

**TOWN OF NEW DURHAM
PLANNING BOARD MEETING
January 16, 2024, 7:00 PM
New Durham Town Hall, New Durham, NH 03855**

PRESENT

Jeff Allard, Planning Board Chair -via Zoom
Bob Craycraft, Planning Board Vice Chair
Marc DeCoff, Board of Selectmen Representative
Scott Drummey, Planning Board Member
Anne Ross-Raymond, Planning Board Member – via Zoom

ALSO PRESENT

Susan Stillwell, Land Use Assistant
Carol and Tim Shanahan, residents
Stephanie Richard, Changing Seasons PLLC

VIA ZOOM

Paul Raslavicus, resident
Peter Kelley, resident
Stacy and Bill Shanahan, residents
W. Shanahan, resident
Terry Jarvis, resident/Zoning Board of Adjustment
Susan ??? – Last name not known

CALL TO ORDER

Vice Chair Craycraft called the meeting to order at 7:00 PM. Introductions were made of the Board members. Because two members attended via Zoom all votes were done as roll Call votes.

AGENDA REVIEW

No changes were made to the agenda.

PUBLIC INPUT

None.

New/Old/Other Business

***Continuation of PB 2024-001 – Shanahan – Map 114, Lot 069, 345 South Shore Road.
Conditional Use Permit within the Residential, Agricultural, Recreational Zoning District and
the Shore Front Conservation Area and Steep Slopes Conservation District.***

Mr. Drummey gave an overview of the Site Walk on January 4, 2024. He stated the following observations were made: the site looks steeper than what was shown on the plans; the driveway was already cut; they looked at the shape of the driveway and slope of the hill and it is hoped that the driveway will catch much of the sheet flow off the hill. More details are needed about proposed grading and Best Management Practices; the driveway may need drainage along the downslope edge and it needs to be designed for 100 year storm; silt socks need to be installed now and before construction; the engineer needs to look at drainage at the bottom of the hill; the septic is a more level and graded area; the upside of the house foundation will be less than 4' in elevation so an engineered wall is not needed; a 12" culvert on the road collects water from the entire hillside.

Mr. DeCoff stated he and the Town Administrator met with representatives of the South East Land Trust (SELT) regarding water issues in the area. SELT said before they took possession of the land, the land was clearcut so there will be some excess runoff until the trees grow back. The runoff wasn't really seen until 2020 because of the drought, but the past two years have had a lot of rain. It will take over 10 years for the ground covering to come back to control the water.

Chair Allard stated he has concerns that runoff will still collect at the bottom of the driveway and a catch basin seems necessary to contain that runoff. He wants to be assured that the site is stabilized during construction, and it needs to be stabilized now to prevent any pre-construction and during construction erosion. He stated he wants to be sure the proposed fixes from Ms. Richard are addressed.

Ms. Richard outlined details of storm water management; she reviewed the hydro analysis and added hydrographs to the packet. She stated the analysis was done for the lot, assuming good, forested cover which since recent clearing, it does have. Ms. Richard stated concerns were raised by abutters regarding stormwater runoff and they are working to manage that with them; she stated the contractor has also discussed stabilizing the site both now and during construction. She stated details were added to the plans for erosion control measures; 100-year storm water information was also added to the report. Ms. Richard stated she updated grading around the driveway including infiltration depressions around the porous pavers; the goal will be to capture the runoff midway down the driveway. She stated she did not add catch basins to the end of the driveway; she stated she doesn't believe that is the best option and could create a ponding situation. Chair Allard stated he is concerned about the heavy runoff from the hill, going across the road then straight into the lake.

There is no landscape plan at this point.

Vice Chair Craycraft stated he wants to be sure the site and slopes are stabilized with silt socks and fencing. Post construction, geotextile fabric or some slope stabilization is needed until the site has grown in and regular inspections are needed to ensure stabilization is maintained.

Vice Chair Craycraft opened the hearing to input from the public. None was received.

Vice Chair Craycraft closed the public hearing. He asked if the Board is ready to make a motion regarding this case.

Ms. Ross-Raymond stated they should have some sort of confirmation that the stabilization is in place before any approval takes effect. She stated the depressions being proposed in lieu of catch basins are only designed for a 25-year storm and she is concerned that design may not be conservative enough. Mr. DeCoff noted there are no catch basins on the plans; if those are added, will they go into the Town right-of-way? Ms. Richard stated the depressions were intended to be secondary to the pervious driveway, which is already costly and questioned whether they can ask for more. Chair Allard stated a steep piece of land is being opened up and he wants to be sure there are sufficient engineering plans and BMPs to effectively infiltrate the water which will now be coming off the property and which wasn't coming off the property before.

The Board discussed outstanding issues: site stabilization in place, site grading and stabilization plan needs more detail, O&M Plan should be updated to include infiltration depressions, and inspections indicate SHALL instead of should be inspected. Contour lines need to be updated post construction. There will be 4 BMPs: drip line, pea stone pad, pervious pavement, and infiltration depressions. The Board discussion conditions, site grading, and stabilization including seeding completed before COO delivered by CEO.

MOTION: To Continue PB 2024-001 – Shanahan – Map 114, Lot 069, 345 South Shore Road. Conditional Use Permit within the Residential, Agricultural, Recreational Zoning District and the Shore Front Conservation Area and Steep Slopes Conservation District to February 6, 2024. Motion by Mr. DeCoff. Second by Mr. Drummey. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

PUBLIC HEARINGS

Proposed Changes to Zoning Ordinances Article VI (continued from January 2)

Vice Chair Craycraft opened the public hearing at 8:00 PM.

Mr. DeCoff confirmed the proposed ordinance changes have been reviewed by Town Counsel and read into the record the language proposed by Town Counsel.

Are you in favor of Amendment No. 1 to the New Durham Zoning Ordinance as proposed by the Planning Board as follows: Amend Article VI, General Provisions/Use Regulations, to reduce the setback for septic tanks from the edge of a public water body from 125 feet to 75 feet; and apply the leach field setback of 20-40 feet from property lines, depending on the size of the lot, to privies and septic tanks as well. Also to change the reference in Table 8 regarding wetland and water body setbacks to identify setbacks to "leach fields" rather than "septic systems."

Ms. Raymond asked how the process works.

Mr. Allard replied, 'we approve the language and send it to the selectmen for incorporation into the warrant'.

Mr. Drummey read the proposed ordinance change into the record.

Article VI. General Provisions/Use Regulations for Town of New Durham. Section C. General Requirements. Number 3. Sewage Disposal and Leach field Setbacks:

- a. No ~~privy cesspool, septic tank, or sewage disposal area~~ shall be constructed or reconstructed less than seventy-five (75) ~~one hundred twenty-five (125)~~ feet from the edge of a public water body, any well, or from a dwelling other than to which it is appurtenant.
~~ix. less than seventy five (75) feet from any well, or from a dwelling other than to which it is appurtenant.~~
- b. No privy or leach field shall be constructed or reconstructed less than one hundred twenty-five (125)_ feet from the edge of a public water body and less than seventy-five (75) feet from any well, or from a dwelling other than to which it is appurtenant.
- c. No part of a privy, ~~septic tank~~, or leach field shall be located less than...

Terry Jarvis, resident and Chair of the Zoning Board of Adjustment, stated she supports the proposed changes and believes it will be good particularly for smaller lots; she stated she would

be interested to know if there is new research as to how close leach beds can be to the highwater mark.

Vice Chair Craycraft closed the public hearing at 8:07 PM.

MOTION: To approve the revisions to Article VI as discussed in the public hearing and to move changes to Article VI to the 2024 Town Warrant. Motion by Mr. DeCoff. Second by Mr. Drummey. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

Proposed Changes to Zoning Ordinances- Article XIII

Vice Chair Craycraft opened the public hearing at 8:10 PM.

Vice Chair Craycraft opened the hearing to input from the public.

Terry Jarvis, resident and Chair of the Zoning Board of Adjustment, clarified this change is to ensure the article is consistent with Article 6.

Mr. Drummey stated the only change for this Article is Table 8 the change of “septic system” to “leach field”. And Article XIII, Section H. 3. ‘No septic tank or leach field may be constructed or enlarged closer than one hundred and twenty-five (125) feet to any wetland.’ is being deleted.

Ms. Jarvis stated a case came before the ZBA regarding Article XIII, B.2 which indicates only wetlands of 2 acres or greater; she asked if this change would affect any wetlands regardless of size. Vice Chair Craycraft stated the ordinance will only be applicable to wetlands of 1 acre or greater unless it’s a new subdivision. Chair Allard suggested the Planning Board discuss the minimum size of a wetland at a future meeting, with expert guidance.

Vice Chair Craycraft stated that for this year that section is not being changed.

Vice Chair Craycraft closed the public hearing at 8:16 PM.

MOTION: To move changes to Article XIII to the 2024 Town Warrant. Motion by Mr. Drummey. Second by Mr. DeCoff. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

Proposed Changes to Zoning Ordinances- Article XX

Vice Chair Craycraft opened the public hearing at 8:17 PM.

Chair Allard stated the edits for Article XX are the deletion of Section G.

Ms. Jarvis stated they have had issues with people coming to the ZBA for variances but there are conflicts with Article VI; she suggested Section G be deleted as it confuses applicants and their representatives. She stated she would like to discuss Nonconforming Building Lands and Uses in more detail at a future meeting.

Vice Chair Craycraft closed the public hearing at 8:23PM.

MOTION: To move changes to Article XX to the 2024 Town Warrant.

Motion by Mr. Drummey. Second by Mr. DeCoff. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

Ms. Ross-Raymond asked if they would be presenting an Article regarding grandfathering. Ms. Stillwell distributed the draft proposed amendment.

Vice Chair Craycraft opened the public hearing for Article XIV at 8:24 PM.

Mr. DeCoff read the proposed Warrant article into the record.

Are you in favor of Amendment No. 2 to the New Durham Zoning Ordinance as proposed by the Planning Board as follows: Amend Article XIV, Shorefront Conservation Overlay District, to remove the requirement that deviations from the district's requirements obtain both a variance and a special exception; to clarify the difference between wetland buffers and wetland setbacks; to clarify that nonconforming structures (which includes dwellings, garages, ADUs and sheds greater than 80 SF) within the Overlay District may be demolished and rebuilt provided the rebuilt structure's footprint does not exceed the original structure's footprint, and the rebuilt structure contains only two stories; to provide that construction of dwellings, garages, ADUs and sheds greater than 80 SF within the 75 foot Waterfront Setback requires a conditional use permit from the planning board; to require the building inspector/code enforcement officer to review all plans before disturbance of land and/or soil removal; and to remove the required leach field setbacks for nonconforming buildings.

Vice Chair Craycraft closed the public hearing at 8:28 PM.

MOTION: To approve Warrant Article language for Article 2 as presented by Town Legal Counsel. Motion by Mr. Drummey. Second by Mr. DeCoff. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

Ms. Ross-Raymond suggested the Board consider amending the wording for Warrant Article 1 dealing with Article XIII; she stated all the articles being revised need to be referenced.

MOTION: To amend the prior motion regarding ARTICLE VI above regarding the Warrant Article 1 as follows: *Are you in favor of Amendment No. 1 to the New Durham Zoning Ordinance as proposed by the Planning Board as follows: Amend Article VI, General Provisions/Use Regulations, to reduce the setback for septic tanks from the edge of a public water body from 125 feet to 75 feet; and apply the leach field setback of 20-40 feet from property lines, depending on the size of the lot, to privies and septic tanks as well. And Delete Article XX.G to maintain consistency with Leach field setbacks. Also to change the reference in Article XIII, Table 8 regarding wetland and water body setbacks to identify setbacks to “leach fields” rather than “septic systems.”* **Motion by Mr. Drummey. Second by Mr. DeCoff. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.**

NEW BUSINESS

Conditional Use Permit Clarification-Roukey

Chair Allard stated this was a Conditional Use Permit they reviewed in 2022; he stated the permit was approved with conditions regarding a well which was located within the Town’s right-of-way; either a new well would need to be installed or permission obtained from the Board of Selectmen to use the existing well. Chair Allard stated the Town Administrator presented this to Town Counsel and a written agreement was proposed which will allow the Roukeys to continue to use the well; the Planning Board will need to amend the conditions in the original Notice of Decision in order to allow this. Ms. Ross-Raymond stated she reviewed the agreement and believes the Town is adequately protected. The Board discussed the appropriate process for ensuring approval of the agreement and that it will be recorded with the Strafford County Registry of Deeds.

MOTION: To amend the Notice of Decision for a Conditional Use Permit within the Shorefront Conservation Area, submitted by Varney Engineering, LLC, on behalf of

Timothy and Lori Roukey, located at 6 Marsh Hill Road, Map 118 Lot 15, approved on November 9, 2022, to modify Condition 1 to say:

- **That the Applicant receive a License Agreement from the Town Legislative Body that is Recorded in Strafford County Register of Deeds.**

Motion by Mr. Drummey. Second by Mr. DeCoff. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

Boop-Leigh Conditional Use Permit Clarification

Vice Chair Craycraft stated that within the Ordinances, there are certain disturbance thresholds that trigger a CUP; he stated major CUP are handled by the Planning Board but there is a provision within the ordinance for the Code Enforcement Officer to manage CUP applications particularly when less than 25% is disturbed. The Board discussed the disturbance thresholds and management per the ordinance, as well as who has authority to grant the CUPs. Chair Allard suggested letting the CEO continue handling the minor CUPs.

The Board discussed the need to look at modifying Stormwater Regulations.

APPROVAL OF MINUTES

Meeting of January 2, 2024 – Postponed.

Meeting of January 4, 2024, Site Walk- Postponed.

Mail & Correspondence:

The Board reviewed the following correspondence:

Zoning Board of Adjustment Notice of Decision of 12-12-2023 – Dean - Map 257, Lot 001

Zoning Board of Adjustment Notice of Decision of 11-14-2023 – Boop-Leigh Map 108, Lot 048-001

Email – NH Lakefront Property Owners & Water Quality

FUTURE MEETINGS

ND Development Committee – January 17, 2024

Deliberative Session – February 6, 2024

Workshop – February 20, 2024

Town of New Durham Planning Board Meeting

January 16, 2024

Approved: March 5, 2024

ADJOURN

MOTION: To adjourn the meeting. Motion by Mr. Drummey. Second by Mr. DeCoff. Roll Call Vote: Mr. DeCoff-aye; Mr. Drummey-aye; Ms. Ross-Raymond-aye; Mr. Craycraft-aye; Chair Allard-aye. Motion passed 5-0-0.

The meeting was adjourned at 9:20 PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary