

**Town of Northwood
Zoning Board of Adjustment Meeting
January 24,2022**

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

PRESENT: Chair Justin Miller, Vice Chair Pam Sanderson, Betsy Colburn, (electronically) and Ted Wilkinson

Ms. Colburn's reason for participating electronically is medical.

TOWN STAFF PRESENT:

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

VOTING DESIGNATION: Justin Miller, Pam Sanderson, Betsy Colburn and Ted Wilkinson

Minutes

December 27, 2021

Ms. Sanderson made a motion to approve the minutes of December 27, 2021. Mr. Wilkinson seconded. Motion carried by roll call vote 4/0.

New Case

Case 22-1 Town of Northwood/Tasker Family Revocable Trust, Map 110 Lots 20&21. Applicants wish to establish each lot as separate lots, as they have been shown to exist as separate lots of record in town property files and tax maps since 1986. They applicants are requesting the following relief:

- A variance from Article IV.B(1)(b)(2) Road Frontage. Type of frontage. The lot is located on a private road.

Scott Frankiewicz from NH Land Consultants and Walter Johnson, Town Administrator were present to speak for the application. Mr. Frankiewicz stated that tonight they are discussing two lots located on Tasker Shore Drive. It was thought that they were two separate lots, but the lots never subdivided. One of the lots was sold at the town auction last year, and after the title search, they found that they were never officially subdivided. There is an easement going through the lots, which made the town think that they were separate lots of record. He distributed plans that showed the proposed subdivision, along with the tax maps that showed what the existing conditions were. They are asking for a variance for the type of road frontage, which is a private road.

Chair Miller opened the public comment.

Alice Best 70 Denmark Drive. Why is this coming before the board if these are already existing lots. Is this so they can divide the lots more? On the tax maps it shows two skinny lots. We were under the impression that there were three lots involved. If those are not two small lots. (inaudible)

Mr. Frankiewicz explained to Mrs. Best the layout of the lots, and how they were thought to be two lots.

Chair Miller closed the public comment.

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Criteria for a variance from Article VI.B.1 (b)(2) Road Frontage

1. *Granting the variance would not be contrary to the public interest because:*
Both lots contain adequate frontage length and size. The private road currently exists and is both safe and accessible for the two lots to exist as separate lots. The private road serves as the access/egress for both seasonal and year-round residences beyond this lot.
2. *The use is not contrary to the spirit of the ordinance because:*
Tasker Shore Drive is well maintained and has adequate width for access egress for vehicles traveling along this section of the road.
3. *Granting the variance would do substantial justice because:*
The two lots have existed on the town tax maps and property files as separate lots of record with separate property identification for over 30 years. During that time, prior to the current ordinance on upgrading private road frontage, many lots were developed for both seasonal and year-round use.
4. *The proposed use would not diminish surrounding property values because:*
The two lots are larger in size that the ordinance requires and are much larger that all lots on Tasker Shore Drive and contain greater than required length of frontage than is called for in the zoning ordinance, allowing ample distance from driveways on adjoining 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 existing road frontage on Tasker Shore Drive goes through the middle of the two lots and has for over 50 years. The town property records and tax maps indicated that they are two separate lots.

(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:

The purpose of the ordinance is to insure safe and adequate access to lots on private roads. There is adequate road frontage length and the existing road provides safe access and egress for many seasonal and tear round locations past the location of the lot.

(ii) The proposed use would be a reasonable one because:

The Town understood this to be two lots of record when the lots were accepted by the selectmen by tax deed and understood that to be the case when the lots were recently sold.

Mr. Wilkinson made a motion, seconded by Ms. Sanderson, to approve Case 22-1 with the following conditions:

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That an application for subdivision be approved by the Planning Board within 6 months.

Motion carried by roll call vote 4/0.

Continued Cases

CASE 21-11 SBS New Hampshire 2020, 679 First NH Turnpike, Map 222 Lot 34. Applicant wishes to place storage containers within the 20-foot setback and is requesting the following relief:

- A variance from Article IV.B. (4) Setbacks Structures shall be set back from property lines in conformance with the minimum and maximum setback requirements set forth in this section. The minimum setback is 20 feet.

Tom Johnson joined the table as member for Case 21-11 SBS New Hampshire

Voting Designation: Justin Miller, Pam Sanderson, Ted Wilkinson, and Tom Johnson, and Betsy Colburn.

William Gramer, applicant's attorney, Paul Brunner, executive Director for Spare Box Storage, and Eric Bordeau, SBS property manager were present to discuss their application.

Mr. Gramer stated that Square Box Storage is a storage facility chain, they acquired what was formerly 603 Storage in December of 2020. Sometime there after they applied for a permit to do some paving and at that point the town noticed that there were portable storage facilities along the boundary line which did not have a permit. They were existing at the time SBS purchased the property, and they have been there since 2016. There are four main storage structures on the lot, and half of which are placed at the endcaps of each building, a total of 50 white boxes with 28 along the boundary line, all of which are in the 20-foot setback. They are portable but used as a permanent structure. They aren't picked up and moved. They have a 90% occupancy rate for those units as well as the overall facility. They had a survey done, which was submitted with the application materials, so the board can see exactly where those storage containers are located. They are anywhere from 2 to 4 feet. There is a fence that separates the Spare Box property with the abutter. They are asking for a variance to allow these boxes to stay where they are.

Mr. Wilkinson asked if the existing fence was a visual screening? Mr. Gramer stated that no, there were some trees towards the front of the lot. Ms. Sanderson asked if it could be stipulated that the boxes be made permanent? Ms. Smith stated it wouldn't matter, it is still considered a structure and is subject to the setbacks. She also noted that if the variance is granted, they will also need site plan approval as these are not included in the original site plan.

Chair Miller asked if there were any abutters present, there were not.

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Mr. Johnson stated that the original site plan was approved in 1988. It has evolved over the years to what is now the 4 buildings. The applicant's company is only about a year and a half old, with properties all over the state. Do any of the other properties in New Hampshire have these white boxes or is it unique to this site. Mr. Brunner stated that there were probably 3 or 4 other properties with the white boxes. Mr. Johnson asked if they had similar zoning violations in those towns? Mr. Brunner stated that he didn't believe so. Mr. Johnson asked why the ZBA application listed the owner as SBS New Hampshire 2020, LLC; however, the building permit application which generated the violation letter from the Town listed RIZK Ventures Self Storage, LLC, a different owner? The applicant stated that the RIZK company is a holding company owner and the owner of SBS dba/Spare Box. Mr. Johnson asked why they didn't ask for Planning Board approval after getting the sign permit and reroofing permit to make this legal with all the violations on the property? Mr. Gramer stated that the applicant wasn't aware of the violations at the time of the purchase. He stated that the violations were brought to their attention when they applied for the permit for the paving. A violation letter was issued requesting that they apply for a variance, which they did. Mr. Johnson stated that they had a professional site plan done prior to purchase, so they must have been aware of the issues prior to purchase. Mr. Johnson asked what was SBS's intention for the property? Mr. Brunner stated that the intent moving forward is to maintain the site as is. Mr. Johnson stated that on their website they advertise new paving, new security and fencing. Mr. Brunner stated that the idea was to make upgrades to bring the level of the site up to what they call institutional quality. The idea is to pave and to fence, and to create a little rental center so that people can make payments. That will bring the quality up. Mr. Johnson stated that with all due respect, the evolution of these storage units has been permanent building on a permanent foundation, and now the new generation is all of these two- or three-story climate-controlled facilities. It seems that they are going backwards by putting these metal boxes on pallets. It seems a little haphazard the way they are placed directly on the ground. He stated that he worries about the quality of the of the improvements that they are doing. The lot line adjustment that was done in 2001 added 3.5 acres. Which helps the impervious cover on the entire lot, but in the original lot, they are way over 70% coverage where these violations are. It's not very fair to the abutters that they are adding these units which create impervious cover in an area that is gravel and causing possible soil contamination and drainage on to the neighbor's property from the roofs on these white boxes. Mr. Johnson asked if the security gate and fencing was added after they purchased the property. Mr. Brunner stated that it was. Mr. Johnson asked if they got a permit for that? Mr. Gramer stated that they would have to review and check to see if they did or not. Mr. Johnson stated that there was nothing in the town record indicating they did. He stated that along the 28 white boxes in the setback, the fence creates a dead-end travel way making it impossible to turn around in. He stated that he had to back all the way out about 200 feet when he did a site visit. He stated that the Fire Chief might want to issue a life

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safety cease and desist now that they have a site plan officially submitted to the Town. The original site plan allowed for a clearance for a vehicle to drive around. He stated that another issue had had was that he could not find an NHDES approval for construction or operational approval for a septic system that was shown on the original site plan approval. Mr. Brunner stated that there is no bathroom or water on site. Mr. Johnson stated that this may be an issue with 270 customers plus employees with no bathroom on site for DES and the Health Officer. Mr. Johnson stated that there are 50 white boxes total on the property with another 28 on the westbound side in the setback. There are two more boxes in violation of setbacks along the south east side, and a concrete slab for an old shed in the northeast corner of the setback. But they haven't asked for a variance for those, do they intend to remove those? Mr. Gramer stated that the two white boxes can be moved. Mr. Johnson stated that they aren't part of this variance application so they will need to remove the slab or come back for more variances. The point of all this is that he feels that they should be before the planning board for an amended site plan approval. They have 53 or so land use violations in addition to the ones that asked for variances for. The snow removal looks to be a problem along the white boxes side hinged doors making it impossible for tenants to access their units. The gravel area where the boxes are is where the snow removed would be pushed for drainage and to make easy access for the permanent structures. His recommendation would be to deny the variance, or the Applicant could ask for this case to be continued without prejudice and apply to the planning board for an Amended Site Plan Approval to get legal on all the other issues. The Chair asked the Applicant how they wanted to proceed? Discussion followed and Linda Smith reminded the Board that the Applicant is under a Violation Order. Mr. Johnson stated that since they are before the Board now, they are complying with the Order. However, now that the Site Plan submitted shows around 53 total Land Use violations, the Town Building Inspector may want to issue additional violations for everything discovered tonight. The potential \$275 per day/\$5,000+ court order award for a single violation for the original violation letter is now expanded by 53 separate violations, a much higher court order award potentially so incentive for the Applicant to proceed to the Planning Board quickly is there. Mr. Johnson also noted that their website advertising shows 8 different White Box options and they should suspend renting/advertising White Boxes and not add more violations to the property. Mr. Brunner then requested a continuation with no prejudice of this case to a date future.

Mr. Wilkinson made a motion, seconded by Ms. Sanderson to continue this case until February 28, 2022. Motion carried by roll call vote 5/0.

Mr. Johnson left the table.

Voting Designation: Justin Miller, Pam Sanderson, Betsy Colburn and Ted Wilkinson

Approved by the Zoning Board on March 7, 2022

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CASE 21-10 David Pelletier Construction Old Turnpike Road and Ye Olde Canterbury Road, Map 215 Lot 21-1. Applicant is proposing a common driveway with a wetland impact of 520 square feet and requests the following relief:

- A special exception as specified in the zoning ordinance Article VI Section A.(3).(h)

Scott Frankiewicz was present for the applicant. He stated that he has submitted the drainage analysis, where it shows that the driveway is designed to pitch into the hill, and any runoff will end up in to the detention area. He stated that they still have to apply for the wetland permit, which they will do when they are through with the process. He stated that he just received the letter from the Public Works foreman, and there are a few things to address with that.

Chair Miller asked if any abutters were present. There were no abutters present.

Ms. Colburn stated Mr. Brown's letter states that the driveway should be 18 feet across. Mr. Frankiewicz stated that he would ask that the section that goes across the wetland be 12 feet, in order to minimize the impact. Betsy: the driveway should be 18 feet? SF-he would ask that the section that goes across the wetland stay at 12 feet. Ms. Sanderson stated that flooding was still a concern. Mr. Frankiewicz stated that according to Chris Brown's comments, repaving is scheduled for this year, so the culvert should be addressed then. He also stated that the driveway was put in the location it was because of site distance and avoiding the steep slopes which would trigger another variance.

Information requested by the board before the next meeting:

1. The drainage report from a professional engineer with a stamp.
2. Site plan showing the 18-foot-wide driveway.
3. Designate the 30-foot length on the culvert.

Mr. Wilkinson made a motion, with a second from Ms. Colburn, to continue Case 21-10 until February 28, 2022, with all requested materials due by February 17 at 4 PM.

Motion carried by roll call vote 4/0.

CASE 21-6 Jean Pinard 26 Newman Drive Map 125 Lot 14. Applicant is proposing to replace a carport and porch with a new covered porch and is requesting the following relief:

- A variance from Article IV.B(4)(b) Setbacks
- A variance from Article IV.B.(2) Lot Size. Lot has .29 acre where 2 acres are required.

Mr. Pinard withdrew his variance request for Article IV.B(4)(b) Setbacks

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Mr. Wilkinson made a motion, seconded by Chair Miller to accept the applicant's withdraw of all setback variances. Motion carried by roll call vote 4/0

Chair Miller asked if there were any abutters present. There were no abutters present.

Mr. Pinard stated that he has already given his testimony for this variance request.

Mr. Wilkinson made a motion, seconded by Ms. Colburn to approve the variance request with the following conditions:

- 1. Provide a new certified plot plan to the town with the proposed new structures and showing the garage removed.**
- 2. Add identification of all structures on the plan to indicate proposed and existing structures.**
- 3. Submit the plot plan to the town within 6 months of the decision**

Motion carried by roll call vote 4/0.

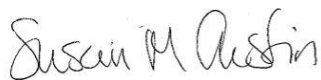
INTERNAL BUSINESS

A potential new member Steve Kasanovich was present. Mr. Kasanovich stated that he was interested in becoming a member of the Zoning Board. Ms. Smith stated that she would draft a letter to the Board of Selectmen to request that they appoint him.

ADJOURNMENT

Mr. Wilkinson made a motion to adjourn at 8:33 PM. Ms. Colburn seconded. Motion carried by roll call vote 4/0.

Respectfully submitted,



Susan M. Austin, Land Use assistant