

**Town of Northwood  
Zoning Board of Adjustment Meeting  
October 19, 2023**

**Cases heard at this meeting:**

Case 23-05: Sharon & Michael Sirois, 8 Lufkin Dr. Map 223; Lot 4.

Case 23-17: Michael Cowan and Maryann McDermott, Kramas Lane. Map 102; Lot 9.

Case 23-18: Christopher and Suzzanne Kopp, 28 Shore Drive. Map 122; Lot 41.

Case 23-19: Donald & David Hughes, 7 North Lane. Map 108; Lot 43.2.

Case 23-21: LSF Inc., Richard Daniels, 273 Jenness Pond Road. Map 203; Lot 19.

**Chair Sanderson called the meeting to order at 6:30 p.m.**

**PRESENT:** Chair Pam Sanderson, Members Steven Kasanovich, Robin Guzofski, Betsy Colburn (participating electronically), and Alternate Maryelen Brown.

*Ms. Colburn's reason for not being at the meeting in person is medical.*

**VOTING DESIGNATION:** Chair Pam Sanderson, Steven Kasanovich, Robin Guzofski, Betsy Colburn, and Maryelen Brown.

**TOWN STAFF PRESENT:**

Land Use Specialist Linda Smith, and Land Use Administrative Assistant Lisa Fellows-Weaver.

**MINUTES:**

**September 21, 2023**

**On a motion made by Ms. Colburn, and seconded by Ms. Brown, the Board voted unanimously, by roll call vote, to approve the minutes of September 21, 2023, as written.**

**October 5, 2023 – Site Walk**

**On a motion made by Ms. Brown, and seconded by Ms. Colburn, the Board voted unanimously, by roll call vote, to approve the site walk minutes of October 5, 2023, as amended, to add ... *location of the telephone poles.***

**Continued Cases:**

**Case 23-05: Sharon & Michael Sirois, 8 Lufkin Dr. Map 223; Lot 4.** Applicants seek relief to allow for the construction of a new dwelling within the setbacks:

- A Special Exception from Article VI.A(4)(a), structures within 20 ft. of a wetlands buffer/setback.
- A Variance from Article IV.B(4), structures within 10 feet of the setback, where 20 feet is required.

*Continued from March 27, 2023.*

Sharon and Michael Sirois were present.

Mr. Sirois explained that a revised plan was provided, dated September 13, 2023, removing the 7 ft deck from the westerly side and to show corrected dimensions from the new survey. He stated that the new dimensions show the house is 20.8 feet from the lake, previously was 19 feet. He stated that they are now 10 feet into the 20 foot setback of the wetlands where they were 7.5 feet from the wetlands boundary. This plan also shows the property now without the deck.

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Chair Sanderson read the Conservation Commission's memo dated October 5, in support of the Special Exception.

A discussion was held regarding the garage. Mr. Sirois stated currently there is a partial foundation; cinder blocks. The proposal is to add a full walkout basement and add a second story.

Ms. Colburn noted the prior comments from the Fire Chief relative to the access and egress with fire apparatus. Ms. Smith stated that this is a driveway; it is not a road. Mr. Sirois noted that they have an 11-foot-high motorhome they have no issues with driving in and out or down the driveway.

Chair Sanderson noted no abutters were present. Ms. Weaver read two letters from abutters, which were previously read into the record in March.

Mr. Sirois responded to one letter's questions from Mr. & Mrs. Curran. He stated that the new proposal is to increase the structure to a two-bedroom home. He added that the septic system is adequate for three bedrooms.

Chair Sanderson stated that the proposal is to change the use from seasonal to a year-round structure and will be a complete tear down. She explained that the proposed structure is a new structure and must conform to the ordinances. The proposal is within 20 ft of the wetland setback. She stated that there is nothing special of the parcel showing why it cannot be in compliance. She referred to the April 2023 ZBA minutes relative to a discussion held regarding the conformity of the lot and the non-conforming status of the building. She noted that with the proposal of the garage and location of the septic and septic tank, she feels that the lot is capable of being in compliance. Also noted were the many easements, which they have stated previously that limits any other locations for the house. This plan provided now shows there is the ability to have an expanded footprint that would not interfere with telephone poles, and the various easements on the property.

Chair Sanderson read the following:

***Article VI.A. (5) IMPACTS ALLOWED BY SPECIAL EXCEPTIONS***

Special exceptions may be granted by the Zoning Board of Adjustment, upon notice and hearing as prescribed in RSA Chapter 676, for the following impacts within the Wetlands Conservation Overlay District and its setbacks:

- (a) Those impacts to the Wetlands Conservation Overlay District or its setbacks that are essential to the productive use of land not within the Wetlands Conservation Overlay District shall be allowed by Special Exception. Those impacts include but are not limited to: the construction of roads, driveways, or other access ways, utility rights-of-way and easements, including power lines and pipelines, with adequate provisions where called for, for the continued, uninterrupted flow of surface run-off water. The ZBA shall grant a Special Exception, provided the following are met:

- [1] The applicant shall first meet with the Conservation Commission, and written findings by the Northwood Conservation Commission regarding the proposal, including but not limited to minutes of the meeting at which the proposal was

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discussed, are submitted with the Special Exception application, are reviewed by the ZBA, and are made part of the record of the case.

Chair Sanderson stated that the Applicant met with the Conservation Commission and the Commission provided correspondence in support of the additional encroachment.

- [2] The applicant shall submit sufficient information necessary to demonstrate that the proposed impacts are essential for the productive use of land not within the Wetland Conservation Overlay.
- [3] Dredging, filling or other alteration shall be designed to minimize adverse impact on the wetland and its setbacks, even if this requires adjustments in design outside of this overlay district; and
- [4] there shall be provisions made to restore the site as nearly as possible to its original grade and condition.
- [5] a state wetlands permit shall be obtained when required.
- [6] a Special Exception is not required when the impact meets the criteria for a permit by notification as defined by the NH Wetlands Bureau Code of Administrative Rules.

Mr. Sirois stated that the existing building has been in place since 1940. The proposed planned improvements will use the same footprint, which results in no changes to the existing location. There will be no impact or disturbance of any additional areas. The existing lot/property and layout prohibit from positioning construction elsewhere. The proposed construction will impact/replace the existing building, will meet the current building codes, and provide for a safer overall condition. The State of NH Shoreland protection permit has been approved for this project and a copy has been provided within the application packet. He noted many upgrades have been made to the house including the roof, electrical, walls, septic, but the change of use was never followed through previously. Ms. Sirois stated that these upgrades occurred 20 years ago.

Ms. Smith stated that the upgrades have no bearing on this application.

Chair Sanderson stated that if the proposal was a seasonal use to seasonal use, then making the proposed changes would most likely be okay; however, this is a seasonal use changing to a year-round use, which ends up being new construction. She asked what is special in this space where this could be in compliance.

Mr. Sirois stated that they would need to move the house and move the septic. Chair Sanderson stated that they are proposing building a new house with a cellar and garage anyway. She stated that she does not understand why they need to be impacting the wetlands when they could be in compliance.

Ms. Sirois stated that they want to keep the house in the existing condition, which is the area requiring no disturbance as they do not need to cut down any trees. The garage is proposed in the open space; they will lose some driveway. Moving the house, they would also need to move the septic tank.

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Additional discussion was held relative to the following:

- [2] The applicant shall submit sufficient information necessary to demonstrate that the proposed impacts are essential for the productive use of land not within the Wetland Conservation Overlay.

Chair Sanderson asked if there are no other options for the structure; the house must be in this specific location.

Mr. Sirois explained that shifting the house would be at least moving 15 feet. Ms. Sirois stated that they did look at other designs and shifting would impact the neighbor's driveway.

Mr. Kasanovich stated that whether we have prior records or not noting the upgrades, it is still a point that the Applicants have raised and should be noted by the Board.

Ms. Brown stated that this is the construction of a new house.

Ms. Guzofski commented that she was also thinking on the same lines of Mr. Kasanovich noting the prior upgrades and a decision was made by a former building inspector.

Ms. Smith stated that the current building inspector has made the decision that this is a seasonal residence and is what holds now; it is not what was done or said in the past. She explained that the Applicant also had the right to appeal the Building Inspector's decision.

