

New Durham Planning Board Meeting
April 7, 2020
APPROVED 5/19/2020

**TOWN OF NEW DURHAM
PLANNING BOARD
New Durham Town Hall
April 7, 2020, 7:00p.m.
*Final Approved 5/19/2020***

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 New Hampshire
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:

*Join Zoom Meeting
<https://zoom.us/j/464767283?pwd=c1NBZWpHMmRlTh5NkVvSW05QU5XZz09>
Meeting ID: 464 767 283
Password: 233115
By phone: +1 301 715 8592 US
Any technical difficulties contact Town Administrator Scott Kinmond @
skinmond@newdurhamNew Hampshire.us. or 603-556-1516.*

PRESENT

Jeff Allard, Chair – via Zoom
Bob Craycraft, Vice Chair – via Zoom
Scott Drummey – via Zoom
Dorothy Veisel, Board of Selectmen representative – via Zoom
David Wessel – via Zoom
David Bickford, alternate member– via Zoom

ALSO PRESENT

Scott Kinmond, Town Administrator – via Zoom
Tom Varney, Varney Engineering– via Zoom
Kate Varney, Varney Engineering – via Zoom

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Fred Quimby, resident– via Zoom
Karen Spohn, resident– via Zoom
Peter Spohn, resident – via Zoom
Terry Jarvis, resident, – via Zoom

CALL TO ORDER

Chair Allard called the meeting to order at 7:12pm. He took roll call of all individuals participating in the meeting and confirmed they are alone or who they are with in the room. Town Administrator Kinmond explained the reason this meeting is being conducted virtually via Zoom is due to the COVID-19 virus health pandemic social distancing requirements and in compliance with the State of New Hampshire Governor’s Executive Order. He noted all votes must be done by roll call of board members.

Review of Conditional Use Permit submitted by Varney Engineering LLC on behalf of Karen & Peter Spohn, Map 114-049 located at 399 South Shore Road

The Board reviewed the application for completeness. Chair Allard noted he doesn’t have confirmation whether fees were paid. Tom Varney, Varney Engineering, LLC, stated Mr. Cauler indicated all fees were paid when he spoke to him earlier today. Mr. Drummey clarified the Conditional Use Permit was approved in 2018 for the garage and home; they are now asking for an accessory dwelling unit (ADU) over the garage and an updated septic system, with no other changes. Mr. Varney confirmed that is correct. Ms. Veisel noted there are conditions listed on the New Hampshire DES approval.

Mr. Drummey made a motion to accept the application from Karen and Peter Spohn, 399 South Shore Road, Map 114, Lot 049, Conditional Use Permit, on the condition that all fees have been paid. Ms. Veisel seconded the motion. Roll Call: Mr. Craycraft – aye; Mr. Drummey –aye; Ms. Veisel – aye; Mr. Wessel – abstained; Chair Allard – aye. Motion passed, 4-0-1. Mr. Wessel stated he abstained, as he does not have any documentation for the case before him.

Tom Varney, Varney Engineering, LLC, stated the Spohns had a conditional use permit approved in 2018 and they started construction with a driveway, garage, a well and a roughed out area for the septic system and have done drainage around the property. There is an existing cottage but the plan is to tear it down and build a new one. Mr. Varney stated they would like to have an accessory dwelling unit in the upstarts of the garage while the cottage is being rebuilt. He shared screen shots of the plans and maps with the group via Zoom and explained the changes in the plans since 2018, noting the location of the garage is the same but the septic system is to be enlarged to accommodate the additional living space. It was noted the square footage of the ADU would be a maximum of 750 square feet. The only parking is for the building. Mr. Varney confirmed it would be occupied by the Spohns and confirmed it would be connected to the well and septic; a copy of New Hampshire DES approval was presented for a two-bedroom home along with an apartment. Mr. Drummey noted there needs to be a dedicated parking space for the ADU as it will continue on after the cottage is complete.

The Board reviewed and discussed the ADU zoning requirements. Chair Allard asked about the erosion control fencing and stated he doesn't recall seeing it. Mr. Varney stated that still needs to be put up by the contractor doing the work. Chair Allard stated he would like that to be a condition of the approval. It was confirmed this does not increase any nonconforming aspect of the property; it will be occupied by the applicants; it conforms with the style of the surrounding properties; it will not be used as a boarding house and it is detached which conform to setbacks. Mr. Drummey suggested putting in a condition to avoid its use as a bunkhouse such as a limit to single bedroom/2 person occupancy. Chair Allard stated he isn't aware of any way they can limit occupancy/beds as it is not outlined in the ordinance. Mr. Craycraft noted the lack of the fencing needs to be brought to the attention of the Code Enforcement Officer. He stated he is concerned about the way it is being configured of the ADU being built over the garage; he explained the way it is defined in the ordinance, would make this nonconforming from the standpoint of the lot acreage being under 60,000 square feet, as well as with the steep slopes. The Board discussed whether this adds to nonconformity of the lot; Ms. Veisel suggested this is more of an attached ADU as it is within the garage. Chair Allard noted that on nonconforming lots, only attached ADUs are allowed and it was clarified that it is not attached to the primary structure so this is a detached ADU. The Board concurred this must go to the Zoning Board of Adjustment. Ms. Veisel suggested this language needs to be looked at more closely as it may violate the spirit of the ordinance.

Terry Jarvis, Chair of the Zoning Board, stated in her years of experience, they have never held a joint meeting and asked what would happen in the event the ZBA disagrees with the interpretation of the language. It was agreed to move forward with setting up a joint meeting.

Mr. Drummey made a motion to continue the case for the Conditional Use Permit of Karen & Peter Spohn, Map 114-049 located at 399 South Shore Road, to the April 21, 2020 meeting and to recommend a joint meeting with the Zoning Board on or after that date to review the zoning ordinance language. Ms. Veisel seconded the motion. Roll Call: Mr. Craycraft – aye; Mr. Drummey –aye; Ms. Veisel – aye; Mr. Wessel – abstained; Chair Allard – aye. Motion passed, 4-0-1.

Presentations by the Merrymeeting Watershed Management Committee

Recommendations in the Merrymeeting River and Lake Watershed Management Plan –

Fred Quimby, Merrymeeting Watershed Management Committee outlined the recommendations suggested for the New Durham Planning Board to consider. He stated that regarding both the septic system and the public education program, the committee wants the Planning Board involved in both issues. Mr. Quimby stated they also want concurrence with the Conservation Commission. He stated many members attended a meeting in October 2019 which was a joint meeting with Alton and involved members of the Board of Selectmen, planning boards, town administrators, conservation committees to discuss the action plan to implement the 13 recommendations in the watershed management plan. Mr. Quimby stated it was recommended that town ordinances be looked at and perhaps require pump-outs as part of routine maintenance and inspections be a requirement to fix the

system before the land is transferred; another was to develop a financial support program to replace nonfunctional systems; develop a public education program to include informing the public on the proper maintenance of their systems; and to develop a septic system database which would be overseen by the Code Enforcement officer. He outlined the state rules regarding the authority and responsibilities of municipalities in regards to this issue which requires monitoring and approval of systems, reporting to New Hampshire Department of Environmental Services of failed systems; it also requires that installers and designers be licensed by the State of New Hampshire and shorefront properties obtain site assessments to ensure the site meets certain standards. Mr. Quimby noted this is required during the sale of a property but doesn't require any remediation of failed systems. He stated the State recently formed the Shoreline Septic Study Commission which is charged with solving the problem with inadequate systems and identifying systems within 75' of the shoreline. He stated he expects the authority given to municipalities to change. Mr. Quimby stated there is an issue of non-state approved systems for systems prior to 1967 and there were no standards or documentation for systems prior to that time. He stated from that time to 1986 there are only paper copy documents on file but after 1987 all approvals are digital; he explained the dilemma is that any system before 1987 is undocumented and likely ready to fail but there is no way to know for sure. Mr. Quimby recommended they begin forming a database within the Town and go through each map and lot folder to pull the information available. He stated he looked at 588 homes around Merrymeeting Lake and river and there was no known information on 95 of those homes; 370 of those homes are listed as seasonal use only but that is changing dramatically; there are 14 systems built within 74' of the waterfront and 4 systems approved that are less than 49' from the waterfront. Mr. Quimby stated identifying these systems is a recommendation of the committee as well. He stated there are many reasons they need to begin looking at this as it will impact the quality of the surface water in the Town. Chair Allard noted there is also legislation addressing "tiny" homes and a bill to allow Air B&B rentals and would take away towns' rights to restrict these. He stated he sees the septic issue becoming more of a problem due to these. Mr. Quimby reiterated the need for the town to begin looking at the properties around the lake and developing a database. Chair Allard stated he is concerned about the amount of time and labor this is going to be involved and asked if there are any grants available. Mr. Quimby stated he has looked into it but has not seen any funds available for developing this type of database but there are multiple resources for help with building and replacing failed systems. He stated several towns in New Hampshire have already developed these databases and that will give them good guidelines for putting together the database for New Durham. Chair Allard asked Town Administrator Kinmond if he could work with them in obtaining a template from Moultonborough. Mr. Varney noted that when they look for information, they first go to the Town Hall and then on to the archives; he stated in regards to site assessments, but they are actually done to determine how many bedrooms the site can accommodate. Chair Allard proposed going forward and asked what the first step would be. The Board concurred with moving forward and agreed it would be a logical and useful database. Mr. Drummey asked how they would go about maintaining the database. Mr. Quimby stated that is where the Code Enforcement Officer comes in and much of the maintenance and update will come in the form of permits and inspections. It was agreed that Mr.

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Quimby would draft a letter of support from the boards and commissions to forward to the Board of Selectmen.

Other

Possible Zoning Ordinance Changes for 2021

Chair Allard noted one thing he has found helpful with Mr. Varney's application submission is the 100-year flood plans as well as the calculations for the phosphorus amounts flowing into the water. He stated he has also been asked to discuss nonconforming properties. Mr. Bickford suggested going to the Strafford Regional County for resources regarding pervious and impervious surfaces. Ms. Jarvis stated they need to decide how they will go about implementing changes with ordinances versus regulations, because regulations are easier to modify as they don't require going before the legislative body for voting. She stated something to look at as well, is a limit on how many times a septic tank can be pumped before it is required to be replaced, noting this is required by some towns in Massachusetts.

APPROVAL OF MINUTES

March 3, 2020 – Postponed.

Next meeting:

April 21, 2020, 7:00pm, New Durham Town Hall / Zoom

ADJOURN

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

The meeting was adjourned at 9:20pm.

Respectfully Submitted,