

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

Chairman Roy Pender calls the meeting to order at 7:00 p.m.

**PRESENT:** Chairman Roy Pender, Vice-Chairman Tom Lavigne, Alternate Robert Bailey, Board Administrator Linda Smith, and Board Secretary Lisa Fellows-Weaver.

**ABSENT:** Bruce Farr, Doug Pollock, and Curtis Naleid.

**VOTING MEMBERS:** Roy Pender, Tom Lavigne, and Bob Bailey.

Mr. Pender explains that with only three members present, any decision must be a unanimous vote. No objection is given.

**MINUTES:**

**Motion is made by Mr. Bailey, second by Mr. Pender, to approve the October 28, 2013, minutes, as written. Motion passes; 2/01.** Mr. Lavigne abstains as he was not at the meeting.

***New and Continued Applications***

**Case #13:05: David Elliot, 8 Pleasant View Ave. Map 109, Lot 38.** Applicant seeks to develop an undersized, non-conforming lot (.07 acres) to include a septic system with a protective well radius that does not meet the requirements of the Northwood Development Ordinance, Article VII, Section (C)(3), to permit septic system within the 75' well radius.

Attorney Hodgdon is present along with Mr. Elliot. Atty. Hodgdon explains that they are requesting a variance for the well head protection radius of 75'. He states that the reality is that with the size of the lot and the location of existing wells of abutters and the applicant, it is physically impossible to get a septic system on that site including the existing well without being within both well- head protective radii. He notes that the well-head protective radius covers the applicant's entire lot as well as the abutter's lot, where the existing septic is located. He states that it is impossible for Mr. Elliot to put a septic system on this site without a variance from the ZBA and a waiver from NHDES.

Atty. Hodgdon states that they are currently working with NHDES on the exact design, whether it is a different design or the proposed holding tank. He explains that NHDES is looking into what will be the most acceptable under their regulations. He adds that the holding tank is not optimal from the home owner's point of view; however, they do believe that they will be able to have a design that will receive NHDES permit. He states that the issue tonight is to see if the ZBA will grant the variance from the well-head protection radius. He states that nothing can be done with without the variance.

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

Copies of a proposed septic design are distributed and reviewed by board members. Mr. Pender asks Northwood Building Inspector Charles Smart if a neighbor drills a well and the radius is on the neighbor's property, and the septic system is on the property owner's property, is a waiver necessary for the neighbors' well. Mr. Smart replies that well locations are registered with the water well board and well drillers must submit paperwork to the board when a well is installed. He states that a designer will typically look at what is on the site. Mr. Bailey states that no other wells are shown. Mr. Smart states that only wells that are within the well radius must be shown. He notes that there could be dug wells within this area as well.

Mr. Lavigne asks if a variance must be granted before the state will grant an approval for another septic system, should the existing system fail. Mr. Pender explains that the state accepts a waiver for putting a septic system within the 75' radius; however, the town's ordinance states that a variance is required in order to have a septic system within that radius. Atty. Hodgdon adds that the criteria from the state regarding the waiver is very similar as they are the same standard; however, the septic system requirements are very detailed. Mr. Bailey adds that the state may not even grant the waiver.

Mr. Lavigne asks if there are other options available. Atty. Hodgdon states that they are trying to see if a more traditional system can fit if the existing well were to be relocated. He adds that the waiver would still be necessary as they are within the 75' radius of abutters Lance and Sandi Barton's well.

Ms. Smith states that the zoning board typically decides a variance based on the plan provided, reviewed, and discussed. Atty. Hodgdon replies that the septic system would be in the location of the tank, the location would not significantly change. He adds that he does have an alternative plan; however, he is not sure if the design would change until the variance is granted and they submit the plan to NHDES. He requests that the variance be granted contingent on NHDES approval of a design.

**5 Variance Criteria**

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

Atty. Hodgdon states that the proposal to install a septic disposal system on Mr. Elliot's land, most likely a sealed holding tank, poses little to no risk to surrounding water supplies if properly maintained. NHDES will properly address the potential risks to the public by any proposed system. Proper maintenance and operation of a holding tank is assured by NHDES which requires a service agreement be in place with an appropriate provider. The proposal strikes the appropriate balance between permitting an owner to reasonably continue to use and enjoy his property and preventing undue impacts on the community or the quality of life of its residents.

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

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

Atty. Hodgdon states that the applicant's proposal is consistent with the Ordinance's intent to balance the process of growth and change while preserving the qualities that make Northwood safe and desirable. A reasonable future plan to address Mr. Elliot's septic disposal is essential to permit continued use and enjoyment of his property. The proposal does not impact traffic congestion, fire safety or limit sunlight or air circulation. There is no change in population concentration or the provision of public services. Natural resources will also be protected pursuant to the NHDES process.

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

Atty. Hodgdon states that due to the lot size (40 x 80 feet) and the existing development of Mr. Elliot's lot, as well as that of adjacent lots, obtaining the 75 foot protection radius is not practicable. Without relief from this provision, Mr. Elliot will be unable to replace his existing system on his property. His residence will be uninhabitable without some manner of addressing septic disposal. While Mr. Elliot will continue to look for viable solutions, obtaining the 75 well radius is not physically practicable on his lot. It would be unjust to deprive him of all use of his existing home in these circumstances.

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

Atty. Hodgdon states that the proposal is in keeping with the nature of the surrounding properties. This older neighborhood is very confined and tightly configured. Mr. Elliot's neighbors, save one, support his proposal and have no concerns regarding it. The remaining neighbor, Mr. Charles Brown, owns the lot immediately to the north upon which the existing septic system is located. His opposition is puzzling. Removing the existing system and relocating it onto the Elliot lot would, in fact, remove an encumbrance on Mr. Brown's land increasing its marketability. Furthermore, his lot is presently occupied by a dilapidated, abandoned building that poses enormous health and safety issues. It is simply inconceivable that Mr. Elliot's septic plan would have any impact whatsoever on Mr. Brown's property value.

**5. *Literal enforcement of 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:***

Atty. Hodgdon states that Mr. Elliot's lot size, 80 x 40 feet, makes compliance with the 75 foot well radius extremely impracticable. Unlike other lots in the area with similar size constraints, none appear to have septic systems presently located on adjoining land like Mr. Elliot does. At one time the two lots were in common ownership and the system served both. Presently, the system exclusively serves the Elliot residence. The system has been on the adjacent land for several decades.

*Official as of December 17, 2013*

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

Although Mr. Elliot has valid legal and equitable claims to continued use of that land for his septic system, there is no express easement for it. A protracted legal dispute is likely.

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

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

***(ii) The proposed use is a reasonable one because:***

***-OR-***

***If the criteria of paragraph (A) are not established, an unnecessary hardship will be deemed to exist, if and only if:***

***(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:***

Atty. Hodgdon states that Mr. Elliot's small lot size, 80 x 40 feet, makes compliance with the 75 foot well radius extremely impracticable. Due to the location of the well, the residence, and neighbors, obtaining a full 75 foot well radius cannot reasonably be obtained on his lot. If Mr. Elliot is not able to obtain relief from the zoning requirement, he will be unable to replace it on his land. As a result, his residence will potentially be rendered uninhabitable and his property value devastated. The property is his family's home and a major asset.

Mr. Lavigne asks how the voting will take place. Mr. Pender explains that this case, the variance, will be voted on. He adds that all 5 criteria will be voted on as a whole.

Mr. Lavigne asks whose responsibility it should be if the system fails. Atty. Hodgdon states that Mr. Elliot would be responsible to remove the existing system and replace it with the new system.

Mr. Pender asks for public comments.

Mr. Brown states that the septic tank has never been shared by the two properties; one tank-one building. Atty. Hodgdon states that there is no dispute that the system that is located on the land is that of Mr. Elliot's and if something should happen he would be responsible for it.

Ms. Parmele states that she is not against the variance; they support the variance. She states that obtaining a variance will solve the public health issues. She states

*Official as of December 17, 2013*

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

NHDES has said that the only option is to get a holding tank; there is no alternative, a holding tank cannot handle an expansion. She adds that if the variance is granted, it is should not be to pave a way for any expansion.

