

Town of New Durham Planning Board Meeting

February 1, 2022

APPROVED March 15, 2022

**TOWN OF NEW DURHAM
PLANNING BOARD MEETING**

February 1, 2022, 7:00PM

New Durham Town Hall, New Durham, NH 03855

APPROVED March 15, 2022

Join Zoom Meeting

<https://us02web.zoom.us/j/89507787468?pwd=U3VjN1NRa0JTVUZMMEE4eWhzbXV1dz09>

Meeting ID: 895 0778 7468 Password: 550074 Workshop Zoom Link

Or via telephone number: 1-646-558-8656 Meeting ID: 895 0778 7468 Password: 550074

*Technical difficulties or For Assistance with Zoom application please contact Land Use
Administrative Assistant Robin McClain 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, Planning Board Chair

Bob Craycraft, Planning Board Vice Chair

Dorothy Veisel, Board of Selectmen representative – via Zoom

David Bickford, Planning Board member

Scott Drummey, Planning Board member

ALSO PRESENT

Robin McClain, Land Use Assistant

Brad Jones, Jones and Beach Engineers

Don Roberts, representative for applicant

Steve Bajger

Erin Badger

Walter Shanahan, applicant – via Zoom

Carol Shanahan, applicant – via Zoom

Eugene Dean, applicant for Conceptual consultation

Stephanie Richard, Changing Seasons Engineering

Bob Trudeau

Sarah Barley, resident – via Zoom

Nancy Bodwell, resident – via Zoom

CALL TO ORDER

Chair Allard called the meeting to order at 7:03PM.

PUBLIC INPUT

None.

AGENDA REVIEW

No changes were made to the agenda.

Continued Public Hearing of Stormwater Conditional Use Permit application submitted by Jones and Beach Engineers on behalf of Paul Berlind, Map 116 Lot 012, on 206 South Shore Road.

Chair Allard reopened the public hearing at 7:06PM. He stated at the last public hearing, the options were that the applicant demonstrate the existing building occurred prior to the current zoning ordinance for the maximum of 20% lot coverage or obtain a variance. The applicant also has the option of reworking the design.

Mr. Jones presented plans for review by the Planning Board; he explained the current paved loop driveway was redesigned to use porous pavement. He stated the total impervious coverage was reduced from 23% to 16.7%. He submitted MSDS sheets concerning the lubricant for the trolley system motor and transmission and explained it is sealed similar to an outboard motor which will be a safe distance from the lake. There is no lubricant on the steel rail system.

Ms. Veisel joined the meeting via Zoom at 7:12PM.x

Chair Allard asked how the slope would be stabilized. Mr. Jones stated there are currently stone walls that will be removed as they are aging and failing and then replaced. There are erosion controls including silt fencing in placed.

Chair Allard opened the public hearing to input from the public. None was indicated.

Chair Allard closed the public hearing at 7 :25PM.

The Board reviewed the MSDS sheet. Chair Allard noted if there were a spill, it would likely make its way to the lake. Mr. Jones noted the amount is very small, less than the amount of oil in a car ; it is used as a lubricant.

Mr. Drummey noted the lubricant is contained within a sealed system which is encased in a concrete box.

Chair Allard stated he is concerned about the amount of construction on the lot and wants to ensure there is adequate stabilization for the steep banks with soft sandy soils. He suggested the Town Engineer take a look to be sure the erosion control is appropriate.

Mr. Craycraft agreed with having the Town Engineer review the plans prior to start of construction as well as inspect the installation of the porous asphalt. The Board agreed that should be a condition of approval.

Chair Allard noted the cost of a third party review will be incurred by the applicant.

Mr. Drummey made a motion to continue the public hearing to February 2022 at 7:00PM. Vice Chair Craycraft seconded the motion. Roll Call Vote: Mr. Drummey – aye; Mr.

Bickford -aye; Ms. Veisel – aye; Vice Chair Craycraft – aye; Chair Allard -aye. Motion passed, 5-0-0.

