

**Town of Northwood  
Zoning Board of Adjustment Meeting  
May 23, 2022**

*Cases heard at this meeting:*

**Case 22-7** *Coe Brown Northwood Academy*

**CASE 22-8** *Deborah Poehlman*

**CASE 22-9** *Donald and David Hughes*

**CASE 22-10** *Robin Harkins*

**CASE 22-11** *Kevin Graue and Taylor Curtiss*

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

Ms. Dole made a motion, seconded by Mr. Kasonovich, to open the Zoning Board Meeting of May 23, 2022

**PRESENT:** Vice Chair Pam Sanderson, Ted Wilkinson, Ginger Dole (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, Stave Kasonovich, Ginger Dole and Betsy Colburn.

**TOWN STAFF PRESENT:**

Linda Smith, Land Use Specialist

**MINUTES**

**Mr. Kasonovich made a motion, seconded by Ms. Colburn to approve the minutes of March 28, 2022, as amended. Motion carried by roll call vote 3/0/1 Ms. Dole abstained.**

**CASE 22-7 Coe Brown Northwood Academy, 907 First NH Turnpike Map 217 Lot 1**

Proposal to exceed the building height requirement in the zoning ordinance of 35' for Wiggin Hall (after the fact) and a new addition (proposed) that includes stairs and an elevator, all structures to be 38' or less.

- Variances from Article IV.B. (5) Structure Height. Structure heights shall not be greater than 35 feet, proposed structure is 38 feet.

Matt Angell and Carl Olsen were present to discuss their application. Mr. Olsen stated that the documents requested by the board at the last meeting were concise, and they show the board exactly what they are up against as far as the stair tower addition was concerned. The ordinance specifies a 35' height from the foundation sill. The roofline is right at the 35-foot height for the stair tower addition. From a technical standpoint, it should eliminate the need for a variance for the height of the stair tower. The board had asked them to apply for the variance for the non-conforming issue with the building height, but that was an oversight on their part, the original application was for 27 feet, and then during construction it ended up being built to a greater height than what was approved. Mr. Olsen stated that they did bring a second set of plans in showing the height at 38 feet ridge height. That was prior to the second floor going up. They did not build that and then ask for permission, as far as a permit is concerned. Ms. Smith stated that the original permit says 27 feet. Mr. Olsen stated that the original permit was for when they were building a single story, once they decided to build the second floor, they came in and applied for a second permit. Ms. Smith stated that there was no second permit located.

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Mr. Olsen stated that the roof on the stair tower addition is at 35 feet to the peak from the sill. Therefore, they would not need to ask for relief because it is within the requirements. Ms. Smith stated that they would need to request to withdraw the application.

Vice Chair Sanderson stated that they had received a memo from the Fire Chief stating that he requests that the variance be granted only if the building is equipped with a sprinkler system.

Mr. Olsen stated that when they built the addition in 2019, sprinkler systems were a big part of the conversation. There are a few ways of working through fire prevention in a structure like that. What is written for educational use is that an area that exceeds 12,000 square feet is required to be sprinkled. The entire structure including both floors is at 8,100 square feet. They are not required by code to have an automated sprinkler system for that size structure for educational use. The other thing that was brought up was the fire grading of the walls and ceilings between the floors. The existing Wiggin Hall and the addition that they built has a 3-hour rating between the walls and doors. The exterior skin of the entire addition has a 2-hour firewall, and a 2-hour fire rated ceiling in between the first floor that is occupied, and the second floor that is currently not occupied. The intention is to continue that fire rating on the second-floor addition when the finish it off, to have a 2-hour envelope in between. There is no joining of the second floor to the existing Wiggin Hall. Those two things were brought up at the time by CBNA's architect, the former Fire Chief, and the state Fire Marshall, all of whom were in agreement that they were in compliance, knowing that the second floor would be finished off at some point.

Five Criteria for granting a variance from Article IV.B(5):

- 1. Granting the variance would not be contrary to the public interest because:** Project allows for the use of 2<sup>nd</sup> floor space at Wiggin Hall, Coe Brown's Fine Arts Center.
- 2. The use is not contrary to the spirit of the ordinance because:** Per section IV Article (e) [1] the stair tower addition will be used as a means of egress from the second floor of the existing building.
- 3. Granting the variance would do substantial justice because:** Wiggin Hall was expanded in 2019 to provide additional space for Fine Arts activities and learning on the Coe Brown Campus. The Arts are an essential component of any school or community's diversity.
- 4. The proposed use would not diminish surrounding property values because:** Surrounding buildings are part of the Coe Brown Campus.
- 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:** Use as a school, and the existing structures on site exceed the zoning height limit.

**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:** The proposed project is a means of egress from the 2<sup>nd</sup> floor of the existing building.

Vice chair Sanderson asked if any abutters to this property were present. There were not.

**Ms. Colburn made a motion, seconded by Mr. Kasonovich, to accept the applicants request to withdraw the original variance request: structure height of the stair tower. Motion carried by roll call vote 4/0.**

**Mr. Kasonovich made a motion, seconded by Ms. Dole, to approve the variance from**

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**Article IV.B(5) for the expansion of Wiggin Hall, with the following conditions:**

- **That the applicant meets with the Fire Department to allow the Fire Chief to approve the fire prevention methods that are necessary.**

**Motion carried by roll call vote 4/0.**

**NEW CASES:**

**CASE 22-8 Deborah Poehlman, 12 Burke Road Map 119 Lot 20.** Applicant proposes to build an addition to their seasonal residence and is asking for the following relief:

- Appeal of RSA 674:41 II
- A variance from Article IV. B (1) Section (c) [1], Road Frontage. This lot only has 99.76 feet, where 150 feet is 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.B Section (4)(b) Setbacks. Structures shall be set back from property lines in conformance with the minimum setback requirements set forth in this section. Applicant is proposing to build an addition 10 feet from the lot line, where 20 feet is required.

Deborah and Russell Poehlman were present to discuss their application. Ms. Poehlman stated that they have a three-season cottage on Pleasant Lake. It is approximately 105 years old. It has a rotted sill in the rear of the building that needs repair. They need to remove the portion of the cottage that's on the back that contains a utility shed and bathroom to get to the sill. Once that sill is repaired, they would like to take the opportunity, while the back of the building is all open, to put in some additional living space inside. They would like to increase the size of the kitchen, add a new bathroom, and update the electrical and plumbing. They are also proposing a covered entryway. The cottage is located on a private road, maintained by the neighbors that live on it.

Vice Chair Sanderson asked if there were any abutters present. There were none.

Facts supporting the request to appeal RSA 674:41 II

**Enforcement of the frontage standard would “entail practical difficulties or unnecessary hardship”** The necessity of structural repair work to the sill warrants the work detailed. A seasonal cottage with no reasonable usage during the months of May through October is on a non-conforming lot having no opportunity for adjustment in size. The existing 15-foot-wide gravel road is also a seasonal private way that has been in existence since the structure was built on the site in approximately 1902 and provides the only means of access to the lot. The use of the property and road will continue to be seasonal only.

**The circumstances of the case do not require the building or structures to be related to existing or proposed streets.** There will be no additional use of the road which serves as the only access to the existing cottage structure. It will remain a seasonal access used only by the property owner. The use is consistent with living space being available during the approximate months May through October. The use will not change because of the granting of the variance.

**The erection of the building will not tend to distort the official map or increase the difficulty of carrying out the master plan.** The addition of approximately 430 square feet to the present structure will neither impact the master plan nor change any official town maps.

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Work to be completed will serve the purpose of preventing further damage to the existing structure by replacing the supporting rear sill and will provide the ability to upgrade and update the first floor living space, i.e., living room, dining room, and bath areas, bringing them up to date with building codes and comfort.

**The erection of the building will not cause hardship to future purchasers or undue financial impact on the municipality.** Proposed work will not cause a hardship to future purchasers, in fact, the opposite would be true. Proposed work is for the increased comfort and accessibility of the property owner. Work would not impact the town in any way, nor would road access provide any responsibility to town. Any future upgrades/improvements would be subject to additional town approvals.

**Ms. Colburn made a motion, seconded by Ms. Dole, to approve the request for appeal to RSA-674: 41. Motion carried by roll call vote 4/0.**

Five criteria for granting a variance from Article IV.B 1 (c) [1] Road Frontage:

- 1. Granting the variance would not be contrary to the public interest because:** The road frontage for Lot 20, Map 119 at 12 Burke Road is 99.76 feet and is the property line for a single-family seasonal cottage on Pleasant Lake. The present frontage has been adequate for use by public utilities/emergency vehicles as well as owner required maintenance vehicles for over 100 years. The lot size is non-conforming and borders other non-conforming lots on three sides, allowing no option to satisfy this ordinance.
- 2. The use is not contrary to the spirit of the ordinance because:** This lot has existed since the 1800's and has consistently been used only as a seasonal residence since it was built in the early 1900's. The frontage also poses no hindrance to service/emergency vehicles accessing the lot.
- 3. Granting the variance would do substantial justice because:** There is no option available to the property owner to change the lot size or the road frontage.
- 4. The proposed use would not diminish surrounding property values because:** The abutting properties are relatively the same size and have relatively the same road frontage. There would also be no change of use.
- 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 size of this lot has been the same as it is at present for more than 100 years.
  - (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 public purposes of the ordinance and the specific application of that provision to the property because:** The date of the establishment of the lot most probably predates the ordinance and the property owner has no option available to satisfy the ordinance.
  - (ii) The proposed use would be a reasonable one because:** The use of this property is seasonal and will not change as a result of the granting of this variance.

**Ms. Dole made a motion, seconded by Vice Chair Sanderson, to grant the variance from Article IV.B 1 (c) [1] Road Frontage. Motion carried by roll call vote 4/0.**

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Five criteria for granting a variance from Article IV.B 1 (b) [2] Road Frontage:

- 1. Granting the variance would not be contrary to the public interest because:** Burke Road is presently a 15-foot-wide private gravel roadway used to access the property at 12 Burke Road/ Map 119 Lot 20. It is and it is and has been used to access this seasonal residence during the late spring, summer, and early fall months for more than 100 years. Since 1948, when the property owner's family purchased this property, service and emergency vehicles have been able to access this lot. Its use has not changed in that time, nor will it change as a result of the granting of this variance. It will continue to only be used as seasonal.
- 2. The use is not contrary to the spirit of the ordinance because:** Burke Road is one of many that were originally built to access waterfront summer homes. It was gravel when the property was purchased 73 years ago and has been maintained for use over the course of those years and remains the only access to the property. Its use is limited to only those months when the cottage can be used. It is also the last of several private roads that must be used in order to gain access.
- 3. Granting the variance would do substantial justice because:** This is the only access to the property. It has been used only by residents and guests and is easily navigated by all service and emergency vehicles that have used it in the past. It's use over the more than 100 years it has been in existence will not change as a result of the granting of this variance.
- 4. The proposed use would not diminish surrounding property values because:** There would also be no change of use to this access. As a seasonal access, it is similar in size and length to several others that provide access for the properties that abut Lot 20. 90% of which are seasonal homes.
- 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:** This road is one of several that must be used to access said lot. It is only one of those several that the property fronts. The purpose for which these roads were all built, a common access to remote sites, a purpose that still exists. **Owing to the special conditions of the property, set forth above, that distinguishes it from other properties in the area:** The date of the establishment of the lot most probably predates the ordinance and the property owner has no option available to satisfy the ordinance.
  - (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:** Burke Road is access to a private summer residence. There is no public use of this access except by invitation of the property owner. The Town of Northwood has no responsibilities to maintain the access. It has been used as an access since its inception and will continue as such.
  - (II) The proposed use would be a reasonable one because:** Burke Road is the only access to Lot 20 and has been used as such since it was created.

**Ms. Dole made a motion, seconded by Vice Chair Sanderson, to grant the variance from Article IV.B 1 (c) [1] Road Frontage. Motion carried by roll call vote 4/0.**

Five criteria for granting a variance from Article IV.B (4) [b] Setbacks

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1. **Granting the variance would not be contrary to the public interest because:** The design of the entrance to a seasonal cottage to allow for a covered entry would create no change of use of any portion of the property as a result of its construction. The balance of the construction is within the required setbacks.
2. **The use is not contrary to the spirit of the ordinance because:** The original placement of the existing seasonal cottage on the lot resulted in a portion of one side to be quite close to the property line with one neighbor. This fact has caused no issues with any owners of abutting property line for the last 100 years. The placement of the new covered entry, which at 10 feet from the property line, will be more than triple the present setback of one corner of the cottage and would be further from the property line than the existing cement patio which will be removed.
3. **Granting the variance would do substantial justice because:** Gaining access to replace a rotted rear sill which is causing substantial damage to the interior of the cottage will allow the opportunity to make much needed upgrades to the interior, bringing electrical and plumbing systems up to code
4. **The proposed use would not diminish surrounding property values because:** There would be no change in the use of this property. It has been a seasonal cottage, available for use during the summer/early fall months for more than 100 years and it will remain so. In addition, the entry is only visible from the rear of the property.
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:**
  - (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 public purposes of the ordinance and the specific application of that provision to the property because:** Burke Road is access to a private summer residence. There is no public use of this access except by invitation of the property owner. The Town of Northwood has no responsibilities to maintain the access. It has been used as an access since its inception and will continue as such.
  - (II) **The proposed use would be a reasonable one because:** Burke Road is the only access to Lot 20 and has been used as such since it was created.

**Ms. Dole made a motion, seconded by Vice Chair Sanderson, to grant the variance from Article IV.B (4) [b] Setbacks. Motion carried by roll call vote 4/0.**

**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.

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Dan Tatum was present representing the applicants, as well as Don and David Hughes, the applicants. The existing house, which was purchased by the applicants about a year ago, has already seen all the improvements required to be a year-round residence. Unfortunately, it was all completed without a building permit. The building inspector discovered this when the former owners came to get a septic system application signed. The building inspector denied that, and in turn they sold the house to the applicants. After the applicant purchased the property, he went to install a new septic system that was state compliant. Upon the submission of the new septic design, the applicant discovered that the house needed a variance to be converted to a year-round use. They have received state approval, a shoreland permit and they have a plot plan showing all the existing structures. Mr. Shaheen allowed the installation of a new well. This parcel is two parcels. It is on 7 North Lane, and the parcel across the street. Both are on the same deed and are the same ownership. To design the septic system, it requires a force main to be installed under the road. The crossing under the road was designed to Town standard. They are not asking to do any structural changes. They are only asking for approval for a building permit for the septic system. The only component that doesn't meet the regulation is the existing holding tank.

Vice Chair Sanderson asked if any abutters who wanted to speak were present. There was one abutter, she chose not to comment.

Facts supporting the request to appeal RSA 674:41 II

**Enforcement of the frontage standard would “entail practical difficulties or unnecessary hardship”** No house structure construction is proposed, just the septic system. The property only has 50 feet of frontage, and the property cannot be expanded.

**The circumstances of the case do not require the building or structures to be related to existing or proposed streets.** The existing house does not currently have the appropriate frontage and because the road is maintained by the Cove Association. They also have approval from the HOA to run the septic line under the road. The footprint of the structure remains the same.

**The erection of the building will not tend to distort the official map or increase the difficulty of carrying out the master plan.** The building is existing and is not proposed to be altered or changed.

**The erection of the building will not cause hardship to future purchasers or undue financial impact on the municipality.** The building is existing and is not proposed to be changed. The road is privately maintained by the Cove Association.

Criteria for granting a variance from Article IV.A Section IV. B (4) Setbacks (septic)

- 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 subject lot has an existing house, and no expansion is proposed. The proposed septic will also not meet the setbacks. Many abutting structures do not meet these setbacks.
- 2. The use is not contrary to the spirit of the ordinance because:** Because no expansion is proposed and the use is in then same spirit as many abutting lots, the request to convert to a year-round residence is not contrary to the spirit of the ordinance.

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3. **Granting the variance would do substantial justice because:** The owner has invested significant funds and intends to invest more funds to further improve the lot with a new septic and well. Because many abutting lots do not meet the structure setbacks and are year-round, granting this variance will do substantial justice.
4. **The proposed use would not diminish surrounding property values because:** The current and proposed site improvements have and will greatly enhance the subject property and will in turn increase the value of the property and abutting properties. Many abutting properties do not meet the setbacks.
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 building codes. The new septic system will be on parcel 90, across from North Lane, improving the ground water quality near the lake. The house is existing and will not be expanded. The new septic will improve the lot and abutting lot values.
  - (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 public purposes of the ordinance and the specific application of that provision to the property because:** Because there are already many other year round residences on this road and the subject house already been upgraded to meet the building codes, after the well and septic are installed, there is no relationship between the structure setback 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 meet the structure setbacks. All building codes for a year-round residence have been met. The private road is maintained by an association. Then conversion will benefit the subject parcel and the abutting property owners as well.

**Mr. Kasonovich made a motion, seconded by Ms. Colburn, to grant the variance from Article IV.A Section IV. B (4) Setbacks (septic), because it would do substantial justice, and not diminish surrounding property values.**

**Motion amended to include that this approval is specific to the existing seasonal cottage.**

**Motion carried by roll call vote 4/0.**

It was noted by the board that the applicant had not completed a variance application for Article IV.B (1) Section (b)|2], Type of Frontage, therefore the board continued this case until the next meeting to allow the applicant to submit that application.

**Ms. Dole made a motion, seconded by Mr. Kasonovich, to continue Case 22-9 until June 27, 2022. Motion carried by roll call vote 4/0.**

**CASE 22-10, Robin Harkins, 106 Main Street Map 216 Lot 57. Applicant is proposing to replace an existing septic system and requests the following relief:**

- A variance from Article IV(B)(4)(b) Setbacks

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Scott Frankiewicz, from New Hampshire Land Consultants, was present to speak for the applicant. He stated that the existing septic on this property is failing, and the applicant is proposing to replace it with a state approved system. They are proposing a pressure distribution Geo Mat 1200 leaching system. The applicant is requesting a waiver from Article IV(B)(4)(b) for the septic setback. They propose to put it 10 feet from the property line, which is what DES requires. This lot is narrow, with the well in the middle of the lot, so there aren't many options for leach field placement. The house has been there since 1850.

Vice Chair Sanderson asked if there were any abutters present. There were none.

Ms. Smith pointed out that the notes on the plan were not applicable to this application. Mr. Frankiewicz stated that notes 13, 15, and 16 would be revised to reflect this plan.

Criteria for granting a variance from Article IV(B)((b)

- 1. Granting the variance would not be contrary to the public interest because:** The owners are proposing to replace an existing system placed many years ago and is failing. This variance will allow the owners to replace the existing system with a modern state approved septic system.
- 2. The use is not contrary to the spirit of the ordinance because:** The system will be state approved system and improve the current situation.
- 3. Granting the variance would do substantial justice because:** It will allow the owners to continue to use the property as they currently do, a single-family home.
- 4. The proposed use would not diminish surrounding property values because:** The use will not change, as it will still be used as a single-family home, but it will be equipped with an NHDES approved septic system, improving the current situation.
- 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 located on Main Street adjacent to a wet meadow and the parcel is narrow, leaving little room for a leach field. The house and well are in the middle of the property, leaving little area for a septic tank and leach field. The system will meet the 10' NHDES setback requirements.
  - (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 public purposes of the ordinance and the specific application of that provision to the property because:** There is an existing septic system on site that did not receive NHDES state approval. The proposed septic system will be state approved and installed by a licensed installer.
  - (II) The proposed use would be a reasonable one because:** The existing septic system will be replaced by an NHDES state approved system, and the use of the property is not proposed to change.

**Vice Chair Sanderson made a motion, seconded by Ms. Dole, to approve the variance request from Article IV(B)(4)(b) Septic setbacks, the leach field will be located 10 feet from the lot line, with the following conditions:**

- Contingent on state approved septic plan
- The location is noted on a certified plot plan.
- All state and local permits are obtained.

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**Motion carried by roll call vote 4/0.**

**CASE 22-11 Kevin Graue and Taylor Curtiss, 7 Faucher Lane Map 103 Lot 10.** Applicant is proposing to replace the existing septic system with a new one, and requests the following relief:

- A variance from Article IV(B)(4)(b) Setbacks
- A variance from Article VII (C)(4) Non-Conforming Lots

Brett Allard, counsel to the applicant, was present to speak for the application. Taylor Curtiss and Kevin Graue, the applicants, were also present. Attorney Allard stated that the applicants are proposing construction of a septic tank approximately 12.4 feet from the northerly side lot line, where a 14 foot side setback is required per article VII(C)(4), construction of a septic tank approximately 18.2 feet from the front/road line where a 20 foot setback is required per Article IV(B)(4)(b) and construction of a leach field approximately 2.7 feet from the southerly side lot line where a 14 foot setback is required per Article VII(C)(4). He stated that he wanted to make clear that this is a seasonal cottage. The Building Inspector issued a septic approval on January 11, 2022, subject to the variance approval. Attorney Allard noted that the lot is split up into two parcels. Attorney Allard was able to research and find the previous owners, who were happy to help clear this up. In the 70's, the tract near the road fell off of the deed. That parcel fell off for two owners beforehand, they were able to go back to the previous owners, who were happy to convey that parcel to the current owners. Ms. Smith stated that she would recommend a voluntary merger to clear this up.

Vice Chair Sanderson asked if there were any abutters present. There were none.

Criteria for granting variances from Article IV(B)(4)(b) Septic Setback and from Article VII (C)(4) Non-Conforming Lots:

- 1. Granting the variance would not be contrary to the public interest because:** Granting the variance will not alter the essential character of the neighborhood because the septic systems are situated underground and not visible. Nor will granting the variance threaten public health and safety. The existing system is outdated and does not meet current state standards. The proposed system will replace the existing system to conform to current standards and, thus, will be a benefit to the public health. Upgrading the septic system will improve sewage treatment on the lot, and therefore promote the health and water quality for the existing lot owners on Jeness Pond. As such, granting the variance would not be contrary to the public interest.
- 2. The use is not contrary to the spirit of the ordinance because:** The spirit of the ordinance is to prevent congestion and overcrowding by preventing structures in setbacks. That is not an issue here because the system is underground. This, coupled with the health and safety benefits render this request consistent with the spirit of the ordinance.
- 3. Granting the variance would do substantial justice because:** There is no injury to the public if the variances are granted, because the new septic will vastly improve onsite sewage treatment, which will benefit the applicant and the public. Denying the variances and requiring the applicant to maintain an outdated septic system could increase the chance that the system could fail, therefore causing harm to the public. Therefore, when balancing public and private rights, the loss to the applicant if the variance is denied outweighs any loss or injury to the public if the variance is granted.
- 4. The proposed use would not diminish surrounding property values because:** The

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proposed system will improve sewage treatment on the property and thus will ensure that the outdated system doesn't fail. Additionally, these systems are underground and are not visible such that they can aesthetically impact the neighborhood or property values.

- (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 applicant's property is a very small preexisting non-conforming lot of record with a very small building envelope due to the location of the pond, existing dwelling and setback areas. The conditions prohibit the placement of a new septic system in a manner the complies with the applicable setback requirements. **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 public purposes of the ordinance and the specific application of that provision to the property because:** There will be no overcrowding, or overdevelopment. This will all be underground and not clearly visible. Granting the variance will allow the landowner to upgrade the non-complaint septic system to bring it to state standards. An improvement of sewage treatment is a benefit to the applicant, the neighborhood, or the public.
- (II) The proposed use would be a reasonable one because:** The proposed use is remaining a seasonal cottage; the septic is a necessary component of that to provide sanitary disposal systems. It's reasonable to improve the system to current state standards.

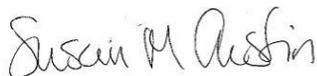
**Mr. Kasonovich made a motion, seconded by Ms. Colburn, to grant the variances from Article IV(B)(4)(b) Septic Setback and from Article VII (C)(4) Non-Conforming Lots, for the construction of a septic system that is not contrary to the spirit of the ordinance and would do substantial justice, with the following conditions:**

- This board has made no decision on any structural improvements to the building
- That the separate lots are merged as offered by the applicant.
- That the leach field vent be placed as far away as practicably reasonable from the abutters home.
- All state and local permits are obtained.

**Motion carried by roll call vote 4/0.**

***Motion to adjourn was accepted at 9:31 PM***

*Respectfully submitted,*



*Susan M. Austin, Land Use assistant*

***Approved by the ZBA on June 27, 2022***