Atty. Hodgdon replies that there are various types of expansions. There is expansion of septic loads with impacts to the capacity as well as ones that have no impacts. He states that the system being mentioned is the one not applicable here versus the one that is, which is that there is no increase in load proposed by the expansion. Ms. Parmele states that in NHDES Administrative Rules for septic systems there are definitions for expansion and expansion of use. She states that to her it means an expansion in living space.

Mr. Pender asks for additional public comment. With no additional comments, Mr. Pender closes the public comment portion of this case.

**Mr. Lavigne makes a motion, second by Mr. Bailey, to approve the variance for the well radius, based on the fact that all 5 criteria have been met.**

**Roll Call Vote:**

**Mr. Bailey – yes**

**Mr. Lavigne – yes**

**Mr. Pender – yes**

**Motion passes unanimously; 3/0.**

***Continued Case:***

**Case #13:04: David Elliot, 8 Pleasant View Ave. Map 109, Lot 38.** Applicant seeks a special exception to Article VII, Section (B)(3)(a) for an upward expansion of an existing non-conforming structure located within the setbacks;

Applicant seeks relief from RSA 674:41 II to allow an upward expansion of an existing structure, on a right of way.

***Special Exception 3 Conditions:***

**(a) 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.**

**(b) If an upward expansion, it shall not exceed the maximum height limitations specified in this Ordinance.**

Atty. Hodgdon explains that the applicant is not proposing to exceed the 35' limit; the expansion is 29'.

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

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

Atty. Hodgdon states that he is not aware that the proposed expansion will increase any non-conformity. The proposal will not decrease the setbacks or increase any non-conformity of the existing structure, which is not conforming in many ways.

Atty. Hodgdon refers to “(a)” regarding the proposal having any adverse impacts on neighboring properties. He states that letters have been provided from all of the abutters providing support of the proposal, less Mr. Brown. He adds that there are no adverse impacts to the property of Mr. Brown and notes that the property is dilapidated, run down, and is covered in blue tarps for the past 7-8 years. Atty. Hodgdon states that there is no reasonable argument that the proposal will impact the Brown’s property from air circulation and sunlight, given its present location and existing condition and reasonable view. He states that they request that the special exception be granted as there is no reasonable argument for detrimental impacts to the abutting properties.

Mr. Pender asks if there will be any increase in sleeping areas. Atty. Hodgdon replies that the area proposed is only to be living area; not a bedroom, and there will not be a closet. Mr. Elliot states that this area is to be a gray area. Mr. Pender asks if there will be an additional bathroom. Atty. Hodgdon replies no.

A discussion is held regarding the overall size. Mr. Lavigne asks if the size is to be 12x12x24½. Atty. Hodgdon replies yes. Mr. Lavigne asks if there was an existing porch and the intent is to add to the top of the porch. Mr. Elliot replies yes. Mr. Lavigne asks if there has been foundation work to the porch. Mr. Elliot replies that the foundation was put in 2002-2003 and at that time it was viewed by Dave Hickey, the building inspector. He adds that this is a year round home that was approved in 2004. Mr. Bailey asks how the structure was approved to become a year round home without an approved septic design. Mr. Elliot states that Mr. Hickey approved the classification to the residence on 11-15-04. Mr. Elliot states that all of the upgrades were done as required.

Ms. Smith reviews the property file.

Mr. Bailey asks how the board can take any action if there is no approved septic design, and there is no state approval. Mr. Pender states that the board can conditionally approve an application. Ms. Smith states that the special exception criteria must be met, rather than having conditions attached. Atty. Hodgdon states that the septic system is not a requirement under the criteria for a special exception; however, they will be happy with an approval contingent on the state’s approval.

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

Ms. Smith refers to the occupancy permit from 2009, which is based on the full 2004 foundation.

Mr. Bailey asks if the porch has been used as part of the house. Mr. Elliot replies no. He explains that the porch has been enclosed and the windows are in but because of the cease and desist order nothing else has been done. He states that the porch was an existing outdoor porch, the railings have been removed. Mr. Bailey states that the proposal is adding a room above the porch. Mr. Elliot replies yes. Mr. Bailey asks if there will now be two rooms, the room that was the porch and the room being built above the porch. Mr. Elliot replies yes.

Mr. Pender asks if the footprint is being changed. Atty. Hodgdon replies no and adds that the ordinance states that portions of the structures may be enclosed and expanded upwards if granted a special exception.

Mr. Pender reads the requirements for a special exception. He asks if there is any adverse impact on neighboring properties. He states that the board has heard much testimony. He states that it is his belief that the expansion is not blocking sunlight or views as the property next door is not in use.

Ms. Smith states that the public portion of the case has not been closed from the last meeting. At this time, Mr. Pender asks for comments from the public.

Ms. Parmele states that she is amazed that this matter is going forward. She states that she was going to ask for a continuance and notes that the plan has not been approved from NHDES. She states that she does not feel that NHDES will approve a plan for a holding tank. Mr. Pender states that NHDES will address the variance that was granted. He states that the board granted the variance only to allow a septic system within the well radius. He adds that the discussion on this matter should be with NHDES. Ms. Parmele states that this now relates to the special exception relative to the expansion.

Ms. Parmele reads a statement into the record relative to Section (a).

***Impacts to Mr. Brown's property from continued use of the septic system on his property.***

*Mr. Elliot wants to expand the living space of his house, and in fact has already constructed some of this expansion, despite not having the proper permits. He has enclosed his porch, and has put up the rafters for a second story addition. It should also be noted that a few years back, he jacked his cottage up about 4 ft. and excavated 4 ft. under it, including the porch area, put in a concrete foundation, and created a day-lighted basement - living space. This will end up being a three-story house; three-stories of living space.*

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

*Mr. Elliot says he is simply expanding his living space and there will be no additional people living there, so there will not be an increased load on the septic system. But it is certainly possible that because there will be more living space, more people could live there or at least visit there, especially in the summer because of the close proximity to Northwood Lake. He could also sell the property, at which point the number of bedrooms could be subtly increased, given the amount of living space available. This happens all the time with properties located near the water that start out as seasonal cottages.*

*A September 24, 2013 letter to Mr. Elliot from Richard DeSeve, Compliance Supervisor at NHDES' Water Division Subsurface Bureaus, states the following:*

*"DES' understanding of the current state of the sewage disposal system serving your property is that it is more than 20 years old and does not have a state construction or operational approval. Thus, you will need to submit plans for a new sewage disposal system for review and approval prior to commencing the expansion of your structure. As noted in RSA 485-A:38, II-b, you are not required to install that system unless or until the present system fails."*

*The septic system Mr. Elliot utilizes on Mr. Brown's property is at least 35 years old, and all that is known about it is that it is a steel tank. It is not shared with Mr. Brown's cottage, so is definitely not sized for two cottages. Mr. Elliot has no specific knowledge of what that system is actually able to handle, but he seems to have been willing to take a chance on this, - on someone else's land. Allowing the antiquated septic system on Mr. Brown's property to handle an increased load for 4 years or until the system fails could have a significant impact on the property as well as on Northwood Lake, which is about 120 ft. from the existing system.*

***DES Administrative Rule - Env-Wq 1002.31 "Failure"*** means "failure" as defined in RSA 485-A:2, IV, namely "the condition produced when a subsurface sewage or waste disposal system **does not properly contain or treat sewage** or causes or threatens to cause the discharge of sewage on the ground surface or into adjacent surface or ground waters."

*There is no way that the existing septic system will be able to properly contain or treat sewage from the expanded use of Mr. Elliot's property. In addition to the health and safety impacts, the continued degradation of the soils on Mr. Brown's property will also impact his ability to use his own property.*

***Other impacts to Mr. Brown's property:***

*The expanded use of the septic system on Mr. Brown's property is the most significant impact involved, in considering whether a Special Exception should be granted. But there are other impacts from the enclosed porch and second story addition that need to be considered. Because Mr. Elliot's house is 4-5 ft. from the side property line, his house, with the expansion now partially completed, can already be seen to be looming*

*Official as of December 17, 2013*

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

*over Mr. Brown's property. Ironically, the recent construction has made it clear how intrusive the house will be if it completed.*

*It will be out of scale with the very small lot it is on as well as the surrounding area, and will make what is already a crowded situation even more crowded. It will also block sunlight coming onto Mr. Brown's property from the south. Mr. Elliot has been critical of the fact that Mr. Brown has not kept up his own property, and has said this has impacted him. But he seems unaware of the impacts he has created and is creating.*

*It's ironic that because Mr. Brown hasn't used his property very much, this has meant that Mr. Elliot has been able to think more expansively about his own small property, and perhaps to actually think he has more land than he actually has. A good example of this is his assumption that he can keep using the septic tank on Mr. Brown's land as he expands his own house, as if he doesn't even realize that he lacks the land for a septic system to handle the existing use of the property, not to mention the expanded use that is planned.*

*Mr. Brown has been more than fair in the past, in not contesting the septic system on his property, and not complaining about Mr. Elliot's ever expanding use of his own property over the past several years, on a tiny lot sandwiched between two other properties. This expansion has already had a significant impact on Mr. Brown's use of his own property; it's become evident that in order for him to make good use of his property, he'll need to develop and get approval for an alternative design for it, involving move the building footprint away from the side property line. As part of this redesign, he'll need to have access to all of his property, which is a nonconforming lot, in order to be able to do a site plan, - including a design for a new septic system.*

*Another issue related to the granting of the Special Exception is that Mr. Elliot essentially has taken over the use of the lakefront area at the end of Pleasant View Ave over the past several years although that access to the lake is shared. After the fact, he told Mr. Brown that he was welcome to use the dock; it clearly appears to be Mr. Elliot's space.*

In closing, Ms. Parmele states that there may be some questions relative to the lot lines. She states that it would be a good idea for a certified plot plan to be included. Mr. Brown provides pictures for review.

Atty. Hodgdon states that NHDES rules define what increases loads and what doesn't. He explains that the proposal does not meet the definition of increasing the septic load. He states that the abutter's concerns are understandable; however, are incorrect. Moreover, as mentioned in the earlier proceeding if the septic system fails, it is Mr. Elliot's responsibility. Atty. Hodgdon states that the applicant will not be increasing the load and understands that he must make the system last. He states

*Official as of December 17, 2013*

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

that with regard to the adverse impacts, he states that he does not believe that Mr. Brown's residence is 45' away. He notes that this is outside of any normal setbacks that the town would have. He adds that he has not measured this as he did not see it to be an issue.

Atty. Hodgdon provides copies of pictures, which show a structure between the Brown and Elliot residences, owned by Mr. Brown. He adds that the pictures point out that it is not reasonable to state that this is blocking sunlight from the property, or air circulation, or otherwise impacting it by the proposal. Atty. Hodgdon states that from an aesthetics point of view, he suggests that this is more problematic than Mr. Elliot's expansion.

Atty. Hodgdon states that Mr. Elliot's home is still going to be a two bedroom home. He states that it is not increasing the occupancy or septic load.

Atty. Hodgdon mentioned that at one time, he believes that these two summer cottages, did share a septic system. Mr. Pender asks that today only Mr. Elliot's property is utilizing that system. Atty. Hodgdon replies yes and it is the responsibility of Mr. Elliot.

Mr. Lavigne states that he does not believe that the views are an issue here; however, he asks about there being an impact with air circulation and the passing through of sunlight. Mr. Pender refers to a letter from abutters Bartons, and states that they did not believe that there would be any adverse impact. He adds that he does not believe that there would be impacts to the property of Mr. Brown. Mr. Pender also refers to additional letters from abutters. Additional discussion is held regarding the abutting properties and locations of structures.

Ms. Parmele comments that this issue has made them realize they need to address their property. She states that one issue is the fact that these lots are so close and there is an expansion occurring and there is not much land in the area. She states that it makes sense to move away from the structures. Ms. Parmele states that the blocking of light and views are secondary impacts to the septic system. She states that there is impact to the septic system by a three story building on an existing antiquated septic system. She states that she does not see how that this cannot be considered to be an impact.

Ms. Parmele states that the purpose of the ordinance talks about guiding character, growth, development, and changes to the town in order to provide the public health, safety, and general welfare. She states that this proposal of more living space could have an impact with more traffic, fires, and other dangers. She states that sunlight and air circulation could be argued to be an issue. In addition, this is overcrowding of land and increasing population. She states that she believes that this property is overcrowding the land; it is already very tight in this area. She states that these lots

*Official as of December 17, 2013*

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

were small when originally developed and are too small to be expanded; this is not keeping within the town's ordinances. She continues that there is a public health issue because of being within the well radius, and with an expansion, inevitably the load will increase, which will affect the lake. Mr. Pender states that an approved system will improve the lake. Ms. Parmele replies that the system will only be replaced once the existing system fails and this is already an antiquated system.

Mr. Brown states that he has spoken to Mr. DeSeve of NHDES, who has stated that a holding tank is what it is. He asks how the board can approve this special exception without knowing what the applicant will get and, in addition, there has not been a survey done. Mr. Brown adds that he disputes the lot lines and there is no registered plot plan by a certified surveyor provided, which he has requested at a previous meeting.

**Mr. Lavigne makes a motion, second by Mr. Bailey, to deny the special exception for the upward expansion, based on the fact that criteria "(a)" has not been met, Section VII; (B)(3).**

Mr. Lavigne states that he is in favor of people improving their property. He states as he drove down the driveway or road, looking up and looking at the surrounding properties he noted that this structure is going up high, and how really small this lot is, and it is tight in this area. He asks does it impact the light, and the views, is it overcrowded? He states that he thinks it is overcrowded now and he feels that this proposal will only add to it. He states that in all good conscience, for the town, he cannot vote for this expansion.

Mr. Pender states his concern over how the application process has occurred including the lack of an approved septic design; he supports the motion to deny. Mr. Bailey agrees and adds that he does not believe that the board can approve this until a septic plan is approved by the state. He adds that the board also needs to consider the future and look at the properties for the future. Mr. Bailey states that the expansion is adding two more rooms to the Elliot property; it could be sold, and there would be this additional living space. Mr. Pender states that the possibility is there but without something firm in hand relative to the septic design from the state, and there is the possibility that there may be a different septic design provided, this decision is the best option.

Ms. Smith requests that the board be specific with their reasons for denial. Mr. Pender explains the appeal process.

Mr. Pender explains that the issue is overcrowding and further crowding does not help the area. As far as height, Mr. Lavigne states that he does not feel that the expansion exceeds the maximum height limitations (Section (b)). He adds that the

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

area is crowded; the buildings are very close together. He states that (a) is applicable (for denial) for reasons stated.

**Roll Call Vote:**

**Mr. Bailey – yes**

**Mr. Lavigne – yes**

**Mr. Pender – yes**

**Motion passes unanimously; 3/0.**

Applicant seeks relief from RSA 674:41 II to allow an upward expansion of an existing structure, on a right of way.

Ms. Smith explains that this request was a part of the original application. She states that the applicant has requested relief from a road that does not meet the state standard for issuance of a building permit. She explains that when it is a right of way it is appealed to the zoning board. Ms. Smith states that the board needs to consider 4 items relative to the statute. This relief is required in order to obtain a building permit.

Atty. Hodgdon states that this is a moot issue at this point without the approval of the special exception. He adds that this was submitted with the application asserting RSA 674:41 (I)(e), that this road pre-existed and there is more than one building already structured on it, and it is a private road. Mr. Pender reads the RSA.

Atty. Hodgdon states that it is on the recorded North Shore Park subdivision plan from 1912. Ms. Smith states that the relief would not be needed at this time and Mr. Pender agrees.

**Case #13:06: Peter Horne, 153 Jenness Pond Rd. Map 206, Lot 26.** Applicant seeks a special exception from Article VI, Section (E)(2) of the Northwood Development Ordinance, to allow a section of a driveway to cross an area within the steep slope overlay district.

Scott Frankiewicz of Brown Engineering is present along with Greg Bauer, representing Peter Horne.

Mr. Frankiewicz states that he has received a conditional approval from the planning board for a two lot subdivision on October 24. He states that they are proposing a common driveway. He states that there is one lot with approximately 350' of road frontage with an existing mobile home and garage. He explains that the second lot parallels the property lines and has a 22% slope. Plans are reviewed. Mr. Frankiewicz explains that the existing driveway apron on Jenness Pond Rd., will be expanded per planning board conditional approval. He states that it must be made larger to accommodate two vehicles.

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

Mr. Frankiewicz states that they have received state subdivision approval. He states that here is an existing mobile home and garage; however, a demo permit has been approved and the plan is to place a newer home on the site.

Mr. Bauer explains that the existing driveway is gravel. He does not believe that they are planning to change that. He states that this is a very pervious area. The crossing will be made of processed gravel. He explains that the slopes will be loamed, seeded, and vegetated. They will add rip rap if necessary.

**Special Exception 3 Conditions:**

VI.E. (2) SPECIAL EXCEPTIONS

A Special Exception for construction in areas with slopes of 20 % or greater but less than 25% may be granted by the ZBA if the following criteria are met:

**(a) The impact of the clearing and development shall be the minimum necessary to accommodate the development.**

Mr. Frankiewicz explains that there will be minimum clearing done only for the driveway and building lot only.

**(b) A suitable erosion control plan shall be implemented during construction.**

Mr. Frankiewicz explains that they propose to loam and seed the side slopes and will add silt fence, if necessary. A discussion is held regarding the need to add a culvert. Mr. Frankiewicz states that a maintenance agreement was also required as a condition from the planning board. The agreement will state that each lot owner will be responsible for equal driveway maintenance for the shared portion of the driveway.

**(c) A suitable drainage plan shall be implemented for post development conditions.**

Mr. Frankiewicz explains that the driveway location will shed runoff as it currently does. A discussion is held regarding the need for a detail showing the profile for the driveway.

Mr. Lavigne expresses concern with the fact that the applicant is only stating that these items will be done; there is no plan showing the proposal.

Mr. Frankiewicz states he will add more notes to the planning board plan regarding the drainage and erosion items.

Ms. Smith states that the zoning board does not have the authority to require the addition of notes to the planning board's plan; however, the board can request a drainage plan. She suggests that if the board requests that information, to continue

**Town of Northwood  
Zoning Board Adjustment  
November 25, 2013**

the case based on the need for additional information. Ms. Smith states that there should be a plan to determine compliance.

Mr. Pender asks Mr. Smart what he will need for enforcement. Mr. Smart explains that he was not able to do a denial letter for this case as they could not apply for a building permit until there was a driveway permit, and in order for the driveway permit they needed the special exception. Mr. Smart adds that there is nothing involved for him to deny a building permit. He states that driveway permits are issued by the road agent. Mr. Bailey notes that there is a pre-existing driveway. Mr. Smart states that a completed application must be provided with a septic design, driveway permit, survey, etc.

Mr. Lavigne states that the board must grant the special exception provided the three criteria are met; however, these items have not been done yet and the criteria has not been met. Additional discussion is held regarding the steep slopes after the houses are built. Mr. Pender notes that there is one section that is on the side of a hill; there will be erosion and wear down in that one spot. Mr. Bauer states that this will be gravel and they are changing the slope so that there will not be as steep a slope. He notes that the current driveway is a steep slope.

Mr. Pender asks what the new slope will be. Mr. Frankiewicz states that it will meet the town's driveway specs. Ms. Smith states that the town does not have driveway standards, which is why she recommends that a suitable erosion control plan and suitable drainage plan should be provided to the board. She states that there is nothing provided showing existing and what will be completed; either a plan or a document. Mr. Smart suggests adding the details to the plan.

Mr. Pender opens the public comment portion for this case.

Abutter Richard Blouin is present. He mentions that there is a dug well nearby. He starts that about 25 years ago there was a lot of water going onto his property. A swale was done to prevent more drainage issues. He expresses concern with the additional drainage onto his site and destroying the swale.

**Mr. Lavigne makes a motion, second by Mr. Bailey, to continue this case to December 17, 2013** so that additional information may be provided by the applicant. **Motion passes unanimously; 3/0.**

**ADJOURNMENT**

**Mr. Lavigne makes a motion to adjourn. Mr. Bailey seconds. Motion passes unanimously; 3/0.**

Respectfully submitted,  
Lisa Fellows-Weaver Board Secretary

*Official as of December 17, 2013*