

**Town of Northwood  
Zoning Board of Adjustment Meeting  
April 24, 2017**

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

**PRESENT:** Chairman Roy Pender, Vice Chair Curtis Naleid, Tom Johnson, and Matt Fowler

**TOWN STAFF PRESENT:**

Board Administrator Linda Smith and Land Use Secretary Susan Austin.

**VOTING DESIGNATION:** Chairman Roy Pender, Vice Chair Curtis Naleid, Tom Johnson, and Matt Fowler

***Minutes:***

***February 22, 2017***

**Mr. Johnson makes a motion, seconded by Mr. Fowler, to approve the minutes of February 22, 2017 as written. Motion carries 4/0.**

**Election of Officers**

**Ms. Smith suggested that they wait until the May meeting to cover the election of officers, so that Mr. Pollack would be present for that.**

**New Cases:**

**Case #17-03, Tim and Brenda DiMatteo:** Map 125 Lot 7,18 Newman Drive. Applicant seeks to add a 10X12 foot addition and a replacement septic system to their home and requests the following:

- A variance to Article IV.A Table IV-1 for septic that does not meet the setback
- A variance to Article IV.B (1)(b)(2) for length and type of road frontage that does not meet the zoning ordinance
- A variance to Article IV B(2)(b) for lot size that does not meet the zoning ordinance

**Mr. Fowler recused himself because he is a neighbor and he helped them with the application.**

**Voting Designation:** Chairman Roy Pender, Vice Chair Curtis Naleid, and Tom Johnson

**Abutters:**

**Robert Osgood 22 Newman Drive, Northwood, NH**

**Danial and Sylvia Dalton 190 Chickering Road, North Andover, MA**

**Cheryl McDonald and Marion Knedler 15 New man Drive**

Chairman Pender stated that any decision that the board makes tonight would have to be a unanimous decision, because only three of them can hear this case. The applicants stated that they were okay with that.

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**Article IV.A Table IV-1 for septic that does not meet the setback**

**Variance Criteria**

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

Nothing would be altered from its present state. The current septic system functions properly and is situated in the optimum location. Public health and safety, abutters, neighborhood character, planned future development would not be affected by the requested relief.

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

The septic system exists in the optimum location on the lot. There is no other location on the property that could accommodate the septic system. The ordinance was not established to create a hardship for property owners with preexisting, properly functioning septic systems.

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

The existing functioning septic system would not be altered; there would be no impact. The distance within the setback is minimal; 6.7'(southeast side, 13.3' from the property line. The closest residence to the southeast line is more than 200 feet away. Granting of the variance would allow for construction of a small addition that is needed to accommodate medically necessary equipment.

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

Status quo regarding the current septic system would be maintained. Granting of the variance would allow for changes to be made to the residence which would possibly enhance property values and cure safety issues.

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

**The special conditions that distinguish it from other properties in the area:**

The septic system is set back further from the shoreline than surrounding waterfront properties. The residence closest to the nonconforming setback is more than 200 feet away.

**The proposed use is a reasonable one because:**

Nothing is changing. The current properly functioning septic system occupies the best available location on the subject lot and historically has not created a public hazard, or interfered with the use and enjoyment of surrounding properties, nor adversely affected the natural environment, character of the neighborhood, or surrounding property values.

**Mr. Naleid made a motion to grant the variance to Article IV.A Table IV-1 Septic.  
Mr. Johnson seconded.**

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**Mr. Johnson-in favor  
Mr. Naleid- in favor  
Chairman Pender-in favor**

**Motion carried 3/0.**

**A variance to Article IV.B (1)(b)(2) for length and type of road frontage that does not meet the zoning ordinance**

**Variance Criteria**

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

It does not in any way conflict with the original historic intent of the relevant zoning ordinance. The structure currently exists on a private road and would only be slightly altered. Neither the health, welfare, nor safety of the public would be affected by the granting of the variance. The character of the neighborhood would remain unchanged. Should the variance be granted, the proposed changes would not in any way interfere with the use and enjoyment of the abutting properties by neighbors or affect the town's plan for growth and development.

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

It does not interfere with the quality of life enjoyed by Northwood's citizens and visitors, but enhances the quality of life for the homeowner. The proposals do not alter the use of the property, or in any way impede the town's plans for growth and development, or alter the character of the Newman drive neighborhood or natural environment.

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

The structure currently exists on a private road and the requested relief does not adversely affect the community or environment, but serves to cure existing and potential hazards, improve quality of life, and increase property values.

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

The views from neighboring residences are not obscured or affected in any way, and the requested changes would improve the utility and appearance of the residence, increasing its individual market value, most likely resulting in increased value to the surrounding properties.

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

**The special conditions that distinguish it from other properties in the area:** The lot and residence predate Town ordinances regarding road frontage on private roads and the lot has been historically non-conforming.

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

- 1.) No fair and substantial relation exists between the general public purposes of the ordinances and the specific application of that provision to the property because:** The proposed changes do not negatively impact abutters or change the character of the community and would have minimal environmental impact.
- 2.) The proposed use is a reasonable one because:** The original use is not changing. The structure currently exists on a private road and would only be slightly altered. The requested relief is not contrary to the original intent of the ordinance and mitigates potential hazards, while enhancing the property appearance, utility, and value without adversely affecting abutters. Granting of the variance would result in improved quality of life for the homeowner.

**Mr. Johnson made a motion to grant the variance to Article IV.B(1)(b)(2).  
Mr. Naleid seconded.**

**Mr. Johnson-in favor  
Mr. Naleid- in favor  
Chairman Pender-in favor**

**Motion carried 3/0.**

**A variance to Article IV B(2)(b) for lot size that does not meet the zoning ordinance**

**Variance Criteria**

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

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

It does not in any way conflict with the original historic intent of the relevant zoning ordinance. The structure currently exists on a private road and would only be slightly altered. Neither the health, welfare, nor safety of the public would be affected by the granting of the variance. The character of the neighborhood would remain unchanged. Should the variance be granted, the proposed changes would not in any way interfere with the use and enjoyment of the abutting properties by neighbors or affect the town's plan for growth and development

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

It does not interfere with the quality of life enjoyed by Northwood's citizens and visitors, but enhances the quality of life for the homeowner. The proposals do

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not alter the use of the property, or in any way impede the town's plans for growth and development, or alter the character of the Newman drive neighborhood or natural environment.

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

The proposed changes to the existing structure are minimal and the requested relief does not adversely affect the community or environment, but serves to cure existing and potential hazards, improve quality of life, and increase property values.

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

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

The lot and residence predate Town ordinances regarding road frontage on private roads and the lot has historically been nonconforming.

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

**1.) No fair and substantial relation exists between the general public purposes of the ordinances and the specific application of that provision to the property because:** The proposed changes do not negatively impact abutters or change the character of the community and would have minimal environmental impact.

**2.) The proposed use is a reasonable one because:** The original use is not changing and road frontage cannot be altered. The structure currently exists on a private road and would only be slightly altered. The requested relief is not contrary to the original intent of the ordinance and mitigates potential hazards, while enhancing the property appearance, utility, and value without adversely affecting abutters. Granting of the variance would result in improved quality of life for the homeowner.

**Mr. Naleid made a motion to grant the variance to Article IV B (4)(b). Mr. Johnson seconded.**

**Mr. Johnson-in favor  
Mr. Naleid- in favor  
Chairman Pender-in favor**

**Motion carried 3/0.**

**Voting Designation:** Chairman Roy Pender, Vice Chair Curtis Naleid, Tom Johnson, and Matt Fowler

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**Case #17-04 Paul Cain:** 53 First NH Turnpike. Applicant seeks to convert a single-family residence to a 4-unit residential structure and requests the following:

- A variance to Section IV, Article B(1)(c)(3) for length of road frontage
- A variance to Section IV, Article B (4)(b) for paved driveway that does not meet the setback
- A variance to Section IV, Article B (4)(b) for proposed septic that does not meet the setback

**Section IV, Article B(1)(c)(3) for length of road frontage**

**Paul Cain and David Vincent were present.**

**Abutters:**

<b>Martha Morello and Kathy Hebert</b>	<b>27 Davlynn Drive</b>	<b>Northwood</b>	<b>NH</b>
<b>Paul and Andrea Anatone</b>	<b>19 Davlynn Drive</b>	<b>Northwood</b>	<b>NH</b>
<b>Carl Spackler Properties LLC</b>	<b>19 Revolutionary Way</b>	<b>Nottingham</b>	<b>NH</b>
<b>George and Maureen Dean</b>	<b>43 1st NH Turnpike</b>	<b>Northwood</b>	<b>NH</b>
<b>Andrew and Ashly Courter</b>	<b>13 Davlynn Drive</b>	<b>Northwood</b>	<b>NH</b>
<b>George and Sherry Jackman</b>	<b>7 Davlynn Drive</b>	<b>Northwood</b>	<b>NH</b>
<b>Gove Environmental Services</b>	<b>8 Continental Drive H-Bldg 2</b>	<b>Exeter</b>	<b>NH</b>
<b>Jessica Pierce Eric Nadeau</b>	<b>28 Davlynn Drive</b>	<b>Northwood</b>	<b>NH</b>
<b>Richard and Laurie Veno</b>	<b>29 Davlynn Drive</b>	<b>Northwood</b>	<b>NH</b>
<b>Eversource Energy</b>	<b>PO Box 270</b>	<b>Hartford</b>	<b>CT</b>
<b>John and Lorraine Downing</b>	<b>83 Chester Road</b>	<b>Fremont</b>	<b>NH</b>
<b>Kevin Hampe</b>	<b>58 1st NH Turnpike</b>	<b>Northwood</b>	<b>NH</b>
<b>Lewis Marion</b>	<b>56 1st NH Turnpike</b>	<b>Northwood</b>	<b>NH</b>
<b>David Vincent, LLS Land Surveying Services</b>	<b>PO Box 1622</b>	<b>Dover</b>	<b>NH</b>

**Abutters present:**

**Martha Morello and Kathy Hebert**

Kathy Hebert spoke to express her concern. She stated that this is a single-family neighborhood. This will have a big impact on the neighborhood and the kind of life we live. We take a lot of pride in our homes. The concern she has is for rental properties and people moving in who have no real interest in the long term. Many of us moved to Northwood for the environmental nature of the town, and this project will impact what we see in our back yards.

**Variance Criteria**

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

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Applicant proposes to rehabilitate existing structure on a lot of record with an existing curb cut on the road. Additional frontage is not required to develop an existing lot.

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

Rehabilitated structure shall retain the character of an old home with an attached barn structure with the required parking and sewage structures behind the building out of sight from the road.

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

The rehabilitated structure and associated 8.57 acres can adequately support the proposed use for access, parking and sewage disposal.

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

The existing structure will be rehabilitated and brought up to current building codes and the parking and septic system structures will be located behind the building and not visible from the road.

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

Existing property consists of 8.57 acres of land with 186.85 feet of frontage. To meet the ordinance, applicant would need to obtain additional frontage from abutting properties which may cause non-conforming situations on the abutting lots.

**B.) Owing to the special conditions set forth above, that distinguishes it from other properties in the area:**

To meet the ordinance, applicant would need to obtain additional frontage from abutting properties which may cause non-conforming situations on the abutting lots.

Mr. Fowler stated that he felt that in the Master Plan it references the entry and exit of Route 4, and the idea was to cut down on the congestion and new entrances and exits. Although this is the same driveway, we would be adding four families to the mix. Ms. Smith stated that from a land use perspective, there is 8.5 acres on that lot. Under our current regulation, there is a potential for another road to be added, and 4 new houses to be built, possibly with accessory dwelling units, so the potential for 8 families to be coming in and out of that lot is there. That would be the best-case scenario.

Mr. Naleid stated that they have a property that was a farm, the last inhabitant had animals and that's how that property was being used. There is a reason that this ordinance was written as 150 feet of frontage with an additional 50 feet per unit. We would be ending up in a situation where there are all of these older homes that need some work and should be turned into a 3 or 4 unit. Ms. Smith stated that there are a variety of ways that a lot that size can be developed. Based on what they have, they could put a duplex in there and they wouldn't need a variance. The board cannot just

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assume that the farmhouse is going to stay because they vote a particular way. That isn't to say they can't vote against it, based on meeting the criteria.

**Mr. Fowler stated that 120' of frontage that they are asking for is quite a bit. If it was 100' it may or may not be different, he's not sure how he'd change his mind. Because of the lack of frontage and the possibility of increased traffic, he would say that he would like to make a motion to not grant the variance.**

Chairman Pender asked what of the five questions did not meet the criteria. Mr. Fowler stated that he would take back his motion while he looked at the questions again. Chairman Pender stated that in reference to the first question, the lot is very narrow. Is it in the public interest to keep these lots going way back without anything going on them? And in reference to the second question, the ordinance has multiple housing in it, so is that going against the spirits? The third question, basically, where else are they doing this up and down route 4? And 4, the proposed use will not diminish property values. Well, we've had testimony from abutters stating that they are concerned about property values being affected. Is it going to affect them that much? We have two more variances to consider after this.

**Mr. Naleid made a motion to deny the variance on the grounds that the five criteria not having been met in that the property is currently used, and can be used as zoning is in place without a variance. Mr. Fowler seconded.**

**Mr. Johnson -oppose  
Mr. Fowler – in favor  
Mr. Naleid- in favor  
Chairman Pender- oppose**

**Motion fails 2/2.**

Chairman Pender stated that if the applicant wished to, they could table any further discussion at the next month's meeting when at the time, they would have another member present, bringing the voting designation to 5.

Ms. Smith stated that if the board would like any additional information that they would like that they ask them to bring it. After speaking with the building inspector and the applicant and the designer relative to the septic. Because they meet the lot size, the issue relative to the setback to the septic was not a concern the way it would be on a undersized lot in the sense of "can a septic be approved for this use on this lot". They stated that feel they can meet the 20' but not the 50'. That's a risk that they are taking, but the cost to do the design and all the preliminary work in order to prove that they can meet the 20' setback, would be beyond what is reasonable in order to come to the zoning board. Mr. Naleid asked if they could have the test pits dug and identify that that is a suitable place for a leech field based on that report? Mr. Cain stated that the test pit will tell him that he would need a certain size. He stated that he went by similar soil samples, along with other determinations to come up with the

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information they have. Mr. Naleid asked if he could document the information for them and get it to them.

Mr. Naleid made a motion to continue the variance requests to Section IV, Article B(1)(c)(3) for length of road frontage, Section IV, Article B (4)(b) for paved driveway that does not meet the setback and Section IV, Article B (4)(b) for proposed septic that does not meet the setback until the next scheduled meeting in May. Mr. Fowler seconded.

**Mr. Johnson -in favor  
Mr. Fowler – in favor  
Mr. Naleid- in favor  
Chairman Pender-in favor**

**Motion carried 4/0.**

***Mr. Fowler makes a motion to adjourn at 8:11 PM. Mr. Naleid seconds.***

**Mr. Johnson -in favor  
Mr. Fowler – in favor  
Mr. Naleid- in favor  
Chairman Pender-in favor**

**Motion carried 4/0**

**Respectfully submitted,**

**Susan Austin  
Land Use Secretary**