Review of Stormwater and Steep Slope Conditional Use Permit application submitted by Changing Seasons Engineering PLLC on behalf of Walter and Carol Shanahan, Map 108 Lot 47, on Owls Head Point Road.

Chair Allard noted a letter was received from the applicant's legal counsel regarding the disqualification of a member of the Board from the proceedings. He stated its not uncommon for individuals to serve on multiple boards; he noted there are not currently alternates for the Planning Board. Chair Allard outlined the rules and procedures which clarify there are criteria where a board member may recuse themselves from a case such as a financial interest, being an abutter, and the issue of bias which is the issue being raised by the attorney. Chair Allard stated a decision of recusal is ultimately that of the board member; any member of the public can ask for a vote regarding member recusal, but it is advisory only.

Chair Allard noted Mr. Bickford had an objection to the side setbacks for this property when it was before the Zoning Board of Adjustment so an opinion has been indicated by Mr. Bickford and asked whether Mr. Bickford believes he has a bias in hearing the case for a conditional use permit. Mr. Bickford stated he does not have a conflict of interest; he made a judgement as a member of the Zoning Board but does not feel that creates a bias for the conditional use permit but he would be fine with the Board moving on without him. The Board concurred with Mr. Bickford to remain on the Board for this issue.

The Board reviewed the application for completeness. Vice Chair Craycraft stated he would like to see the slope classes depicted on the plot plan; the drainage report does not include information for 50 and 100 year storm standards as required; flow rate and volumes are not provided nor are runoff calculations. It was noted the waiver is also not included. The Board agreed the application is not complete however if the information is received by the next public meeting, they agreed to move forward.

Mr. Drummey made a motion to accept the Stormwater and Steep Slope Conditional Use Permit application submitted by Changing Seasons Engineering PLLC on behalf of Walter and Carol Shanahan, Map 108 Lot 47, on Owls Head Point Road, as complete, with the condition the applicants' engineer complete the following issues:

1. Slope classes need to be visualized;
2. The Operations and Best Management Practices all need entry sheets;
3. Storm Water Management Report needs 50 year and 100-year events;
4. Pollutants reductions including total suspended solids, nitrogen and phosphorus are also needed;
5. For properties on a private road, applicant needs a waiver and release of liability from the Board of Selectmen.

Ms. Veisel seconded the motion. Roll Call Vote: Mr. Drummey – aye; Mr. Bickford -aye; Ms. Veisel – aye; Vice Chair Craycraft – aye; Chair Allard -aye. Motion passed, 5-0-0.

Chair Allard opened the public hearing at 8:19PM.

Stephanie Richard, Changing Seasons Engineers, representative for the applicant, stated they are looking to build a two-bedroom home; plans and maps were presented for review by the Board. Ms. Richard stated state permits are still pending. She outlined the storm water management measures and erosion control measures. She stated the whole structure is just under 2000 square feet. Chair Allard asked for plans showing how the garage is integrated into the house. It was confirmed an abutting lot near the proposed well location is not developed at this point. Ms. Richard stated they are aware neighbors could potentially do something on the abutting lot which would be within their well radius; she explained State RSA allows them to have an easement for that. The Board suggested there may be alternative locations for the well. Ms. Richard stated there are steep slopes as they get closer to the water.

The Board reviewed the variances granted by the ZBA which include Article XXI Section C.1: *Non-Conforming Buildings, Land or Uses. New Buildings and Structures; Alteration and Expansion of Existing Non-Conforming Uses All non-conforming property may be used for new construction of buildings and/or structures (including septic and leach fields) and any non-conforming building may be altered and expanded provided: 1. They conform to Non-Conforming Setback and height requirements below;* and Article XXI Section C.2: *Non-Conforming Buildings, Land or Uses. New Buildings and Structures; Alteration and Expansion of Existing Non-Conforming Uses. All non-conforming property may be used for new construction of buildings and/or structures (including septic and leach fields) and any non-conforming building may be altered and expanded provided. Such expansion does not make any existing lot, structure, or use more non-conforming within the terms of this Ordinance.*

Chair Allard stated he would like to see the condition of Article XVII included. Ms. Veisel suggested they get legal counsel advice in regard to the location of the well which could potentially restrict future abutters.

