

**Town of Northwood
Zoning Board of Adjustment Meeting
June 27, 2022**

Cases heard at this meeting:

CASE 22-9 *Donald and David Hughes*

CASE 22-12 *Docko/Millstone*

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

PRESENT: Vice Chair Pam Sanderson, Ted Wilkinson, Steven Kasonovich, Ginger Dole (alternate), 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 Kasonovich, Ted Wilkinson, Ginger Dole, and Betsy Colburn.

TOWN STAFF PRESENT:

Linda Smith, Land Use Specialist and Susan Austin, Land Use Assistant

MINUTES

Vice Chair Sanderson made a motion, seconded by Mr. Kasonovich, to approve the minutes as amended. Motion carried 4/0/1 Mr. Wilkinson abstained.

CONTINUED CASES

CASE 22-9 Donald and David Hughes, 7 North Lane Map 108 Lot 42-9 and 90.

Applicant proposes converting this seasonal residence to year-round and requests the following relief:

- Appeal of RSA 674:41 II Private Road
- A variance from Article IV.A Section VII.D(3) to permit the conversion of a camp to a year-round residence. The lot does not meet the requirements in the zoning ordinance for:
 - Article IV. B (1) Section (c) [1], Road Frontage. This lot only has 50 feet, where 150 feet is required.
 - Article IV.B (1) Section (b)[2], Type of Frontage. This lot is on a private road.
 - Article IV.A Section IV.B (2) Lot Size. Lot has .19 acres, where 2 acres are required.
- A variance from Article IV.A Section IV.B.(4) Setbacks. (septic) Structures shall be set back from property lines in conformance with the minimum setback requirements set forth in this section. The minimum setback is 20 feet.

Dan Tatum and Donald Hughes were present to speak for the application. Mr. Tatum stated that at the last meeting, they realized that they had no submitted one of the variance applications, so they had continued this until now.

Criteria questions for a variance to Article IV. B (1) Section (c) [1], Road Frontage. This lot only has 50 feet, where 150 feet is required.

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- 1. Granting the variance would not be contrary to the public interest because:** The subject lot has 50 feet of frontage on North Lane, a private road. The existing driveway has adequate sight distance. The road is maintained by the Cove Village District. A supporting letter for the work in the road has been submitted.
- 2. The use is not contrary to the spirit of the ordinance because:** The use is not contrary to the spirit of the ordinance because the 50 feet of road frontage is maintained by the Cove Village District, and the 50 feet of frontage has adequately served the residence since it was constructed. No changes to the two-bedroom structure are proposed.
- 3. Granting the variance would do substantial justice because:** The existing residence has 50 feet of frontage on a private road that is maintained by the Cove Village District. The district has successfully maintained this private road for many years with no known issues to the town or residents. Therefore, granting this variance will do substantial justice.
- 4. The proposed use would not diminish surrounding property values because:** The recent site improvements have been supported by the Cove Village District, who maintains the 50 feet of frontage associated with this parcel. No changes are proposed to the existing structure. Granting the variance will not diminish the values of surrounding properties.
- 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:** The house has already been fully upgraded, meeting the local business codes. The new septic system has been installed on Parcel 90, across North Lane, improving the groundwater quality near the lake. The 50 feet of frontage has no affect on safe access to North Lane. The lot cannot be expanded and is only a two-bedroom house.
 - (i) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area: 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:** Because there are many other year round residences on this road and the subject house has already been upgraded to meet the building codes, and the new well and septic have been installed. There is no relationship between the 50 feet of road frontage and this specific application.
 - (ii) The proposed use would be a reasonable one because:** Many other properties on North Lane are year-round and do not have the minimum road frontage. All building codes have been met. The private road is maintained by an association. The conversion will benefit the subject parcel and the abutting property owners as well. The house is only a two-bedroom house and is the second house on the road.

Mr. Wilkinson made a motion, seconded by Ms. Colburn, to begin board deliberations.

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Mr. Wilkinson made a motion, seconded by Ms. Dole, to grant the variance to Article IV. B (1) Section (c) [1], Road Frontage. Motion carried by roll call vote 4/1, Mr. Kasonovich voted no.

Criteria questions for a variance to Article IV.B (1) Section (b)[2], Type of Frontage. This lot is on a private road.

- 1. Granting the variance would not be contrary to the public interest because:** The subject lot has 50 feet of frontage on North Lane, a private road. The existing driveway has adequate sight distance. The road is maintained by the Cove Village District. A supporting letter for the work in the road has been submitted.
- 2. The use is not contrary to the spirit of the ordinance because:** The use is not contrary to the spirit of the ordinance because the private road is maintained by the Cove Village District, and the 50 feet of frontage has adequately served the residence since it was constructed.
- 3. Granting the variance would do substantial justice because:** The existing residence has frontage on a private road that is maintained by the Cove Village District. The district has successfully maintained this private road for many years with no known issues to the town or residents. Therefore, granting this variance will do substantial justice.
- 4. The proposed use would not diminish surrounding property values because:** The recent site improvements have been supported by the Cove Village District, who maintains the private road. No changes are proposed to the existing structure. Granting the variance will not diminish the values of surrounding properties.
- 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:** The house has already been fully upgraded, meeting the local business codes. The new septic system has been installed on Parcel 90, across North Lane, improving the groundwater quality near the lake. The 50 feet of frontage has no effect on safe access to North Lane.
 - (i) Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area: 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:** Because there are many other year round residences on this road and the subject house has already been upgraded to meet the building codes, and the new well and septic have been installed. There is no relationship between the private road frontage and this specific application.
 - (ii) The proposed use would be a reasonable one because:** Many other properties on North Lane are year-round and do not have the minimum road frontage. All building codes have been met. The private road is maintained by an association. The conversion will benefit the subject parcel and the abutting property owners as well.

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Vice Chair Sanderson closed public comment and opened deliberations

Mr. Wilkinson made a motion, seconded by Ms. Dole, to Article IV.B (1) Section (b)[2], Type of Frontage. Motion carried by roll call vote 4/1, Mr. Kasonovich voted no.

Criteria questions for a variance to Article IV.A Section IV.B (2) Lot Size. Lot has .19 acres, where 2 acres are required.

- 1. Granting the variance would not be contrary to the public interest because:** The owner is requesting to improve the property to a year-round residence. The .19-acre lot does not meet the 2-acre minimum. No expansion of the existing house is proposed, and the lots on both sides are developed so the lot cannot be expanded.
- 2. The use is not contrary to the spirit of the ordinance because:** Because no expansion is proposed and the use is in the same spirit as many abutting lots, the request to convert to a year-round residence is not contrary to the spirit of the ordinance requiring two acres.
- 3. Granting the variance would do substantial justice because:** The lot which is less than two acres cannot be expanded because the lots on either side are developed and are less than two acres. The size of the lot is consistent with many of the other lots on this road. Therefore, granting this variance will do substantial justice.
- 4. The proposed use would not diminish surrounding property values because:** The recent site improvements (new well and septic) have greatly enhanced the subject property and will in turn increase the value of the property and abutting properties. Many abutting properties are also less than two acres.
 - (i) 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:** The house has already been fully upgraded, meeting the local business codes. The new septic system has been installed on Parcel 90, across North Lane, improving the groundwater quality near the lake. The subject lots meet the state’s loading requirements for a two-bedroom septic system. **Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area: 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:** Because there are many other year round residences on this road and the subject house has already been upgraded to meet the building codes, and the new well and septic have been installed. There is no relationship between the two acres ordinance and this specific application.
 - (ii) The proposed use would be a reasonable one because:** Many other properties on North Lane are year-round and do not have the minimum road frontage. All building codes have been met. The private road is maintained by an association. The conversion will benefit the subject parcel and the

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abutting property owners as well, and the smaller lot still supports a 2-bedroom septic.

Vice Chair Sanderson closed public comment and opened board deliberations.

Mr. Wilkinson made a motion, seconded by Ms. Colburn, to grant the variance to Article IV.A Section IV.B (2) Lot Size.

Ms. Smith stated that the board should consider adding the condition that Lot 90 could not be conveyed separately or serve to have a separate residential unit on it.

Mr. Wilkinson amended his motion to include the condition that Lot 90 could not be conveyed separately or serve to have a separate residential unit on it. Ms. Colburn seconded the amendment. Motion carried by roll call vote 5/0.

Vote on the amended motion carried by roll call vote 5/0

Mr. Wilkinson made a motion, seconded by Ms. Colburn, to confirm that all aspects of the conversion from seasonal to year-round have been met. Motion carried by roll call vote 4/0/1. Mr. Kasonovich voted no.

Criteria for appeal to 674:41 II

RSA 674:42 II Whenever the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and **when the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets**, the applicant for such permit may appeal from the decision of the administrative officer having charge of the issuance of permits to the zoning board of adjustment in any municipality which has adopted zoning regulations in accordance with RSA 674, or, in municipalities in which no board of adjustment exists, to the local legislative body, or to a board of appeals, whichever is appropriate, in accordance with RSA 674:14 and 674:15, including the requirement for a public hearing. In a municipality which does not require building permits, direct application may be made to the zoning board of adjustment, or the local legislative body, or the board of appeals for permission to erect the building. In passing on such appeal or application, the board of adjustment, local legislative body, or board of appeals may make any reasonable exception and shall have the power to authorize or issue a permit, subject to such conditions as it may impose, **if the issuance of the permit or erection of the building would not tend to distort the official map or increase the difficulty of carrying out the master plan upon which it is based, and if erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality.** Any such decision made in this connection by a board of adjustment, local legislative body, or by a board of appeals pursuant to this section and RSA 674:14 and 674:15 shall be in writing, together with the reasons for the decision, and shall be subject to review in the manner described in RSA 677.

