

**Town of Northwood  
Zoning Board of Adjustment Meeting  
September 12, 2016**

Chairman Pender calls the meeting to order at 6:35 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-Austin.

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

**Minutes**

*August 22, 2016*

**Mr. Lavigne makes a motion to postpone the review of minutes. Mr. Fowler seconds. Vote 5/0**

**Case #16-11: Thirty Two Fiore Road Realty Trust, David A. Boulay, Trustee. 32 Fiore Road, Map 116, Lot 34.**

*A variance to Art. IV Section B(2)(b) to allow construction of a single family home and detached garage on property of one acre where two acres are required.*

Maria Dolder is the attorney representing the applicants. Mr. and Mrs. Boulay are present. Ms. Dolder states that the case was continued from the August 22 meeting because of the Shoreland impact permit not being received yet.

Mr. Pollock asks if they share a septic system with an abutting property. Mr. Boulay states yes, that it is a common leach field. Mr. Pollock asks if there is an easement. Mr. Boulay states that it is deeded access. Mr. Pollock asks if there is a separate water supply. Ms. Dolder states that they have applied for that. Mr. Lavigne asks what the size of the house is. Ms. Dolder states that it is 1064 square feet, 38 by 28 feet.

Chairman Pender proceeds with the five variance criteria questions.

**Variance Criteria**

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

To be contrary to the public interest, the variance must unduly, and in a marked degree conflict with the ordinance such that it violates the ordinances 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 requested variance does neither. In fact, the property is among the largest lot in the area. The applicant is not proposing to construct anything that is out of character for the neighborhood,

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but instead is simply requesting to construct a single family ranch style home. Furthermore, no abutting properties will be impacted by the proposed construction because, unlike the majority of the properties in this area, the applicant will still be able to maintain all of the required setbacks under the Zoning ordinance.

**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 applicant is simply requesting to build a single family home in place of the existing seasonal camp. Although the proposed residence is slightly larger than the existing camp, the applicant will still maintain all of the required setbacks on the property. 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 in its general purposes or the specific rationale for minimum lot size 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 seasonal camp. The applicant is simply requesting to build a single family home in place of the existing seasonal camp. Although the proposed residence is slightly larger than the existing camp, the applicant will not only still maintain all of the required setbacks on the property, but will have setbacks that are significantly greater than what is required under the zoning ordinance.

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

The applicant is proposing to construct a single family residence by obtaining the proper building permits and in compliance with applicable public health regulations. The proposed residence will not be out of the norm or character for the neighborhood. The applicant will still be able to maintain setbacks which are greater than that required under the zoning ordinance, and the use will have no adverse impact on neighboring properties, nor will it diminish surrounding property values. Instead, the newly updated residence will add value to the general neighborhood.

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

Out of all of the properties in this particular subdivision, this property is one of the largest lots; the majority of the lots that have structures on them are between .14 and .62 acres. This lot itself contains 1 acre. The structure being proposed is not out of the ordinary for this subdivision, meaning it may be one of the largest lots, but it won't be one of the largest houses. Even with the variance request, the applicants will be able to maintain all of the required setbacks.

Mr. Lavigne asks if the new residence would be blocking anyone's view. Mr. Boulay states that it would not.

Chairman Pender asks if there are any abutters present. There are none present.

**Mr. Lavigne makes a motion to grant the variance, second by Mr. Fowler based on the fact that all criteria for granting the variance has been met. Vote 5/0.**

Mr. Lavigne states that although the applicant could have built a larger house, he's happy to see this is minimal.

**Case # 16-12: Geometres Blue Hills LLC applicant, Alice Ossoff Revocable Trust owners, Bennett's Bridge Road, Map 105 Lot 56.**

***A variance to IV.A. Table IV-1/IV.B.(4) to allow a septic system within the building setback.***

Bernard Cote from Geometres Blue Hills is present for the applicants; along with Steven Ossoff, who is an abutter as well as the applicant's son.

Mr. Cote states that there are three structures on this lot, with a septic system that was installed prior to 1967. The new septic system would be an upgrade from the antiquated system. The lot is located on the part of the lake has been closed at times due to E-coli issues due to older septic systems. The new system will service both houses.

Mr. Lavigne states that the leach field will be closer than it should be to the lot line. He asks who the abutter is on that side. Mr. Cote states that it is Bane Revocable Trust. Mr. Lavigne states that the distance is only half of what the town setback is. He asks if this was the only place the leach field could go. Mr. Cote states that yes, that was the best possible location.

Chairman Pender proceeds with the five variance criteria questions.

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**Variance Criteria**

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

The two houses on this lot have septic systems that are antiquated. Building a new system for these two houses would be better for the public because the new system will be farther away from the lake and be built using modern innovative technology.

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

The intent of the ordinance is not to prevent land owners from improving their septic systems. The proposed system is designed in the only place it can go on the lot.

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

If the two failing systems are not replaced they could cause an adverse impact on the lake from improper sewage filtering.

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

The septic system will not be seen for the most part and in fact having a properly functioning system would be better for the surrounding property owners.

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

The property has two grandfathered failing septic systems on a nonconforming lot.

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

If a variance is not granted, the two houses will continue to have failing non-conforming septic systems. It is necessary for the environment and surrounding properties to replace these systems. It is reasonable use to have a proper septic system for each house.

**Mr. Naleid makes a motion to grant variance to IV.A. Table IV-1/IV.B.(4) to allow a septic system within the building setback. Mr. Lavigne seconds. Vote 6/0**

Mr. Lavigne states that he is always in favor of replacing old septic systems and putting them farther away from the lake. Chairman Pender states that this is much better for the lake. In the past he's seen portable toilets being used for gatherings.

**A special exception to Art. VII B (3) to expand an existing house upward 1 floor in its original footprint, which does not meet the required building setback.**

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Mr. Cote states that the abutter notices had an incorrect section letter. Instead of "C" it should be "B".

Mr. Lavigne asks if the public notice was also incorrect.

Ms. Smith states that the only problem that would arise from that particular typo would be if language was very different than what the exception they were seeking was. In this case it is not.

Chairman Pender asks if the footprint includes the deck. Mr. Cote states that there is a deck, but it will be reduced in size. Chairman Pender asks if the deck will be enclosed or will have a roof on it. Mr. Ossoff states that the new deck has no enclosure, just a sunsetter awning. The deck will also be a low to the ground deck. Mr. Fowler asks what the new building height will be. Ms. Smith states that the building permit says it will be 24½ feet.

Chairman Pender asks if there are any abutters present. Mr. Ossoff states that he is an abutter. He owns Map 105, lot 55, which is the lot that has the right of way on it. Mr. Lavigne asks if the new structure will be blocking anyone's view? Mr. Ossoff states that yes, it will block building A's view partially.

Ms. Smith states that she noticed the building permit said 1300 square feet. She asks if that is just for the first floor. Mr. Cote states that he isn't sure; he just does the civil end of the projects. Mr. Ossoff states that the total square feet of the new structure is 2,561 square feet. Ms. Smith states that it's a concern, because the building permit only allows for 1300 square feet. Mr. Lavigne asks if the building permit is only for the second floor addition. Mr. Ossoff states that the building is being torn down. They are just rebuilding the house on the original footprint.

Ms. Smith states that the concern is that the denial is for a 1,377 square foot when that is not the actual size of the house. The permit also states that the owner proposes to rebuild the existing house within the original footprint and that the new house will be taller than the original house. It does not state that it is an addition that they are requesting. The building permit application is the basis for the denial.

Mr. Lavigne states that the way it's worded it doesn't say that they are going to tear down the original house and start over.

Mr. Cote states that the building permit would have to be corrected. Mr. Johnson states that since the original building permit has been denied, they will re-apply based on what the board decides. Mr. Lavigne states that the board must clarify the size of the new structure when they grant the exception.

Chairman Pender reads from the ordinance Article VII.B (3)

Portions of structures within a setback may be enclosed or expanded upwards if granted a special exception. The ZBA shall grant the special exception only if the following conditions are met:

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***Special Exception 3 Conditions:***

1. If an upward expansion, it shall not have any adverse impact on any neighboring property, including but not limited to blocking of views and/or sunlight.
2. If an upward expansion, it shall not exceed the maximum height limitations specified in this Ordinance.
3. The expansion shall not increase any other non-conforming aspect of the structure or lot.

Chairman Pender states that it's his understanding that they are not going to go beyond the existing footprint, they are going to make the deck a little smaller, and they are not blocking anyone's sunlight or views. Mr. Cote states that all of that is correct.

Mr. Johnson asks if it's possible to move the house 15 inches and get rid of the shed in order to line the house up a little better. Mr. Cote states that moving the house would create more impacts and would require shoreland permits and a variance.

Mr. Cote responds to each special condition.

- 1. If an upward expansion, it shall not have any adverse impact on any neighboring property, including but not limited to blocking of views and/or sunlight.***

The building expansion upward would only have one impact on a view, and that abutter has submitted an affidavit stating that the construction would not diminish her views or sunlight.

- 2. If an upward expansion, it shall not exceed the maximum height limitations specified in this ordinance.***

The proposed structure is at 24 and ½ feet. The ordinance states that 35 feet is the maximum height.

- 3. The expansion shall not increase any other non-conforming aspect of the structure or lot.***

The structure will stay in its exact footprint, and it will be reducing part of the nonconforming deck.

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Mr. Johnson asks what the proposed timeline is for construction. Mr. Cote states that they would like to be ready for the next season.

Ms. Smith states that if the board should vote in the affirmative, they need to be comfortable with that specific set of building plans, because they have all the information on them for the building inspector to approve a correct building permit.

Ms. Smith also states that they should state on the record that they are not taking any action on the shed.

Mr. Ossoff states that as far as existing shed B is concerned, that will stay in the same location. They may replace it with a smaller shed.

Ms. Smith states that if it's moved it will have to meet the ordinance.

**Mr. Fowler makes a motion to approve the special exception for an upward expansion on the existing footprint, case number 16-12, Article VII. B (3) with reference to "building b" on the plot plan, with the architectural drawings submitted and dated and signed 7-26-16. The board is also taking into account that they are not discussing any other buildings on the property or interior partitions. Mr. Lavigne seconds. Vote 5/0.**

**Case # 16-13: Geometres Blue Hills LLC applicant, Robert E. Alexander & Kathryn Strauch 1999 Trusts owners, 398 Bow Lake Road, Map 105, Lot 48.**

A special exception to Art. VII C (3) to develop a dimensionally non-conforming lot created prior to Dec. 31, 2005, containing less than 80,000 sf. to construct a 5 bedroom single family residence.

A variance to IV.A. Table IV-1/Art. IV Section B (1)(c) for road frontage; lot has 129.85 feet of frontage when 150' is required.

Ashley Rowe from Geometres Blue Hills is present for the applicants. Robert Alexander and Katherine Strauch are present as well.

This variance request is for minimum frontage requirements.

Ms. Smith states that they need to address the frontage submitted versus the actual frontage.

Mr. Rowe states that he had a conversation with the town planner who informed him he could not include the private road in the frontage. So they only frontage he can use would be on Bow Lake Road.

Mr. Rowe states that the plans were sent to DES Shoreland department two months ago. Since then, the foot print of the house has been reduced. The new structure will be 2,700 square feet including the garage, there is 2100 square feet for the actual

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living space. The structure will meet the building setbacks. The plans are not finalized. The well will be on the waterfront side of the property.

Mr. Lavigne asks if there are any stipulations as to how close you can drill a well by the water. Mr. Rowe states that there really aren't any regulations. There is an existing dug well there now.

Living area would be 4200 square feet. There will be a workshop above the garage. The plans they have presented are not final plans. If anything changes it will be a smaller house.

Mr. Naleid states that he would like a certified plot plan that is not going to change, and the board would need one as well.

Chairman Pender asks if they could postpone until the next meeting. At that time, Mr. Rowe could supply a final version of the plot plan that has dimensions showing where the building is going to be. Mr. Rowe states that he will supply a finalized version to the building inspector when they reapply.

Ms. Smith states that if they vote on this and approve it, and the applicant comes back with something less in size, the building inspector will approve it. If they come back asking for anything more, they will have to go through the process all over again. The risk is with the applicant. Regardless, the board does need total square footage.

Mr. Naleid asks what the drawn footprint square footage is. Mr. Rowe states that to the dripline is 3700 square feet.

Mr. Naleid states that it's actually 7400 square foot house that they are asking for approval for living space on two levels.

There are no abutters present; however there are affidavits from neighbors stating their support.

**Variance Criteria**

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

There is an existing house already on this lot. The existing home will be demolished and a new house will be constructed further from the lake.

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

Having one house on this lot is typical use. The ordinance has provisions for allowing the ZBA to approve construction of a house on lots with less than 150 feet of road frontage.

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

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- It would allow the owner to build a usable house. The existing house is in very poor condition and not safe to use.
4. ***The proposed use would not diminish surrounding property values.***  
The proposed structure will be much nicer looking and farther away from the lake. If anything it may improve surrounding property values.
  
  5. ***Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.***  
The existing house is in very poor condition. It is necessary to build a safe house because the existing one is not safe to use.

**Mr. Pollock makes a motion to grant the variance to IV.A. Table IV-1/Art. IV Section B (1)(c) for road frontage, based on all five criteria for granting a variance has been met Mr. Fowler seconds. Vote 5/0**

***A special exception to Art. VII C (3) to develop a dimensionally non-conforming lot created prior to Dec. 31, 2005, containing less than 80,000 sf. to construct a 5 bedroom single family residence.***

***The ZBA will only grant a special exception if the following conditions are met.***

- (a) septic systems shall be located 75 feet or greater from open drainage or surface water, 50 feet or greater from hydric B soils, 75 feet or greater from existing wells; and septic systems must meet all other setback requirements set by the New Hampshire Department of Environmental Services, unless a waiver has been granted by the appropriate state regulatory agency; and,
  
- (b) the well protection radius shall be 75' or greater and may not extend beyond the building setback on an adjoining lot.
  
- (c) all other dimensional requirements shall be met.

Mr. Rowe states that the septic will be the same design used in case 16-12. A Noreco pretreatment system treats the effluent straight out of the house to NSF class 1 standards and then pumped straight to the leach field. There are no hydric soils on the lot or neighboring lots. Well protection is 75 feet or greater and extending into the lake and extends 19 feet into property line.

Chairman Pender states that they discussed the size of the structure, which Mr. Rowe stated will be 7400 square feet at its greatest, which could diminish from there. The structure will be two stories. The area over the proposed garage is a workshop. It is 35 feet from the water line at its closest point. Mr. Rowe will be submitting an updated plot plan when he applies for the building permit.

Chairman Pender asks if the set of architectural plans presented would change at all.

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Mr. Alexander states that the internal walls may change, but the exterior walls won't change.

**Mr. Naleid makes a motion to grant the special exception to Article VII C3) as all conditions have been met. Mr. Pollock seconds. Vote 5/0**

**Internal Business**

Ms. Austin will email the Law Lecture series information to the board.

Motion to adjourn is accepted at 8:41pm

**Respectfully submitted,**

**Susan Jastremski-Austin  
Land Use Secretary**