Erin Badger, daughter of the applicants, explained the reasoning for the well location, noting the building had been moved back because an abutter's home is only 8' from the lot line and they were concerned about the leach field and well; she stated across the road is another well. Ms. Badger stated their lot is restricted on three sides. She stated the lot was purchased as a buildable lot; the lot coverage is under the ordinance limit and impervious surface is under the limits as well.

Terry Jarvis, resident, stated many of the issues the Board is discussing have already been reviewed and discussed at length with the Zoning Board; she stated the ZBA tried to ensure the project came as close to compliance as possible. She stated the lots on Owls Head Point Road should have never been approved but at this point they are grandfathered.

Chair Allard noted the current zoning ordinance limits the total height is restricted to 35' but that is based off the average parent grade so where there are steep slopes, the height can be higher; he

asked what total height is being proposed. Ms. Richard will include that information in the building plans.

Mr. Drummey made a motion to continue the Public Hearing to March 1, 2022 at 7:00PM, New Durham Town Hall. Ms. Veisel seconded the motion. Roll Call Vote: Mr. Drummey – aye; Mr. Bickford -aye; Ms. Veisel – aye; Vice Chair Craycraft – aye; Chair Allard -aye. Motion passed, 5-0-0.

Conceptual Consultation for E.J. Dean for property located at Valley Rd/Rt 11, Map 257 Lot 1, for guidance to possible storage of equipment with future expansion

Ms. Veisel stated she will be recusing herself from this case as she is a part owner of the property.

Eugene Dean stated he has an entertainment business and they utilize semi-truck storage locations in Seabrook, NH and Salisbury, MA and they are looking to add another storage location. He explained the equipment is used primarily through April to October; anything that is not stored in a trailer is shrink-wrapped. Future expansion could include erection of buildings which are open on one side and enclosed on three to provide storage of equipment out of the elements, ideally the buildings would be 60' by 200'. Mr. Dean stated they have a maintenance shop in Seabrook where they do maintenance and inspections on the rides and equipment.

Chair Allard asked if there would be oil, fluids, etc. Mr. Dean stated they wouldn't store or contain any products although the equipment does have these. Any mechanical work would continue to be done at the Seabrook location.

Mr. Bickford asked how high the storage buildings would be. Mr. Dean stated his building in Seabrook is 35' but these in New Durham would not be that high. He explained the lot and stated the ground is firm gravel for storage.

The Board discussed whether this would be a commercial use and Chair Allard noted all commercial uses require a Special Exception. He stated they need to determine whether the development would be major or minor, and there would also be a set of regulations to be followed which include site plans; he stated there may be a problem with the repair part of the business due to the oils and fluids involved. Chair Allard asked if this lot is on an aquifer. Mr. Drummey stated he doesn't see any on the maps but there are wetlands on the eastern side of the lot. It was noted an environmental impact study would be needed and possibly a traffic study. Mr. Drummey noted the environmental impact needs to be proven to be less than or equal to a single-family home to qualify as a minor commercial use.

OTHER

Chair Allard stated there are currently three warrant articles drafted for the Town Warrant, one for Article XIV and two for Article XXI. Ms. McClain explained further changes to the articles may be made at the Deliberative Session. Chair Allard questioned whether they could go back at

Town of New Durham Planning Board Meeting

February 1, 2022

APPROVED March 15, 2022

this point and combine the articles for XXI back into one item. It is unclear whether that can be done at this point; it was noted the draft articles have already been reviewed by Town Counsel.

ADJOURN

Mr. Drummey made a motion to adjourn. Vice Chair Craycraft seconded the motion. Roll Call Vote: Mr. Bickford-aye; Mr. Drummey -aye; Ms. Veisel – aye; Vice Chair Craycraft – aye; Chair Allard – aye. Motion passed, 5-0-0.

The meeting was adjourned at 10:10PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary