

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

Cases heard at this meeting:

Case 22-15: Jean Pinard

Case 22-14: John Guill

6:30 Call to Order

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:

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

MINUTES: July 25, 2022

Mr. Wilkinson made a motion, seconded by Mr. Kasonovich, to approve the minutes of July 25, 2022, as amended, with edits that do not alter the content of the meeting. Motion carried; 5/0.

A discussion was held regarding the amended agenda; case numbers do not reflect a change. Ms. Smith stated that she emailed the revised agenda to members August 18. Ms. Colburn stated she did not receive the email. Ms. Smith explained that the agenda change was only reversing the order of the cases. She stated that Case 22-15 was submitted earlier than 22-14 and has been before the board previously. In addition, she added that she believes Mr. Pinard's application would not take as long as the other case due to the number of requests being applied for.

Mr. Wilkinson stated that the change is a minimal change, and it is simply reversing the order of the cases. He added that the Board is familiar with the Pinard project, and it is good common sense to hear that case first. Mr. Kasonovich agreed. Ms. Colburn stated that she was not opposed to the change. Ms. Dole agreed to move forward with the amended agenda.

NEW CASES:

Case 22-15: Jean Pinard, 26 Newman Drive, Map 125 Lot 14. Applicant placed a carport within the wetland setback and is requesting the following after the fact relief:

- A variance from Article VI Section A(4), wetland setbacks.

Vice-Chair Sanderson noted that the lot size was not approved. Mr. Pinard replied that the original application was for the lot size. Vice Chair Sanderson replied that the application was withdrawn before the lot size was addressed. This will be reviewed from the minutes.

Vice-Chair Sanderson referenced a letter from the Northwood Conservation Commission (NCC) minutes from November 5, 2021, along with the meeting minutes and the Zoning Board of Adjustment minutes from October 25, 2021, November 8, 2021, and January 24, 2022. Vice-Chair Sanderson added that these materials are a part of the prior application; however, should be referenced for this case. She noted that there are also new members on the Board.

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

Ms. Smith stated that the applicant has returned to the Board due to the fact that there was a non-conforming structure on the property; and although it could have remained on the lot, it was removed. The applicant presented the prior case to add a garage; this is a carport, a new structure, within the setback.

Ms. Colburn stated that there are now two new issues; nothing is showing on the current property card that anything was previously approved.

Mr. Wilkinson stated that the prior application was more extensive; however, he would like to hear from the CC. He added that he feels this is a new application.

Vice-Chair Sanderson agreed and added that there is an encroachment into the wetlands. She did visit the site and noted the footings were placed differently than the proposed structure. She questioned whether the dimensions are accurate as the proposed carport is shown to be at a different angle than the garage.

Mr. Pinard explained that the prior application was different.

Ms. Smith stated that she did speak with the building inspector. It was understood that the carport would be placed in the exact same location. Mr. Pinard replied that the carport is in the same location as it was previously, and the provided drawing is exact.

Ms. Colburn commented that this is a brand-new application as there was no proof of a prior approval. Mr. Pinard responded, it was approved as the plot plan had the carport and it was denied. He noted that the rods are in the same spot in the asphalt of the driveway.

It was noted that the frontage and road type was granted by the ZBA on October 25, 2021.

The prior application was reviewed from January 2022. Comments from the fire department and CC were noted relative to the encroachment.

Ms. Dole clarified that the request is to replace the carport in the same position that it was in, and this is due to the fact that a dead tree needed to be removed. Had there not been the dead tree, the carport would not have been removed and there would be no need for a variance.

Ms. Colburn suggested continuing the case to next month for more information and clarification.

The Notice of Decision, dated January 24, 2022, was reviewed. The decision noted the .29-acre lot size and road frontage on a private road. It was deemed a development on a prior signed subdivision plan and did not require an appeal to RSA 674:41. Ms. Colburn stated that it is a private road that is not maintained.

Discussion ensued regarding the denial of the building permit and the timeline of the activity. Ms. Smith stated that building permit #21, dated May 28, 2004, from the prior owner Leo Prichet, was approved and signed by Inspector Donald Gardner. The permit also had notations relative to the installation and inspection.

Mr. Wilkinson stated that this a different application; therefore, he would like a new opinion from the CC relative to the wetland setback. This application has a different focus, and the location of the carport is different; there is still an encroachment.

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

Mr. Pinard responded that the carport will not affect anything as it is over the asphalt.

Mr. Wilkinson replied that there is a steep slope, and it is appropriate for the Board to request a review from the Conservation Commission.

Ms. Colburn agreed and added that since it is a new application the Commission should be involved.

Ms. Smith stated that that is up to this Board. She explained that the applicant could either apply for a variance or for a special exception; he chose a variance and has provided the pertinent information for that. She added that it is the Board's purview to request additional information. There is a requirement for a special exception to go to the CC; however, a report from the Conservation Commission is not a requirement for a variance.

Ms. Colburn stated that the letter from the fire chief should be submitted.

Ms. Smith explained that the letter was requested for the garage; this is for a carport that was there previously and is proposed to be in the same location. She added that she did speak with the fire chief and the building inspector and neither had any concerns.

Ms. Colburn added that the Board could add a condition that the carport should never be enclosed.

Vice-Chair Sanderson asked if there was a copy of the letter and Ms. Smith stated that the Commission did look at the application for the garage; this is different.

Mr. Kasonovich stated that Mr. Pinard applied for a permit that was denied by the building department. He asked if it was especially for the carport for the same application or to take it down and put it back up.

Mr. Pinard replied neither; it was for a remodel of the house to include the exterior and interior. No construction has been started. He submitted the carport application then started to put it back in place. He was not aware that there would be any issue since it was taken down to remove the tree. He stated that the permit was denied because the carport was reinstalled; it is a new structure although it is 18 years old.

Ms. Dole asked if the applicant would need to go back to the Conservation Commission since this proposal is not a garage. She noted that it would not have as much runoff as a garage and would have the same runoff as the prior carport did.

Mr. Pinard stated that any runoff from the driveway goes through the carport and any runoff from the roof would flow to the side and into the yard, which is mitigated.

Ms. Colburn commented that this Board is not the CC and should get comments from the CC.

Vice-Chair Sanderson stated that the roof drip line management should be in compliance with NHDES. She mentioned that there is some disconnected PVC around the roof line and there is also diminishment of the roof, and she added that there have been no improvements to the house. She stated that the carport roof line will alter the runoff into the leach field as well as runoff flowing into the down slope.

Mr. Pinard stated that he has been approved by NHDES. He described the roof drip line management as a rock drainage system that is 2 ft wide and 1 ft deep, which will be

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

along the drip line of the carport. This will absorb water along the stream side, which was the approved plan for the garage. Currently it is 9.3 inches.

Vice-Chair Sanderson stated that this information should be presented on the plot plan and included with the NHDES permit for the Board since the applicant is referencing it. Ms. Smith stated that this would still be required and could be a conditional requirement.

Mr. Wilkinson reiterated his request to have input from the Conservation Commission. This application is for a different sized structure which will have different run off, and it is a concern because it is encroaching into a designated setback. Ms. Colburn agreed.

Ms. Dole commented that she doesn't see the need for the delay.

Vice-Chair Sanderson stated that the more information available may help for clarification and assist the Board in making a decision.

Mr. Kasonovich stated that he agreed with Ms. Dole.

Ms. Smith explained that Mr. Pinard had a carport on a paved driveway. He applied for a building permit for a garage. He removed the carport to remove a tree. He applied for a variance and came before the ZBA and was not approved and withdrew his application. The carport was in the process to be put up again and the Building Inspector told him it needed a permit. She stated that she did contact Town Counsel and stated that it does not matter what the plan was as there is a need for a new permit and application with the building department; the applicant understood the need for the new permit. She stated that this application is based on the new carport, only. State Shoreland Permits have certain criteria that must be met and either a garage or carport will need to meet those requirements. Mr. Pinard indicated that the State does not have any issues the carport.

Vice Chair Sanderson stated that the history has been presented. A variance was withdrawn by the applicant for the setbacks for the garage. The Conservation Commission's input was valued. A variance for lot size occurred without the garage and was only for the proposed porches. She stated that the input from the CC should be obtained again.

Ms. Dole asked the size of the carport and the proposed garage. Mr. Pinard stated that carport is half the size of the garage; 12x20 vs. 22x26 and the carport is not encroaching as far to the wetlands as the garage would have.

Vice Chair Sanderson commented that the garage was encroaching less. The carport is not in the corner. She requested the prior garage proposal information.

Ms. Smith stated that this is a new proposal and should be reviewed on its own merit.

On a motion made by Ms. Colburn, and seconded by Mr. Wilkinson, the Board voted by roll call vote to request input from the Conservation Commission relative to the carport encroachment:

Ms. Dole – opposed

Ms. Colburn – in favor

Mr. Wilkinson – in favor

Mr. Kasonovich – in favor

Vice Chair Sanderson – in favor.

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

Vice Chair Sanderson stated that the Commission should provide comments relative to the wetland encroachment on the downstream into Lucas Pond, the roof drip line management should be on the NHDES permit of the 2 ft x 1 ft deep rock and provide comments on the new dimensions of the carport including the width of the carport to the wetland, which is now closer than the proposed garage.

Ms. Smith stated that the two should not be compared as this is a new proposal.

Mr. Wilkinson made a motion, seconded by Ms. Colburn, to continue Case 22-15 to September 26, 2022.

Vice Chair Sanderson noted the new law changing tomorrow with a 90-completion time frame. This case will still be under the prior law and the Board can proceed to the next meeting. Members requested their information be available on or before September 15.

Mr. Wilkinson stated that he is concerned with the encroachment as it is right on Lucas Pond. He noted that the area is unique, and the application has changed as it is a new proposal with a different size and location. He added that the delay will allow for a more simplified process.

Vice Chair Sanderson stated that there has recently been a culvert replaced. Mr. Pinard stated that he did see that there has been some work done.

Ms. Smith stated that there is nothing from the prior application relevant. She added that she will have the shoreland application available.

The motion passed by a roll call vote as follows:

Ms. Dole – opposed

Ms. Colburn – in favor

Mr. Wilkinson – in favor

Mr. Kasanovich – in favor

Vice Chair Sanderson – in favor.

Any communications from the Conservation Commission will be provided to Mr. Pinard along with the CC agenda.

Case 22-14: John Guill, 18 Brown Road, Map 119 Lot 24. Applicant is proposing to replace the existing seasonal residential structure with a new seasonal residential structure and requests the following relief:

- A variance from Article IV. B (1) Section (c) [1], Road Frontage. This lot has 100.18 feet of frontage where 150 feet are required.
- A variance from Article IV.B (1) Section (b)[2], Type of Frontage. This lot is on a private road.
- A variance from Article IV.A Section IV.B (2) Lot Size. Lot has .36 acres, where 2 acres are required.
- A variance from Article IV.B Section 4 Setbacks. 20-foot setback from the property line is required, proposed structure is 16.5 feet from property line.

John and Rachel Guill represented the application.

Mr. Guill provided an overview of the property and the proposal. He explained that there is an existing, 1,553 sq. ft. “L” shaped structure on the property that is seasonal.

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

They are proposing a new two-story 1,260 sq. ft. structure, which will reduce the footprint by 300 sq ft. and will reduce the impervious surface from 32% to 26.9% allowing 32% more green space. In addition, a state approved septic system will be installed. The structure is a two-story modular, 17½' x 45' that is installed in four sections over two days. He added that the residence is on a dead-end road. Mr. Guill stated that the circle is being removed and they are planning to do all underground utilities, if possible. The house will have a cellar.

Mr. Wilkinson asked about the maintenance on the road. Mr. Guill stated that the road is maintained by a neighbor who lives there year-round.

Mr. Kasanovich asked about the odd shape of the back of the garage. Mr. Guill replied that when they purchased the home, the survey noted a portion of the existing garage was encroaching into the neighbors' yard; that portion was then removed.

Vice Chair Sanderson confirmed that the house is seasonal, and the road is maintained year-round. She noted that there is a circle in the middle of the driveway. She added that the proposal will be an improvement of the as the new house will be further back by 6½'. She noted the location of the wellhead, which may affect other options for the placement of the house.

Mr. & Mrs. Brett Rand, abutters, were present. Mr. Rand commented that they have been neighbors of the Guills for 19 years. The Guills are an asset to the neighborhood, and they do not have any issues with the proposal; it will be beautiful and an asset to the neighborhood. They both look forward to the new house. He noted that their residence is also seasonal, and they check on the property a few times throughout the winter months.

Mr. Wilkinson commented that the answers for the four variances will be similar. He suggested that it would be efficient for the Board to have the applicants address all items at the same time. Ms. Smith cautioned the Board and stated that each variance is different and has a different purpose in the zoning ordinance.

The Board agreed to address each variance separate.

Road Frontage:

Criteria questions for a variance from Article IV.B(1) Section (c)(1):

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

Ms. Guill stated that the property does not meet the standards as it is a private road; however, there are no issues with access to the property. The access is via a dirt road. In addition, the property is bordered by the lake and because of that, there are no other options for expansion.

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

Mr. Guill stated that the non-conforming status limits the quality and size of the building allowed, and also would not allow for green space improvements for controlling water runoff.

3. Granting the variance would do substantial justice because:

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

Mr. Guill stated that granting the variance would lessen the current footprint. They will be adding more pervious landscaping, which will help prevent water runoff, and more open space along with a new septic system.

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

Mr. Guill stated that the new home will enhance the neighborhood and allow for more green space. The new house will not obstruct views. There will be no removal of any trees.

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:

(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 would be a reasonable one because:

Ms. Guill stated that the new home will be a reduced footprint with an overall increase to the setbacks from 6 feet to 16 feet from the abutters to the west. There will be no change of driveway. The proposal will improve the current driveway situation and access to the house.

With no further comment from the applicants or abutters, Vice Chair Sanderson closed the public hearing and opened Board deliberations.

Mr. Wilkinson made a motion, seconded by Ms. Dole, to grant the variance from Article IV.B(1), Section (c)(1) for Road Frontage.

Mr. Wilkinson stated that the criteria has been met based on the testimony and evidence provided. The lot is an established, undersized, lot with design constraints. The proposal is reducing the footprint thus making the non-conformity less conforming. The proposal also improves the area with a new septic. There is no diminution to the property. Substantial justice will be done when the project is completed. There is substantial ability for turnarounds by emergency vehicles. The proposal is not contrary to the public interest and the setback is now only one-third percent and that is tolerable; it is over 50%. The property is accessible as the road is maintained year-round.

Motion passed unanimously with a roll call vote; 5/0.

Type of Frontage:

Criteria questions for a variance from Article IV.B(1) Section (b)(2):

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

Ms. Guill stated that the road is currently maintained by neighbors who live there year-round. They also have a plow to maintain the short distance of their driveway to their own house. The road is well sanded, in fact, the area has been complimented as the best maintained road on the lake.

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

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

Ms. Guill stated that emergency vehicles have previously been down the road. A survey has been completed by the construction company and they did not have any concern with access.

3. Granting the variance would do substantial justice because:

Mr. Guill stated that granting the variance would lessen the current footprint and increase the open space and landscaping from 32% to 26.9%. He also noted there will be a new septic system.

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

Ms. Guill stated that the abutter has indicated that the proposal will be an improvement in the neighborhood.

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:

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

Ms. Guill stated that the property is located at the end of a dead-end road. The property abuts the lake. The access is limited to the general traffic only.

(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 would be a reasonable one because:

Ms. Guill stated that the use is reasonable because the footprint of the new house is reduced and being a new home, it will meet all of the current codes.

With no further comment from the applicants or abutters, Vice Chair Sanderson closed the public hearing and opened Board deliberations.

Mr. Wilkinson made a motion, seconded by Ms. Colburn, to grant the variance from Article IV.B(1), Section (b)(2) for Type of Frontage.

Mr. Wilkinson stated that this is in fact a dead-end road with a serviceable turnaround that has been accessed previously by emergency vehicles. The construction company has looked at the property to verify they can access the property and get the modular down the road. This is an existing property, and the road is well maintained.

Motion passed unanimously with a roll call vote; 5/0.

Lot Size:

Criteria questions for a variance from Article IV.A, Section IV.B(2):

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

Mr. Guill stated that the front of the property is wooded. There are no houses behind them. The existing house is 1,553 sf and the proposed house is a reduction of 295 sf. In addition, they are reducing the impervious surface and removing patios and

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

walkways. Ms. Guill stated that the new construction is in compliance with all new codes. She added that the new house will remain seasonal.

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

Mr. Guill stated that they are reducing the size of the dwelling. The new house will be in compliance with all new codes. There is longevity with a new home. He added that the new home and additional improvements will add values to the area and surrounding homes.

3. Granting the variance would do substantial justice because:

Ms. Guill stated the new house will be an increase in the setbacks from 6 feet to 16.5 feet.

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

Mr. Guill added that the new house will enhance the neighborhood and add more green space. There will also be a new septic system added.