Ms. Sirois stated that this process seems to be working against her. She explained that this is a camp and has deteriorated. She explained that it makes more sense to rebuild than to repair it. She added that they do not want to move everything else on the property.

A discussion was held regarding the shoreland permit. Ms. Smith stated that the shoreland permit may change if the structure were moved.

- [3] Dredging, filling or other alteration shall be designed to minimize adverse impact on the wetland and its setbacks, even if this requires adjustments in design outside of this overlay district; and

Additional discussion was held regarding wetland impacts and mitigation. Ms. Sirois stated that they will be adding silt socks. They could also add hay bales.

Mr. Sirois stated that they are adding infiltration trenches around the garage. Chair Sanderson stated that the town boards have been leaning towards bonds due to environmental concerns. Ms. Smith stated that this Board can make conditions of approval.

- [4] there shall be provisions made to restore the site as nearly as possible to its original grade and condition.

Ms. Sirois stated that their intent was to avoid any disturbance. They do plan to restore the site as necessary.

- [5] a state wetlands permit shall be obtained when required.

The State of NH Shoreland permit has been obtained.

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[6] a Special Exception is not required when the impact meets the criteria for a permit by notification as defined by the NH Wetlands Bureau Code of Administrative Rules.

Chair Sanderson stated that they have a Special Exception application.

Chair Sanderson noted no abutters were present. With no additional comments from the Applicant, Chair Sanderson closed the public hearing and opened Board deliberations.

Ms. Brown stated that this is new construction and commented that criteria #2 has not been met.

Chair Sanderson stated that the ordinance is for compliance and in this case the land is willing to conform but the building is not changing.

**On a motion made by Ms. Brown, seconded by Mr. Kasanovich, the Board voted unanimously, by roll call vote, to deny the Special Exception based on the lack of necessary information required to demonstrate that the proposed impacts are essential for the productive use of land not within the Wetland Conservation Overlay. The lot has potential to be in compliance.**

**Case 23-17: Michael Cowan and Maryann McDermott, Kramas Lane. Map 102; Lot 9.** Applicants seek relief to the following to build a single family residence, on a private right of way where the lot size, frontage type and length, structure setbacks, and setbacks within the Wetlands Conservation Overlay District have not been met:

- A variance from Article IV.B.(1)(b), Type of Frontage. This lot is on a private road.
- A variance from Article IV.B.(2), Lot Size.
- A variance from Article IV.B.(4), Setbacks.
- A variance from Article IV.B.(1)(c), Length of Frontage.
- A special exception Article VI.A.(4), Setbacks, within the Wetlands Conservation Overlay District.

*Continued from August 17, 2023*

Tobin Farwell of Farwell Engineering Services represented the application.

Chair Sanderson read the Conservation Commission's memo dated October 18, in support of the Special Exception as follows:

1. Erosion control measures, as required by NHDES, should be installed around the wetland areas during construction.
2. During removal of the existing concrete foundation, it is recommended that work be done from the southeast corner of the structure to minimize wetlands disturbance.
3. The stone wall, approximately 45 feet in length that runs in a northerly direction between the existing foundation and the driveway, should be removed from the plans since it does not exist on site.
4. The Commission acknowledges that the wetlands restoration of 562 square feet, as required by the NHDES wetlands permit (2019-01123), has been completed. Although removal of all invasives species was part of the permit it should be noted that Japanese Knotweed was observed on the site.

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Mr. Farwell referenced RSA: 674:41 and provided a plan #D21843 with Planning Board approval, a lot line adjustment from 1992.

Mr. Farwell provided revised plans and referenced Sheet 1, which showed an errant line for a stone wall, this has been eliminated. In addition, Sheet 2 has been revised based on the road improvements for Kramas Lane. Mr. Farwell stated that notes were added to Sheet 2 to clarify the plan for road improvements.

Mr. Farwell stated that at the last meeting the Board discussed the Selectmen's guidelines. He stated that it is his understanding that they had all agreed that the road should be 20 feet wide, 16 feet with 2 foot shoulders on each side. He read the following notes he has proposed on Sheet 2, for Kramas Lane road criteria:

1. The intent of the plan is to improve Kramas Lane to Caldwell Lane.
2. The improvements will need to be done before the issuance of a building permit for Map 102; Lot 9.
3. There must be a minimum of 20 feet of width along Kramas Lane. This is based on 16 foot travel surface and 2 foot shoulders on each side.
4. As indicated on the plan there are trees adjacent to the road that limits the width to less than 20 feet. The trees are required to be removed. Additional regrading may be required to provide a reasonable flat travel and shoulder width of 20 feet.
5. The tree stump and roots must be removed and filled with clean gravel fill and compacted.
6. The building inspector will review Kramas Lane to ensure that the entire length has a minimum width of 20 feet before issuing a building permit.
7. The road gravel is in good condition and additional gravel for rutting may be required. It is not the intent to provide an additional four inches of gravel for Kramas Lane.

Mr. Farwell stated that they are not proposing to bond the road.

Ms. Smith suggested changing "building inspector" to the Board of Selectmen or their Designee.

Ms. Smith stated that there is a right of way, which typically means a right to pass and repass. She asked if the homeowners have the right to make these changes on someone else's land.

Mr. Farwell stated that they have been in contact with Mr. Caldwell. He did have some concern with upgrades to the road, which is why they are only proposing the noted changes. Mr. Caldwell has stated he is okay with the proposed changes and removal of the trees. Mr. Farwell stated that he believes that if there is a right to pass and repass you are able to make an area passable, if necessary. He stated that this is his problem to address.

Ms. Smith stated that the Board should have something provided to them in writing. She stated that if there was an issue with the property owners and there is legal action, then the Town of Northwood may be involved. She suggested that a letter be provided from the landowner.

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Mr. Farwell stated that there is a deeded plan of record provided. The improvements are their responsibility; the road is their purview, and the Town would not be involved.

Chair Sanderson stated that the Board would like to have something provided in writing indicating that Mr. Caldwell is fine with the road proposals and absolves the Town for responsibility. She stated that it appears that the Board is happy with the proposed improvements. She added that the Board wants to make sure that the owners are satisfied; it is not the same as having something provided in writing.

Ms. Smith suggested Town Counsel be contacted to ensure that the Town would not be brought into a neighborly dispute.

A discussion was held regarding continuing the variance for Type of Frontage. Mr. Farwell asked the Board for a conditional approval for Type of Frontage. General consensus of members was to continue the case until a letter has been received from Mr. Caldwell and comments from Town Counsel.

**On a motion made by Ms. Colburn, seconded by Ms. Brown, the Board voted unanimously, by roll call vote, to table the variance from Article IV.B.(1)(b), Type of Frontage, to November 16, 2023, at 6:30 p.m., for additional information to be received from Town Counsel, and from the Applicant.**

***Variance from Article IV.B.(2), Lot Size.***

Chair Sanderson stated that the lot size is 1.9 acres where two acres is required.

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

Mr. Farwell stated that this is an existing lot of record. The plan was before by the Planning Board and approved in 1992. The septic design is state approved.

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

Mr. Farwell stated that the site can be used with less than the two acre requirement. This is a proposed residential use in a residential area.

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

Mr. Farwell stated that the variance would allow the owners to build a residential building in a residential zone on an existing lot of record.

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

Mr. Farwell stated that a new home would not diminish property values. He added that this is an improvement.

**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:**

Mr. Farwell stated that the lot is too small and there is no way to make it more conforming.

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

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- (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:**

Mr. Farwell stated that this is a residential use in a residential zone.

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

Mr. Farwell stated that this will allow the lot to be developed with less than two acres.

Chair Sanderson noted no abutters were present. With no additional comments from the Applicant, Chair Sanderson closed the public hearing and opened Board deliberations.

**On a motion made by Ms. Guzofski, seconded by Ms. Brown, the Board voted unanimously, by roll call vote, to grant the variance from Article IV.B.(2), Lot Size, based on the fact that all criteria have been met as listed in the Northwood Development Ordinances, and that granting the variance will do substantial justice as the lot size cannot be further expanded, with the condition that all local, state, and federal permits be obtained.**

***Variance from Article IV.B.(4), Setbacks.***

Mr. Farwell stated that there are portions of the septic system, a structure, that are less than 20 feet from the property line where 20 feet is required. He stated that originally the septic design was the issue but has since been changed. It was determined that the force main is within 20 feet from the property line.

A discussion was held regarding the driveway being a structure. Mr. Farwell stated that the driveway is to remain a gravel driveway.

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

Mr. Farwell stated that the force main is within 20 feet from the property line and there is no issue with that location. Originally the tank was within 10 feet, which is a State of NH guideline. The septic tank has been relocated to a conforming location.

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

Mr. Farwell stated that the force main will not be seen by the public and will not do any public harm.

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

Mr. Farwell stated that the variance would allow a force main to go up to the leach field area. This is the only possible path and it is within 20 feet of the property line.

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

Mr. Farwell stated that there will be no visible signs that there is a force main underground.

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



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**The “special conditions “of this property that distinguish it from other properties in the area are as follows:**

Mr. Farwell stated that there is limited area due to the wetland’s configurations. The force main location helps minimize the wetland impacts; however, the force main will be within 20 feet of the property line.

**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:**

Mr. Farwell stated that this is the better option to be within 20 feet of the property line versus impacting the wetlands.

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

Mr. Farwell stated that the force main is needed in order to get the affluent to the disposal area.

Chair Sanderson noted no abutters were present. With no additional comments from the Applicant, Chair Sanderson closed the public hearing and opened Board deliberations.

Chair Sanderson stated that this is a long parcel, and they need to be able to pump up to the leach field with the proposed pipe; it cannot be lower due to the lake and wetlands.

**On a motion made by Mr. Kasanovich, and seconded by Ms. Guzofski, the Board voted unanimously, by roll call vote, to grant the variance from Article IV.B.(4), Setbacks, based on the fact that all criteria have been met as listed in the Northwood Development Ordinances, and the spirit of the ordinance is being observed for the greater good by placing the pipe underground and unobservable up to the leaching field and further away from wetlands, with the condition that all local, state, and federal permits be obtained.**

***Special Exception from Article VI.A.(4) Setbacks.***

Mr. Farwell read the criteria for impacts allowed by a Special Exception, as follows:

- (a) Those impacts to the Wetlands Conservation Overlay District or its setbacks that are essential to the productive use of land not within the Wetlands Conservation Overlay District shall be allowed by Special Exception. Those impacts include but are not limited to: the construction of roads, driveways, or other access ways, utility rights-of-way and easements, including power lines and pipelines, with adequate provisions where called for, for the continued, uninterrupted flow of surface run-off water. The ZBA shall grant a Special Exception, provided the following are met:

Mr. Farwell stated that there are portions of the structures within the 20 foot wetland’s setback and a septic design that requires drain structures to run through the wetlands and encroach the setbacks. He stated that this is for the driveway and the force main going through it. He noted that the driveway is gravel, but it is not permeable.

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Ms. Smith stated that a gravel driveway is not considered to be a structure.

- [1] The applicant shall first meet with the Conservation Commission, and written findings by the Northwood Conservation Commission regarding the proposal, including but not limited to minutes of the meeting at which the proposal was discussed, are submitted with the Special Exception application, are reviewed by the ZBA, and are made part of the record of the case.

Chair Sanderson stated that the Applicant met with the Conservation Commission and the Commission provided correspondence in support of the proposal.

- [2] The applicant shall submit sufficient information necessary to demonstrate that the proposed impacts are essential for the productive use of land not within the Wetland Conservation Overlay.

Mr. Farwell stated that there is only one location possible for a leach field and be 50 feet from the wetlands. The only way to access the area is with a wetland crossing for the force main. He added that the only area for the building to meet the criteria is the proposed location, and the driveway will be within the 20 feet setback area.

- [3] Dredging, filling or other alteration shall be designed to minimize adverse impact on the wetland and its setbacks, even if this requires adjustments in design outside of this overlay district.

Mr. Farwell stated that they have chosen the shortest route over the wetlands and is the area with the least impact. Erosion control measures will be taken. He added that there will also be a new septic design.

- [4] There shall be provisions made to restore the site as nearly as possible to its original grade and condition.

Mr. Farwell stated that they plan to restore the site as shown on the plan.

- [5] A state wetlands permit shall be obtained when required.

Mr. Farwell stated that the wetlands permit is in effect until 2024.

- [6] A Special Exception is not required when the impact meets the criteria for a permit by notification as defined by the NH Wetlands Bureau Code of Administrative Rules.

Chair Sanderson stated that it is required in this case.

Mr. Farwell noted that the approval should be conditional on a state approved septic design since it deals with the force main and expires in October 2023.

Chair Sanderson noted no abutters were present. With no additional comments from the Applicant, Chair Sanderson closed the public hearing and opened Board deliberations.

**On a motion made by Mr. Kasanovich, and seconded by Ms. Guzofski, the Board voted unanimously, by roll call vote, to grant the Special Exception for Article VI.A.(5), Setbacks within the Wetland Conservation Overlay District, based on the fact that all criteria have been met as listed in the Northwood Development**

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**Ordinances, and the use is necessary for the productive use of the land with the following conditions as requested by the Northwood Conservation Commission:**

- **Erosion control measures, as required by NHDES, should be installed around the wetland areas during construction, and**
- **During removal of the existing concrete foundation, it is recommended that work be done from the southeast corner of the structure to minimize wetlands disturbance, and**
- **The Commission acknowledges that the wetlands restoration of 562 square feet, as required by the NHDES wetlands permit (2019-01123), has been completed. Although removal of all invasives species was part of the permit it should be noted that Japanese Knotweed was observed on the site, and**
- **All local, state, and federal permits be obtained.**

A recess was taken at 8:26 p.m. Session resumed at 8:29 p.m.

***Variance from Article IV.B.(1)(c), Length of Frontage.***

Mr. Farwell requested a continuance for the variance for Article IV.B.(1)(c), Length of Frontage.

**On a motion made by Ms. Brown, seconded by Mr. Kasanovich, the Board voted unanimously, to continue the variance from Article IV.B.(1)(c), Frontage, per the Applicant's request, to November 16, 2023, at 6:30 p.m. Vote 4/0. Ms. Colburn had not returned from yet from the recess.**

**Case 23-18: Christopher and Suzzanne Kopp, 28 Shore Drive. Map 122; Lot 41.**

Applicants seek a variance from Article IV.B.(4), Setbacks, to allow the placement of existing generator to be within the 10-foot building setbacks.

*Continued from August 17, 2023.*

The Applicant was not present and nothing new was provided.

**On a motion made by Chair Sanderson, seconded by Ms. Colburn, Kasanovich, the Board voted unanimously, to continue Case 23-18 to November 16, 2023, at 6:30 p.m. and to send a letter to the Applicant, requesting updated information to be provided to the Board, 10 days prior to the meeting, or request another continuance. Should no new information be received, the matter will be redirected to the Code Enforcement Officer.**

**Case 23-21: LSF Inc., Richard Daniels, 273 Jenness pond Road. Map 203; Lot 19.**

Applicant seeks a Special Exception from Article VI.A(5), structures (driveway) within wetlands buffer.

*Continued from September 21, 2023.*

Scott Frankiewicz, LLS, from NH Land Consultants represented the application.

Mr. Frankiewicz gave an overview of the project noting that the project has been active with the Planning and Zoning Board and the Conservation Commission since June, including site walks. The Conservation Commission provided a memo from their site walk supporting the change to widen the road. He explained that the owner has now offered to expand the road to be 20 feet wide, 16 feet with 2 foot shoulders, except in the area where there is wetlands on both sides. This area is 92 feet long and will be proposed to be 12 feet wide. A mulch berm is proposed along the wetlands, which is less obtrusive

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and can be spread out after construction is completed. Culverts have been located and need to extend another five feet to get the 20 foot wide gravel driveway. The utility poles are now shown on the plan.

Mr. Frankiewicz reviewed the buffer impacts, increased now due to the proposal to increase the width of the road.

Wetland Buffer Impact #1

- 2,240 sq. ft. (former impact)
- 4,040 sq. ft. (current impact)
- **2,000 sq. ft. additional impact**

Wetland Buffer Impact #2

- 1,920 sq. ft. (former impact)
- 3,175 sq. ft. (current impact)
- **1,255 sq. ft. additional impact**

Wetland Buffer Impact #3

- 1,420 sq. ft. (former impact)
- 2,210 sq. ft. (current impact)
- **790 sq. ft. additional impact**

Wetland Buffer Impact #4

- 300 sq. ft. (former impact)
- 400 sq. ft. (current impact)
- **100 sq. ft. additional impact**

Mr. Frankiewicz stated that the owner is proposing four house lots and would like to have both driveways expanded only if the house is built. He stated that this will be addressed with the Planning Board. Discussion ensued. Ms. Smith noted that approvals are only for two years as the regulations can change.

Mr. Frankiewicz read a statement by former Building Inspector Dinsmore relative to the need for the Special Exception.

Ms. Smith asked if there is a driveway permit for the entrance. Mr. Frankiewicz replied that there must be one as there is a building permit for the existing house; however, he does not have a copy of one for the upper lot. Ms. Smith stated that the lot is now shown as a shared driveway on a subdivision plan. She referred to the statement by Mr. Dinsmore and asked if it is the intent of the statement that a Special Exception is needed for the driveway as it goes through the wetlands. Mr. Frankiewicz stated that they are asking for the Special Exception now and need to get it in place.

Ms. Smith reviewed the building file, which showed a driveway permit for the upper lot, the northern lot. She suggested that the Board proceed with the Special Exception and if it is not approved, it would be up to the Code Enforcement Officer to determine whether or not the house can use the driveway or not because there is no driveway permit for it; the CEO raised the issue.

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Chair Sanderson stated that both of the driveways are proposed to be 20 feet wide. She stated that widening the two driveways is the right thing to do if they are to be shared driveways.

Ms. Colburn asked why the whole road is not being proposed to be widened, 12 feet is not wide enough for the trucks and will not hold the weight of the trucks. Chair Sanderson stated that there is an area that will only be widened to 12 feet, due to the wet areas.

Mr. Frankiewicz stated that the Conservation Commission agreed to the lesser impacts previously; however, with the proposed width changes for the driveway, the NCC supported the 20-foot gravel surface as they would prefer the least impact possible to the buffers and this is a compromise. He noted that there is a clear line of sight as well.

Ms. Colburn stated that she would like to see the entire road widened all the way through.

Ms. Smith stated that the width of a road is not the purview of the ZBA; it is the purview of the Planning Board. The Applicant has presented a plan for 12 feet and if the Planning Board does not like it then the Applicant will need to return to the ZBA.

Ms. Brown stated that she appreciates the Applicant's approach to protect the wetlands.

***Special Exception from Article VI.A.(5) Setbacks.***

Mr. Frankiewicz stated that two existing driveways impact wetland buffers. No wetlands are being impacted; however, there will be some alteration to the driveways. Each of the driveways will service two parcels per the subdivision, currently under review by the Planning Board. The wetlands were delineated by Damon Burt of Fraggle Rock Environmental and located by NH Land Consultants. The wetland buffer impacts are essential to the productive use of the land and are not within the Wetland Conservation Overlay District.

The following three impacts are for a common driveway for lots 19 & 19-1:  
Impact #1

- 4,040 sq. ft. (current impact)
- **2,000 sq. ft. additional impact**

Impact #2

- 3,175 sq. ft. (current impact)
- **1,255 sq. ft. additional impact**

Impact #3

- 2,210 sq. ft. (current impact)
- **790 sq. ft. additional impact**

The following impact is for the common driveway servicing lot 19-2, 19-3, and access for Tax Map 202; Lot 2 (Kreider Irrevocable Trust):

Impact #4

- **300 sq. ft.**

**Town of Northwood  
Zoning Board of Adjustment Meeting  
October 19, 2023**

Chair Sanderson read the following criteria:

Special exceptions may be granted by the Zoning Board of Adjustment, upon notice and hearing as prescribed in RSA Chapter 676, for the following impacts within the Wetlands Conservation Overlay District and its setbacks:

- (a) Those impacts to the Wetlands Conservation Overlay District or its setbacks that are essential to the productive use of land not within the Wetlands Conservation Overlay District shall be allowed by Special Exception. Those impacts include, but are not limited to: the construction of roads, driveways, or other access ways, utility rights-of-way and easements, including power lines and pipelines, with adequate provisions where called for, for the continued, uninterrupted flow of surface run-off water. The ZBA shall grant a Special Exception, provided the following are met:

- [1] The applicant shall first meet with the Conservation Commission, and written findings by the Northwood Conservation Commission regarding the proposal, including but not limited to minutes of the meeting at which the proposal was discussed, are submitted with the Special Exception application, are reviewed by the ZBA, and are made part of the record of the case.

Mr. Frankiewicz stated that he did meet with the Conservation Commission. Correspondence was provided in support of the revised proposal.

- [2] The applicant shall submit sufficient information necessary to demonstrate that the proposed impacts are essential for the productive use of land not within the Wetland Conservation Overlay.

Mr. Frankiewicz stated that there is no other option without additional impacts to the buffer and wetlands.

- [3] Dredging, filling or other alteration shall be designed to minimize adverse impact on the wetland and its setbacks, even if this requires adjustments in design outside of this overlay district.

Mr. Frankiewicz stated that the culvert will be expanded. In addition, they are proposing a 12 foot width in the area of the buffer to reduce the impacts to the buffer and also avoid wetland impacts. They are mitigating runoff by adding a 6 inch mulch berm which can be spread out after construction.

- [4] There shall be provisions made to restore the site as nearly as possible to its original grade and condition.

Mr. Frankiewicz stated that the road will be graded and the side slopes will be loamed and seeded. He noted that the Conservation Commission requested there be no salt used for maintenance on the driveways.

- [5] A state wetlands permit shall be obtained when required.

Mr. Frankiewicz stated that a wetlands permit is not required for this project.

- [6] A Special Exception is not required when the impact meets the criteria for a permit by notification as defined by the NH Wetlands Bureau Code of Administrative Rules.

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A discussion was held regarding a bond. Ms. Smith asked about compliance with the wetland berm. This was determined to be under the jurisdiction of the Planning Board as part of the subdivision.

Chair Sanderson noted no abutters were present. With no additional comments from the Applicant, Chair Sanderson closed the public hearing and opened Board deliberations.

Chair Sanderson stated that she feels that the Applicant has addressed the criteria for the Special Exception, and as described, they are doing the best they can to avoid the wetlands with minimal impacts to the wetlands. The Conservation Commission supports the impacts to the buffers made by the proposed widening of the road to 20 feet and the comprehension that in the narrow area it is for the benefit of the wetlands; it is passable in an emergency situation. She stated that the Applicant has met with the Conservation Commission on several occasions. She feels sufficient information has been provided to accommodate the impact to the wetland buffer while stressing the need for a narrow section to protect the actual wetlands, which was also noted on the site walk. She added that the Applicant has agreed to add a mulch berm to minimize adverse impacts and extend the culvert while making sure there are provisions to restore the site to its original grade and condition.

**On a motion made by Chair Sanderson, and seconded by Ms. Brown, the Board voted, by roll call vote, to grant the Special Exception for Article VI.A.(5), Setbacks within the Wetland Conservation Overlay District, based on the fact that all criteria have been met as listed in the Northwood Development Ordinances, with the following conditions:**

- **The Applicant will not be using any salt on this surface during the winter months to protect the wetlands,**
- **The driveway must remain gravel,**
- **All local, state, and federal permits to be obtained, including if there is a need for a driveway permit.**

Ms. Colburn stated that the road should be widened for the entire length. Chair Sanderson stated that she understands her concerns with the road and agreed; however, she recognizes the reduction of impacts to the wetlands.

**Motion passed; 4/1.**

Mr. Frankiewicz stated that State subdivision permit has been obtained.

**ADJOURNMENT**

***Motion to adjourn was made by Ms. Guzofski, and seconded by Ms. Brown, and unanimously accepted, by a roll call vote, at 9:30 p.m.***

Respectfully submitted,



Lisa Fellows-Weaver,  
Land Use Administrative Assistant