

**Town of Northwood
Zoning Board of Adjustment Meeting
December 19, 2022**

Case heard at this meeting:

Motion for Rehearing - Case 22-16: Loren O'Neil, Upper Camp Road.

6:30 Call to Order

PRESENT: Vice-Chair Pam Sanderson, Steve Kasanovich, Ginger Dole, Robin Guzofski (alternate), and Betsy Colburn (participating electronically).

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

VOTING DESIGNATION: Vice-Chair Pam Sanderson, Steve Kasanovich, Ginger Dole, Betsy Colburn, and Robin Guzofski.

TOWN STAFF PRESENT:

Land Use Specialist Linda Smith

Rehearing

On a motion made by Ms. Dole, and seconded by Ms. Guzofski, the Board voted unanimously, by a roll call vote, to seal the attorney/client information.

Ms. Sanderson noted information received from the Town's attorney and staff relative to the request. She noted that this is not an additional review of the original case, and it is not a new hearing. She explained that the Board must take under consideration whether there was a procedural error, or the Board made an error in law in their decision, or new information was provided to the Board that was not originally provided that is currently available.

Ms. Sanderson stated that two potential motions were provided to the Board for their consideration by staff.

Ms. Dole stated that she has reviewed the information provided from the Applicant and Town Counsel and expressed concern relative to a clarification received from Town Counsel.

Ms. Smith explained that the Board needs to determine if there was adequate information in the original hearing and that the decision was based on what was provided to them; no error was made in law or with the procedures.

Discussion ensued, regarding Ms. Dole's request for clarification on a statement provided by Town Counsel. Ms. Smith stated that the information provided by Town Counsel has been sealed by a motion of the Board and cannot be discussed during this deliberation. However, she stated that the Board can go through the content of the motion for rehearing and the points presented and make comments in the deliberations should there be an item or items that the Board feels they need to address. She explained that this process is specific to whether the Board made an error in law or in the procedure, or if there is new information. She noted that the Board can also look at staff's recommendations relative to the process of a rehearing and discuss those suggestions. She stated that this is not relevant if there is no intent to rehear the case. Should the Board want to rehear the case, then it should be based on particular information that was not available at the hearing, there was an error in law, or how the application proceeded. She stated that the purpose of a rehearing is for the Board to not just give another opportunity to rehear the application or to redo the process again; the law is very specific with the reasons to rehear cases.

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Ms. Colburn stated that she believes it is very clear; the Board did not make any errors, the procedure was followed, and the law was followed. She recommended making a motion to not rehear the case.

Mr. Kasanovich agreed with Ms. Colburn; however, added that he would like to take the time to make sure that all members are comfortable with the process and decision.

Ms. Sanderson referred to the motion and specifics within the motion. She mentioned that there were references to new construction and that there are other lots available. She noted that background information relative to the 1962 subdivision was provided and this was not a subdivision plan signed by the planning board; it was a process done within the town. In addition, looking into the history of the area, construction occurred on the road in the 1950's, with the last new area of construction being built in the 1970's. She indicated that she believes that there are six structures on the road. Ms. Sanderson also referenced comments received from the Fire Chief. She commented that she did review the legal case provided in the rehearing materials, Malachy Glen Associates Inc. v. Town of Chichester. She stated that she too is inclined to agree with Mr. Kasanovich and Ms. Colburn.

Ms. Guzofski requested clarification relative to a comment noted regarding the road maintenance and not being a prerequisite.

Ms. Sanderson explained that this is a private road, which is not a town-maintained road. Typically, homeowners have or create an association and contribute to a road maintenance plan. The homeowners are obligated to pay to the associations. Associations are also registered with the State of NH. She noted that there are also districts in Northwood that address their road maintenance via their own district's taxation overseen by the Town. She explained that the zoning ordinance is very clear with the road needing to be brought up to subdivision standards. She noted that there is no new construction on Lower Camp Road, they are remodels or following within the same footprint.

Mr. Kasanovich asked for clarification where members felt the Board may have made an error or the procedure was erred, if they do.

Ms. Dole stated that she would like to have some clarification on the public safety and access aspects and stated that the ordinance states that emergency vehicles must have access to the property. She asked about other types of vehicles around the same size utilizing the area.

Ms. Sanderson stated that the Board must consider year-round settings on the private roads and consider the future of multiple vehicles accessing the road, as it could be difficult at times.

Ms. Smith stated that the Board's role is to not consider what has happened on non-conforming situations (from many years ago). The last place built on this road was 1970 and the regulations have changed. The applicant is asking for a new, year-round residence. The applicant has submitted a request for rehearing, town counsel reviewed the materials, and the Board needs to determine their position. If there are items that are of concern that the board may have erred, then it is the responsibility of the members to state what that error was.

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On a motion made by Ms. Sanderson, and seconded by Ms. Colburn, the Board voted unanimously, by a roll call vote, to find that the board of adjustment did not err in their decision, there is not sufficient grounds for reconsideration, that the decision to deny the variance was correct, and that the motion for rehearing is denied.

MINUTES:

November 28, 2022

On a motion made by Ms. Dole, and seconded by Mr. Kasanovich, the Board voted unanimously, by a roll call vote, to approve the minutes of November 28, 2022, as written.

ADJOURNMENT

On a motion made by Ms. Colburn, seconded by Ms. Guzofski, the Board voted unanimously, by a roll call vote, to adjourn at 7:04 p.m.

Respectfully submitted,

Lisa Fellows-Weaver



Land Use Administrative Assistant