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Facts supporting this request: Enforcement of the frontage standard would "entail practical difficulty or unnecessary hardship."

No house structure construction is proposed. A new septic system and well have been installed and the house has been upgraded to meet all applicable building codes. There are no changes proposed to the exterior or the footprint of the existing house.

The circumstances of the case do not require the building or structure to be related to existing or proposed streets.

The road is private. The Northwood Cove District granted permission to install a force main under the road. The district maintains the road and is support of the proposed work.

Facts supporting this request: The erection of the building will not tend to distort the official map or increase the difficulty of carrying out the master plan.

No. Building construction is proposed. The existing house will not be expanded, and the footprint will not be altered.

Erection of the building will not cause hardship to future purchasers or undue financial impact on the municipality.

There is no construction to the structure proposed.

Vice Chair Sanderson closed the public comment and opened deliberations.

Mr. Kasonovich made a motion, seconded by Ms. Colburn, to grant the appeal of 674:41 SK/BC motion carried by roll call vote 5/0.

NEW CASE:

Case 22-12 Docko/Millstone 1090 First NH Turnpike Map 217 Lot 35. Applicant seeks a variance to Article V, Section (A)(2)(a)(b) to conduct drilling and blasting activity above the allowable limits. This variance was previously granted on May 18, 2009, and amended on August 26, 2013, and again on June 24, 2019

Peter Holden and David Docko were present for the application. Mr. Holden stated that they had been granted this variance in 2019. What they are looking for tonight is a simple renewal of the approval.

2019 conditions:

1. A maximum period of 4 weeks for all drilling, blasting and crushing to occur annually, through December 31, 2021.
2. Hours of operation when drilling, blasting and crushing activity is allowed: Monday through Friday from 7am to 5:30 pm; Saturday 7am to 5 pm; no Sundays.
3. Notification be provided to the Town of Northwood Code Enforcement Officer of blasting, drilling, and crushing activity, prior to the beginning of the activity, for each period the activity occurs.

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Criteria for granting a variance to Article V, Section (A)(2)(a)(b)

- 1. Granting the variance would not be contrary to the public interest because:** The ultimate result of the excavation is a highly valued retail site. The retail use will not burden the school system or other local departments. Furthermore, local businesses and citizens will use the product created by the retail site.
- 2. The use is not contrary to the spirit of the ordinance because:** The vibration and noise are at limited times and most business hours are for use allowed by the ordinance.
- 3. Granting the variance would do substantial justice because:** It will allow the owner a reasonable use of the property that would otherwise not be allowed.
- 4. The proposed use would not diminish surrounding property values because:** The excavation is temporary, and the excavation area is small. The activity is not intended as an ongoing excavation, rather the intent is to create a retail site. Excavation is carried out during daylight hours and blasting/crushing is only done occasionally, limiting the noise/vibration to periods approximately one week in duration, twice a year.
- 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:** The property is presently steep with ledge outcrops. This condition diminishes the viability of most uses, including retail.

(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 public purposes of the ordinance and the specific application of that provision to the property because:** Noise and vibration created would only occur during blasting/crushing operations approximately one week duration twice a year. The purpose of the ordinance appears to be to protect the public from on-going noise and vibration versus occasional/short term vibration associated with this activity for retail site construction.
- (ii) The proposed use would be a reasonable one because:** The use of the site for retail sales is allowed by ordinance as other properties in the adjacent neighborhood.

(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:

Removal/excavation of the ledge and overburden is necessary for viable use of the existing property. The excavation will create a usable terrain by eliminating

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the slopes and ledge within the site. Furthermore, the strict application of the zoning would eliminate almost all uses on the property.

Vice Chair Sanderson closed the public hearing and opened board deliberation.

Vice Chair Sanderson made a motion, seconded by Ms. Colburn, to grant the variance to Article V, Section (A)(2)(a)(b), which was previously granted on June 24, 2019, with the following conditions:

- 1. A maximum period of 4 weeks for all drilling, blasting, and crushing to occur annually, through December 31, 2026.**
- 2. Hours of operation when drilling, blasting, and crushing activity is allowed: Monday through Friday from 7am to 5:30 pm; Saturday 7am to 5 pm; no Sundays.**
- 3. Notification be provided to the Town of Northwood Code Enforcement Officer of blasting, drilling, and crushing activity, prior to the beginning of the activity, for each period the activity occurs.**

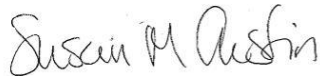
Vice Chair Sanderson amended her motion, Ms. Colburn seconded the amendment to include the following conditions:

- 4. The time frame to notify the Code Enforcement Officer of upcoming blasting activities is 72 hours.**
- 5. Subject to all state and local regulations.**

Motion carried by roll call vote 5/0.

Motion to adjourn was accepted at 8:35 PM

Respectfully submitted,



Susan M. Austin, Land Use assistant