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:

(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 would be a reasonable one because:

Mr. Guill stated that the property is at the end of a dead-end road, with limited access to the residents that reside on the road, which is only three families. He noted that one abutter is present and supports the proposal.

Ms. Guill stated that the property has ledge and there is a well-head on the southern corner of the property. This location is the only reasonable location due to these factors. Mr. Guill added that the proposal is a reasonable use because it lessens the footprint, and the distance to the waterfront will remain the same. The new home will be in compliance to new codes and add additional green space and water mitigation.

With no further comment from the applicants or abutters, Vice Chair Sanderson closed the public hearing and opened Board deliberations.

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

Vice Chair Sanderson stated that the use is not contrary due to the fact that the new proposal is overall less square footage and an increase in permeability. She added that the new home will be better within the community. Substantial justice is done as the proposal increases the permeability and there will be a new septic system. Overall, the proposal will enhance the neighborhood as it is adding more green space. With the proposed on the lot, this is a reasonable use as it is actually better than the existing structure, meet all the current codes, and be more energy efficient.

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

Vice Chair Sanderson provided a brief overview of the new law going in to affect tomorrow. She stated that there are multiple facets but with the ZBA and Planning Board, these findings of fact must be fact based and clearly stated.

Motion passed unanimously with a roll call vote; 5/0.

Setbacks:

Criteria questions for a variance from Article IV.B, Section 4:

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

Ms. Guill stated that the new construction will increase the setbacks from 6.5 feet to 16.5 feet and overall will be a total reduction of square footage and the reduction of impervious space.

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

Ms. Guill stated that new house footprint will be reduced and the improvements to the property will help with the watershed and neighboring house values.

3. Granting the variance would do substantial justice because:

Ms. Gull stated that the setback will be increased from 6.5 feet to 16.5 feet.

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

Ms. Guill explained that the new home will enhance the area and the new structure will allow for more green space and be an overall reduction of the original footprint.

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:

(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 would be a reasonable one because:

Ms. Guill stated that the property consists of ledge and there are no other suitable location options. Mr. Guill added that there is also a wellhead, which adds to the constraints of the land. With the reduced footprint there is an increase in the setbacks. The distance to the lake will remain. He noted that they are replacing the septic system as well.

With no further comment from the applicants or abutters, Vice Chair Sanderson closed the public hearing and opened Board deliberations.

Ms. Sanderson made a motion, seconded by Ms. Colburn, to grant the variance from Article IV.B, Section 4 for Setbacks.

Vice Chair Sanderson stated that the proposal actually is improving the setbacks from 6.5 feet to 16.5 feet due to the reduced footprint. Also, the new septic system is an improvement along the lakefront. Substantial justice is being upheld as the property consists of ledge and there is a wellhead. The reduction of the footprint will pull the

**Town of Northwood
Zoning Board of Adjustment Meeting
August 22, 2022**

property line back by 10 feet as well. The proposal will not diminish the property values as the new structure will enhance the neighborhood. There is also a new septic system as well as an improvement in the driveway as previously noted in other discussions. She noted that the lot is distinguished by being small in size, but works and the proposed location is due to the ledge and wellhead.

Motion passed unanimously with a roll call vote; 5/0.

Additional discussion was held regarding the timing of issuing the permits. Ms. Smith explained that the once the permit is issued, there is a one-year timeframe to begin substantial construction. This permit can be renewed; however, with fees assessed. She added that the variance is good for two years.

Mr. Guill noted that they have received NHDES approval, which is good for three years. He requested that the permit be held as long as possible to allow for ample time to begin the overall process.

Ms. Smith explained the 30-day appeal process.

INTERNAL BUSINESS

Review/discussion of HB 1661

Although some discussion of HB 1661 occurred during the deliberations, additional discussion was held regarding the new laws and criteria changes. The Board discussed how to address the new criteria and will comment specifically to each criteria to show that the decisions are fact based. In addition, the Board was made aware of the recent HB presentations available and the tests that can be taken, although not mandatory.

Next Meeting:

September 26, 2022

CORRESPONDENCE

Copies will be made of the HB 1661 power point for members.

ADJOURNMENT

Motion to adjourn was unanimously accepted at 8:40 p.m.

Respectfully submitted,



Lisa Fellows-Weaver

Land Use Assistant, Pro tem