

*Town of New Durham Planning Board Meeting
September 1, 2020
Final 10-20-2020*

**TOWN OF NEW DURHAM
PLANNING BOARD MEETING
September 1, 2020, 7:00p.m.
Virtual Meeting, New Durham, NH 03855
Final Approved 10-20-2020**

Under the emergency provisions of RSA 91A, this meeting took place electronically via Zoom.

**IN LIGHT OF THE COVID 19 (CORONA VIRUS) SOCIAL DISTANCING ADVICE
MADE BY THE GOVERNOR AND CDC, THE TOWN OF NEW DURHAM NH FOLLOWING
A DECLARATION OF EMERGENCY BY THE PLANNING BOARD CHAIRPERSON, IS
PROVIDING A MEETING PARTICIPATION VIA TELEPHONE CONFERENCE FOR YOUR
SAFETY.**

This meeting is for members and the public to utilize the Zoom platform to prepare for future meetings and public hearings. All members of the Planning Board and Town Administrator have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following. In accordance with Governor's Executive Order #12, pursuant to RSA 91-A: 2

Join Zoom Meeting

<https://us02web.zoom.us/j/89031890935?pwd=eWZ5emdvL3Z0cXE4OStlOGFXVnA4dz09>

Meeting ID: 890 3189 0935 Password: 238372

Or via telephone number: 1-646-558-8656;

Meeting ID: 890 3189 0935 Password: 238372

Technical difficulties contact Town Administrator Scott Kinmond at skinmond@newdurhamnh.us or by phone a 603-556-1516. Assistance with Zoom application please contact Brian Cauler at ndlanduse@newdurhamnh.us or contact Planning Board.

Note: Town of New Durham offers no security assurances to those connecting via PC to a third party software and hardware not configured or controlled by our IT Service provider.

PRESENT

Jeff Allard, Chair – via Zoom

Scott Drummey, member – via Zoom

Dorothy Veisel, Board of Selectmen representative – via Zoom

David Bickford, member– via Zoom

EXCUSED ABSENCE

Bob Craycraft, Vice Chair

ALSO PRESENT

Scott Kinmond, Town Administrator – via Zoom
Paul Raslavicus, resident – via Zoom
Denise Landis, Abutter – via Zoom
Scott Dunn, resident – via Zoom
Sandra Dunn, resident – via Zoom
Rick Gray, R.A. Gray Contracting
Deborah Randall, architectural designer – via Zoom
Brennan MacDonald, Abutter – via Zoom
Nathalie Gignac, Abutter – via Zoom
Tom Varney, Varney Engineering, LLC
Jane Stinson, Varney Engineering, LLC
Paul Tzitzon, Applicant– via Zoom
Kathy Dwyer-Hydorn, Applicant– via Zoom
Jay Perkins, resident of Exeter – via Zoom

CALL TO ORDER

Chair Allard called the meeting to order at 7:02pm.

Chair Allard confirmed the meeting was posted appropriately with access numbers. He stated that in the event the public is unable to access the meeting, it would be adjourned and rescheduled. Chair Allard stated all votes would be taken by roll call. Chair Allard asked Planning Board members to introduce themselves and identify anyone in the room with them, as well as any members of the public.

Agenda Review

New/Old/Other Business was moved after Review of Conditional Use Permits.

Public Comment

None.

Review of Conditional Use Permit

Submitted for Scott and Sandra Dunn, 5 Hilltop Circle, Map 244 Lot 055

The Board reviewed the application for completeness. Mr. Dunn noted the Agenda and notice is incorrect as it should indicate “Scott” Dunn. It was confirmed the property has no steep slopes; Chair Allard noted setbacks are applicable, but no reference is made on the application. It was also confirmed no variances are required from the Zoning Board of Adjustment and all fees have been paid. Mr. Bickford noted he does not have a copy of the application. Ms. Veisel suggested any action taken by the Board be conditional on abutters' receipt of the notices. Mr. Dunn stated he doesn't agree with this as the application was submitted 21 days ago. Town Administrator Kinmond verified the notices were mailed and he received two phone calls from abutters inquiring what the hearing was about.

Mr. Drummey made a motion to approve the application as complete for the Conditional Use Permit for Scott and Sandra Dunn, 5 Hilltop Circle, Map 244, Lot 055. Ms. Veisel seconded the motion. Roll Call: Ms. Veisel – aye; Mr. Drummey – aye; Mr. Bickford – abstained; Chair Allard – aye. Motion passed, 3-0-1.

Chair Allard asked the applicants if they want to proceed with three members hearing this case, noting they do have the right to request a continuance. Mr. and Mrs. Dunn agreed to proceed.

Rick Gray, R.A. Contracting, stated they are looking to add a 540 square foot accessory dwelling unit to the residence; they would be taking one bay of the garage and adding an 18' by 22' addition for living quarters. Mr. Gray stated they have an approved septic design for a five bedroom, two kitchen home to replace the system if needed. All the setbacks are met and the design will be to blend in with the existing structure and neighborhood. Chair Allard outlined the requirements for an attached Accessory Dwelling Unit (ADU), noting that while the proposed ADU is attached to the primary dwelling, it is also located in the garage, and therefore, he's not sure if this is attached or detached. Mr. Dunn explained Sandra is in a wheelchair so they are also trying to incorporate that and have one adjoining door as needed and asked if it could be considered detached. There was discussion whether the lot is conforming or non-conforming at 1.9 acres. Chair Allard asked Mr. Gray to confirm all setbacks are met. Mr. Dunn stated since there are already going to be conditions, suggested they resubmit after the correct total measurements are obtained and they are at the 850 square feet. It was also noted a door going from the storage space to the garage will be needed. It was confirmed there will be adequate parking spaces.

Ms. Veisel outlined the conditions discussed: Building Inspector confirm the lot meets the setback requirements; resubmit plan which meets 850 total square feet requirement by placing a door at the bottom of stairs and garage; the Building Inspector confirm this is a conforming lot.

Mr. Drummey made a motion to approve the request for a Conditional Use Permit for Scott and Sandra Dunn, 5 Hilltop Circle, Map 244, Lot 055 with the following conditions: Building Inspector confirm the lot meets the setback requirements as required by Zoning Ordinance; resubmit plan which meets 850 total square feet requirement by placing a door at the bottom of stairs and the garage; the Building Inspector confirm that this is a conforming lot. Mr. Bickford seconded the motion. Roll Call: Ms. Veisel – aye; Mr. Drummey – aye; Mr. Bickford – aye; Chair Allard – aye. Motion passed, 4-0-0.

Review of Conditional Use Permit

Submitted by Varney Engineering LLC, for Kathy Dwyer-Hydorn and Paul Tzitzon, 320 Kings Highway, Map 209, Lot 034

The Board reviewed the application for completeness. Chair Allard noted this is being reviewed due to disturbance of steep slopes in the overlay district. Mr. Varney noted the shore land and septic permit applications have not been submitted yet. It was noted the septic radius is not indicated. Chair Allard confirmed all fees were paid.

Denise Landis, abutter, stated she did not receive notification; she noted no Intent to Cut was issued and nothing was posted along the road. She stated it appears the land was clearcut for the sale of the timber and wants to know if the Town was informed and timber tax paid. Ms. Landis wants to know why no Intent to Cut was filed.

Brennan MacDonald and Natalie Gignac confirmed they were notified of this meeting by the Planning Board.

Mr. Bickford made a motion to accept the application as complete for a Conditional Use Permit for Kathy Dwyer-Hydorn and Kevin Tzitzon, 320 Kings Highway, Map 209, Lot 034. Mr. Drummey seconded the motion. Roll Call: Ms. Veisel – aye; Mr. Drummey – aye; Mr. Bickford – aye; Chair Allard – aye. Motion passed, 4-0-0.

Tom Varney, Varney Engineering LLC, stated the applicants recently purchased the property on Kings Highway; he stated the existing house has been demolished but a shed remains. A new house is proposed to be constructed along the Shaws Pond waterfront; a driveway will be constructed for access to the house; a new well and septic system will be installed; storm water measures are to be installed to infiltrate stormwater runoff; extensive regrading for house and driveway; a stormwater management study has been completed and approved NH DES Shoreline Permit and septic design are required. Mr. Varney outlined the steep slopes and the amount to be disturbed is about 4,100 square feet of slopes over 30% and total disturbed is under the 10,000 square feet. The building will occupy less than 15% of the lot size, and total impervious coverage will be 16% (Brian: please confirm these numbers). Mr. Varney outlined the stormwater management plan. The driveway will be gravel; there will be swales and catch basin dry wells to catch stormwater runoff with porous pavement to catch water off the roof. Mr. Tzitzon gave an overview of their plans for the property which includes minimizing the impact on the land and pond. Ms. Dwyer-Hydorn explained many of the trees were unhealthy, contained lead and damage due to there being a lot of shooting being done on the land, and needed to be removed. Chair Allard asked Mr. Varney to explain his calculations for the total impervious surface. Mr. Varney explained that part of the driveway is subtracted from the total impervious surface, as part of the parking area is pervious. Mr. Bickford asked how close the side setbacks are; Mr. Varney replied 15'. Chair Allard suggested a Site-Walk. The Board concurred.

Chair Allard opened the public hearing to abutters and interested parties.

