid asks why they don't merge the lots. Mr. Huot explains that they are currently separate lots, would like to keep it this way for tax reasons. Barnes speaks first, as it stands now, Mr. Barnes allows Mr. Doyle to cross his property to get to the pond. But in the future if Mr. Barnes sells his land there is no guarantee the next owners would allow him to cross.

Doyle speaks second explaining that they have no interest in merging. Discussion ensues on conforming versus non-conforming. Chairman Pender notes that merging would make all lots more conforming, and the regulations state that the only way to change the boundary lines would be to make the lots more conforming. Merging the lots would eliminate the need for a variance. Chairman Pender states that there would need to be a hardship, and he doesn't see one. Mr. Huot states that one of the criteria of a variance is to look at the unique characteristics. Because the lot on the lake side is strictly to access the water, and not to build on it, it fits the criteria of a unique characteristic. Discussion ensues on easement and where it is located. The easement

is just to cross the small strip of land to get to the pond. Mr. Hout feels there is no harm to the public by allowing the variance.

Chairman Pender asks Vice Chairman Naleid to proceed with the five criteria questions.

Variance to Article IV; Section (B)(2)

Variance Criteria

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

Both lots are already non-compliant to the minimum lot size requirements. Both lots are non-building, non-compliant, one lot becomes more compliant, one lot substantially below the frontage requirement.

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

Mr. Huot states that both lots are non-building lots and both lots are already non-compliant to the minimum lot size.

3. Granting the variance would do substantial justice

Because by allowing the lot line adjustment, lot 5 would increase in size allowing the owners to have additional frontage on the pond. Both lots are already non-compliant to the minimum lot size.

4. The proposed use would not diminish surrounding property values

The additional water frontage along the pond for lot 5 would increase its value, and because it is not a building lot, the property value of the surrounding lots would not be diminished.

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

The special conditions that distinguish it from other properties in the area are as follows: the two lots are strictly for access to the pond and are not building lots.

Mr. Naleid states that he can understand the desire to not merge the lots, particularly Mr. Barnes who has more acreage, and he feels that Mr. Barnes is being a good neighbor. Mr. Naleid states he is also concerned that when the deed was rewritten there would not be any access easement if approved.

The question is raised about what the tax implication is if the lots were to be merged. Ms. Smith states that it may be a serious implication to merge the waterfront lots with the house lots because they become large water front lots.

Mr. Naleid states that he does see the benefit to the town by eliminating the easement.

Mr. Fowler states that he believes that all avenues that are available to make the lots more conforming have not been met.

Mr. Fowler makes a motion to deny the variance. Mr. Johnson seconds.

There is additional discussion on access easement, noting that by eliminating the easement, it reduces the potential for another dock or access to the lake in the future. Discussion is held on the fact that there is opportunity to make the lots more conforming in size by merging and the owners are choosing not to merge. Mr. Fowler states he stands with his motion.

Roll Call Vote:
Mr. Johnson – in favor
Mr. Fowler – in favor
Mr. Pollock – in favor
Mr. Naleid – opposed
Mr. Pender – opposed
Motion passes; 3/2.

MINUTES:
April 25, 2016
Mr. Pollock makes a motion, second by Mr. Johnson, to approve the minutes of April 25, 2016 as written. Motion passes unanimously, 5/0.

Case #16-04: 1st Class Moving and Storage (John Ovadek), 1064 1st NH Turnpike, Map 217, Lot 45.

Applicants seek the following variances from the Northwood Development Ordinance: A variance to Art. IV Section B (1) (B) (1) General District – Dimensional requirements-Road Frontage

Mr. Scott Frankiewicz presents for applicant. Mr. Frankiewicz explains the overall site plan and what is being proposed, 72 storage units in 6 buildings in the back of the lot, which already has conditional approval, one of the conditions being that the variance is granted from the ZBA to use the class VI road to enter the lot. A portion of the lot is to be gated; hours of operation set, with only emergency access at night. The class VI road in question is Canterbury road, which is paved for about 200 feet. Mr.

Frankiewicz states that the present configuration is existing 1988 or prior. The property has frontage on Route 4, but only 56 feet, not enough to access the lot. The applicant is asking for variance to access the lot from a class VI road.

Discussion on temporary structures located in right of way. Mr. Frankiewicz states they are temporary storage units that are a part of his business and personal use. There is no public storage at the moment. Mr. Frankiewicz assures the board the temporary units are not going to stay in current location.

Variance Criteria : A variance to Art. IV Section B (1) (B) (1) General District – Dimensional requirements- Road Frontage

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

The current site has several commercial uses on the site, that have been there for decades and the addition of this low volume use will not endanger the public interest, but will add additional taxable commercial uses in the town of Northwood.

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

Although this site does have frontage on Route 4, the lot is only accessed from Canterbury Road. The access to the site, although it is within the Class VI right of way, has been maintained by the current and former owners for decades.

3. Granting the variance would do substantial justice.

It will allow the owner to develop the parcel as desired, with little or no environmental impact. The area, in which the development is proposed and conditionally approved by the Northwood Planning Board, is currently used for open storage in an unstructured manner. This will allow current storage use to continue, but in an organized manner and allow for the owner to offer storage to the general public, currently it is only storage for the business located on the property.

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

The proposed development is located behind the existing commercial buildings, not in the sight of adjacent properties or Route 4. The entire site is over 30 acres, in which the majority will remain in the undeveloped state that it's currently in. In addition, it would make the unstructured existing storage area an organized facility open to the general public.

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

The special conditions that distinguish it from other properties in the area are as follows:

This site has been accessed from a Class VI road for decades, and the proposal is not to change that, but to add an additional commercial use to the property. The property is currently used by businesses to include 1st Class Moving and Storage and Sunrise Auto. The applicant is only adding an additional business to the existing location.

No fair & substantial relationship exist between the general public purposes of the ordinance and the specific application of the provision to the property: there are no changes to the current access conditions on site. In addition the owner has submitted a signed Agreement & Release for Building Permits on Class VI Road removing the town from maintenance and liability for any damages resulting from the use of said road.

The proposed use is a reasonable one because it is not altering the access to the property and expansion of current use will not change the current commercial access to the site.

Mr. Naleid makes a motion to approve. Mr. Fowler seconds the motion.

Mr. Johnson makes an amendment to that the approval is based on the plan sheet 3 of 8 dated revised 4-13-16, revision #2, and the approval of the Planning Board and Board of Selectmen. Mr. Naleid seconds the motion.

Roll Call Vote:
Mr. Johnson – in favor
Mr. Fowler – in favor
Mr. Pollock – in favor
Mr. Naleid – in favor
Mr. Pender – in favor
Motion passes; 5/0.

Internal Business

Ms. Smith introduces the new Land Use Secretary Susan Jastremski-Pastor to the board.

Mr. Naleid makes a motion to adjourn at 8:10 PM. Mr. Johnson seconds.

Respectfully submitted,

Susan Jastremski-Pastor
Land Use Secretary