Denise Landis, abutter at 318 Kings Highway, asked that Jay Perkins speak for her as well. Ms. Landis stated she wants to know why there was no notification of intent to cut. She is concerned that the lack of notification circumvented protocols. She stated the photos show a nice grassy area and is glad there will be a site-walk as the property is long and narrow and they will see what has been done. She stated the existing shed is not included in the impermeable calculations. She stated power failures are a very common occurrence in the area and is concerned about power being removed from her cabin. She noted the road has been used to access her cabin since 1955 when it was built and they have been advised that they have a case for adverse possession. Ms. Landis stated she doesn't dispute the survey

but they have used the road for 12 years and it was never indicated they don't own the road. She stated Kevin and Kathy put boulders in the road to prevent them from driving to their cabin, making it difficult for her 78 year old husband to access his cabin and get water. There was no warning or apology for the placement of the boulders. Ms. Landis stated she understands things change but the new house is going to dwarf her house and likely be barely 15' from their cabin currently surrounded by trees and wildlife. The plans do not include any buffers; she stated large healthy trees were removed.

Jay Perkins, stated there is a lot of maintenance to porous pavement as well as the swales; the proposed house is an enormous structure for this lot. He asked if there is an operations and maintenance plan and in his experience, these get overgrown and stop working without a robust maintenance plan. Mr. Perkins stated there is not a lot of buffer and if there was that much lead found in the trees, perhaps the Town needs to look at lead abatement.

Mr. Varney stated there is an inspection and maintenance log which includes the management practices and includes inspection frequencies. He stated he doesn't see any problems with porous pavements.

Mr. Perkins asked if there will be a need for blasting to fit the structure on the lot. Mr. Varney replied he does not see any ledge and the soil is gravel according to the map and is well drained.

Deborah Randall, architectural designer, stated the footprint on the plans is the overhangs of the roof line; the foundation is stepped in by 1.5' around the entire perimeter. The building comes to a point on either side so it falls away from the setbacks and does not encroach. Ms. Randall stated she would like to attend the Site Walk and can bring a 3D model at that time. The Board discussed who is permitted to attend a Site Walk; the board concurred that it is a public meeting so it is open to the public. Ms. Dwyer-Hydorn stated she would like a signed hold-harmless agreement from anyone going on her property.

Brennan MacDonald and Nathalie Gignac are abutters. Mr. MacDonald asked for clarification of the footprint and drip edge. It was confirmed the house is within the setbacks and is 15' from both side setbacks.

Ms. Landis stated the property owners have a current restraining order against her and her husband although she is unsure why as they have not trespassed on the property. She asked if she will be allowed to attend the Site Walk. Chair Allard stated he will have to find out and noted they will have to post the Site Walk meeting per the Right-to-Know law but isn't sure about the issue of walking on private land. Ms. Veisel stated there was an instance in the past where the Board's discussion would be held on the road where public can partake. Ms. Dwyer-Hydorn stated she would not allow Ms. Landis to walk on the property. Town Administrator Kinmond stated it is common practice to do the formalities of the meeting on a public right-of-way; as far as entering the property, its only the board members or those being granted permission by the property owner but doesn't believe the Site Walk itself is open to the public as its only for the Board to gain information, not the public. Chair Allard confirmed with Mr. and Ms. Dwyer-Hydorn that the Board has permission to conduct the Site Walk. They replied yes. Mr. Bickford suggested getting a legal opinion on the public access issue to the

public meeting.

Mr. Drummey made a motion to continue the public hearing for the application submitted for a Conditional Use Permit submitted for Kathy Dwyer-Hydorn and Paul Tzitzon, 320 Kings Highway, Map 209, Lot 034 to September 15, 2020. Ms. Veisel seconded the motion. Roll Call: Ms. Veisel – aye; Mr. Drummey – aye; Mr. Bickford – aye; Chair Allard – aye. Motion passed, 4-0-0.

Mail & Correspondence

Town Administrator Kinmond stated Stephanie Dunn contacted the Building Inspector relative to a preexisting Accessory Dwelling Unit on her property; it is detached, an apartment over the garage and constructed prior to ADUs coming into effect but wants it recognized as an ADU. Chair Allard suggested this would likely be an instance of grandfathering; any use of a property that was allowed at one time, is grandfathered. It was noted the structures were constructed in approximately 2005, at a time when ADUs were not allowed but perhaps it could now be classified as such but it is unclear whether it would be conforming. The Board concurred with the property owner filling out the application so the Board can go through the review process of the checklist.

Approval of Minutes

Meeting of August 4, 2020 – Postponed.

Meeting of August 18, 2020 – Postponed.

Next Meeting

September 21, 2020, 7:00pm.

Next Meeting:

September 21, 2020, 7:00pm.

ADJOURN

Mr. Drummey made a motion to adjourn. Ms. Veisel seconded the motion. Roll Call: Mr. Drummey – aye; Ms. Veisel – aye; Mr. Bickford – aye; Chair Allard – aye. Motion passed, 4-0-0.

The meeting was adjourned at 9:54pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary