

**NEW DURHAM ZONING BOARD OF ADJUSTMENT**

**New Durham**

**April 14, 2020, 7:00p.m.**

*IN LIGHT OF THE COVID 19 (CORONA VIRUS) SOCIAL DISTANCING ADVICE MADE BY THE GOVERNOR AND CDC EMERGENCY ORDER #12 PURSUANT TO EXECUTIVE ORDER 2020-04, THE TOWN OF NEW DURHAM NH FOLLOWING A DECLARATION OF EMERGENCY BY THE ZONING BOARD CHAIRPERSON, IS PROVIDING MEETING PARTICIPATION VIA TELEPHONE CONFERENCE FOR YOUR SAFETY.*

**PRESENT**

Terry Jarvis, Chair – via Zoom

Wendy Anderson, Vice Chair– via Zoom

Stephanie Richard – via Zoom

Linda Callaway– via Zoom

Paul Raslavicus– via Zoom

**ALSO PRESENT**

Thomas Varney, Varney Engineering LLC– via Zoom

Mike Wawrzkievicz, applicant, BJW Enterprises– via Zoom

David Bonisteel, applicant– via Zoom

Caren Bonisteel, applicant– via Zoom

Arthur Krulewitz, applicant– via Zoom

Challis Krulewitz, applicant – via Zoom

Eric Buck, Terrain Planning and Design– via Zoom

Julie Hayward, design architect– via Zoom

Raymond Halpin, applicant– via Zoom

Bridget Halpin, applicant– via Zoom

Scott Magovern, abutter– via Zoom

John Michaud, abutter – via Zoom

Kate Varney, Varney Engineering LLC – via Zoom

**CALL TO ORDER**

Chair Jarvis called the meeting to order at 7:00pm. The chair made statements regarding the current state of emergency due to COVID-19 and the use of Zoom. (See attached)

Roll Call was taken for individuals present in the Zoom meeting. Chair Jarvis confirmed with all individuals that they are alone or who is present in the room with them.

Chair Jarvis confirmed with Mr. Wawrzkeiwitz and Mr. Varney that they consent with moving forward with the case via Zoom. Verbal consent was indicated by both Mr. Wawrzkievicz and Mr. Varney.

Chair Jarvis confirmed with Mr. and Mrs. Bonisteel that they consent with moving forward with the case via Zoom. Verbal consent was indicated by both Mr. and Mrs. Bonisteel.

Chair Jarvis confirmed with Dr. and Mrs. Krulewitz that they consent with moving forward with the case via Zoom. Verbal consent was indicated by both Dr. and Mrs. Krulewitz.

Chair Jarvis confirmed with Mr. Halpin that he consents with moving forward with the case via Zoom. Verbal consent was indicated by Mr. Halpin.

### **APPROVAL OF MINUTES**

Meeting of January 14, 2020 – Edits were made. **Chair Jarvis made a motion to approve the minutes as amended. seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – **aye. Motion passed, 5-0-0.**

Chair Jarvis noted that any materials to be presented at the May 12, 2020 ZBA meeting, must be submitted to the Land Use office by the close of business on April 20, 2020. Any materials to be presented for the June 12, 2020 meeting, must be submitted by the close of business on May 20, 2020.

### **Continuation of Review of Application for Case # 2020-001: MAP 250, LOT 138 - 30 Depot Road, BJW Enterprises LLC**

Chair Jarvis read the case into the record.

Application submitted by Varney Engineers LLC on behalf of BJW Enterprises LLC/ Mike Wawrzekiewicz. The applicant is requesting Special Exceptions to:

#### **Article VII Section A1, Commercial Use (including Minor Commercial Use)**

In areas designated “Unconstrained Developable” or “Constrained Developable” on Land Use Suitability Map also see Groundwater Favorability Map

**Article XII Section E, Aquifer Protection Overlay District Uses Allowed with Special Exception.**

The property is located at Map 250 Lot 138 –30 Depot Road. If the application is deemed to be complete a Public Hearing may be held.

Chair Jarvis asked if any member of the Board has a real or perceived conflict with hearing this case. None was indicated by roll call. **Roll Call:** Vice Chair Anderson – no; Ms. Richard – no; Ms. Callaway – no; Mr. Raslavicus – no; Chair Jarvis – no. Chair Jarvis asked if any member of the public believe that a member of the Board has a real or perceived conflict hearing the case. None was indicated.

Chair Jarvis stated the case was originally reviewed at the January 14, 2020 meeting and found to be incomplete. The plans were not to scale of 1" = 20', the plans submitted did not show utilities to the building, and because the property is in an aquifer zone an environmental study is required. Additional information was received before the deadline for the February 13, 2020 meeting; the applicant's representative requested the hearing be postponed to the March meeting as only three Board members were present at that time. The March 12, 2020 meeting was cancelled due to illness and it was unknown whether a quorum would be present. This case consists of two applications which will be considered together. Chair Jarvis confirmed with Mr. Cauler, Land Use Assistant, that all fees have been paid, all abutters were notified and required notices were printed in the newspaper. The Board reviewed the application for completeness. Mr. Raslavicus noted the original application indicates sales but the Environmental Impact Study references sales and services and would like clarification on this. Chair Jarvis stated it is her understanding that it is both and asked Mr. Varney for confirmation. Mr. Varney stated it is for both trailer sales and service of snowmobiles, ATVs and related accessories. Vice Chair Anderson noted the "complete and accurate" attestations signature indicates "equitable waiver" on page 5 but it should be "special exception". Chair Jarvis asked how they wanted to remedy this and suggested accepting the application as complete, but make it a condition that a new page 5 be submitted before any permits are issued. The Board concurred.

**Ms. Richard made a motion to accept the application for Case #2020-001 as complete. Vice Chair Anderson seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 5-0-0.**

**Review and Acceptance of Case #2020-003: MAP 119, LOT 038, 12 South Shore Road, David & Caren Bonisteel**

Chair Jarvis read the case into the record.

Application submitted by Thomas Varney, Varney Engineering LLC, on behalf of David and Caren Bonisteel. They are requesting variances to the following:

**Article V Section E: Dimensional Requirements Flood Hazard Area and Water Body Setback.** No new buildings, except for water-related structures, shall be located in a flood hazard area or less than seventy-five (75) feet from any water body or river.

**Article XIV Section C.1 (b): Shorefront Conservation Overlay District Dimensional Requirements.** Building Setback: Except for water related structures (see below), all buildings shall be set back a minimum of seventy-five (75) feet from the normal high-water level.

**Article XIV Section C.1 (e): Shorefront Conservation Overlay District Dimensional Requirements.** B Lot Coverage: Buildings shall not cover more than 15% of the area of a lot. No more than a total of 20% of the lot area, including buildings, shall be covered by impervious surfaces.

**Article XXI Section G.2 (b): Non-Conforming Buildings Land or Uses Non-Conforming Setbacks** No new building, except for water related structures, shall be located in a flood hazard area, or less than seventy feet (75) feet from any water body or river course

**Article XXI Section G.2 (c): Non-Conforming Buildings, Land or Uses Non-Conforming Setbacks** The total square footage of all buildings shall not exceed more than fifteen (15) percent of the area of a lot

**Article XXI Section G.2 (d): Non-Conforming Buildings, Land or Uses Non-Conforming Setbacks** No more than a total of twenty (20) per cent of the lot area shall be covered by all impervious surfaces.

The property is located at Map 119, Lot 038, 12 South Shore Road. If the application is deemed to be complete, a Public Hearing may be held.

Chair Jarvis asked if any member of the Board have a real or perceived conflict with hearing this case. None was indicated by roll call. **Roll Call Vote:** Vice Chair Anderson – no; Ms. Richard – no; Ms. Callaway – no; Mr. Raslavicus – no; Chair Jarvis – no.

Chair Jarvis asked if any member of the public believes that a member of the Board has a real or perceived conflict hearing the case. None was indicated.

The Board reviewed the application for completeness. Chair Jarvis stated she went back to the permit file to confirm a variance had been granted for the location of the septic pump chamber installed in 2005 but found no evidence of a variance being granted. She stated she then researched past ordinances and found that a variance is required for a tank less than 125' from a waterbody since at least 2003. Chair Jarvis stated she believes that at a minimum a variance would also be required for Article VI, Section C.3.A.1 even though the leach field is not being moved; she also looked for a variance to allow the leach field to be less than 125' from the water had could not find that either. A variance would also be needed from Article VI, G.1.b., and Chair Jarvis stated she would need to confer with the building official as to whether a variance for Article XXI, Section C.1. and C.3 would be needed. Chair Jarvis noted the plans indicate the building will not be built on the same footprint and will therefore require a variance to Article XXI, Section C.1 and C.2. She stated the plans do not show setbacks for the leach field or septic system from the water; there are no indications of the well and well radius; and there is no indication of the distance of the relocated septic system to wells on adjacent properties. Mr. Raslavicus noted Article XXI, G.1.b permits a leach field to be at a 75' setback from

water and suggested there is no need for a variance. It was confirmed that would be correct so no variance is needed on the leach field.

**Chair Jarvis made a motion to accept the application for Case #2020-003 as incomplete due to the need for additional variances and information on the plan. Ms. Richard seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 5-0-0.**

Chair Jarvis noted that any materials to be presented at the May 12, 2020 meeting must be submitted to the Land Use office by the close of business on April 20, 2020. If there are any materials to be presented for the June 12, 2020 meeting, those must be submitted by the close of business on May 20, 2020.

**Review and Acceptance of Case #2020-004: MAP 112, LOT 001, 228 South Shore Road, Arthur & Challis Krulewitz**

Chair Jarvis read the case into the record.

Application submitted by Terrain Planning & Design LLC, on behalf of Arthur and Challis Krulewitz. They are requesting a variance to the following:

**Article VI Section C.3 General Provisions Use Regulations for Town of New Durham General Requirements** Sewage Disposal and Leach field Setbacks. No privy, cesspool, septic tank, or sewage disposal area shall be constructed or reconstructed: i. less than one hundred twenty-five (125) feet from the edge of a public water body;

The property is located at Map 112, Lot 001, 228 South Shore Road. If the application is deemed to be complete a Public Hearing may be held.

Chair Jarvis noted the request should be Article VI, Section C.1.

Chair Jarvis asked if any member of the Board has a real or perceived conflict with hearing this case. None was indicated by roll call. **Roll Call:** Vice Chair Anderson – no; Ms. Richard – no; Ms. Callaway – no; Mr. Raslavicus – no; Chair Jarvis – no.

Chair Jarvis asked if any member of the public believe that a member of the Board has a real or perceived conflict hearing the case. None was indicated.

Chair Jarvis stated the Board needs to determine whether this application is materially different from an application submitted in 2018, Case #2018-010 for the same property. She noted the differences between the applications: the impervious surface is reduced from 18.2% to 12.5%; the proposed house has gone from 2807 to 2584 total square feet; the location of the house has changed; much, but not all, will be on the current foot print;

the septic and leach fields will now be 96' from the lake; both applications request three bedrooms and a two car garage. The Board concurred that the applications are materially different.

**Chair Jarvis made a motion that the application for Case #2020-004 is materially different from the application for Case 2018-010. Mr. Raslavicus seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 5-0-0.**

The Board reviewed the application for completeness. Mr. Raslavicus questioned whether this variance is needed, explaining the septic is not going to be less than 75' from the lake per Article XXI, G.1.b. Chair Jarvis stated Article VI Section 3.A.1 specifies it must be 125' from the lake. Mr. Raslavicus stated that applies to conforming land, while this is nonconforming land and a nonconforming building therefore Article XXI applies.

Chair Jarvis asked if the Building Inspector was approached for a permit. Mr. Buck replied “yes”, and Mr. Abbot indicated a variance would be needed for the septic system location

Chair Jarvis noted that most of the house will be on the footprint but some 50 square feet will not be on the same footprint. The house will go from a single story to two stories, and she indicated that variances may be needed for Article XXI and Article XIV. Mr. Raslavicus stated that was also his opinion, but indicated that this matter is not part of this application. Vice Chair Anderson noted she did not receive a copy of the 1”=20' set of plans Chair Jarvis stated that her concern about the footprint and the house expansion from 994 sq. ft to 2800 sq. ft is based on the information that was received from the Town counsel's firm and from the N.H. Municipal Association in respect to the meaning of “building on the footprint” and as to the language in RSA 483-B.. Mr. Buck asked how an applicant is to know that and that these issues did not come up with the Building Inspector. Chair Jarvis replied that the issue came up after she reviewed the plans which showed that the new house is not exactly on the same footprint; there would not be an issue if the house was on the same footprint.

Ms. Richard stated her understanding of the memo from Town Counsel is that as long as the expansion is outside the original footprint and is not within the shoreline setback, which in this case is 75', then it's not an issue Chair Jarvis continued to express her concerns referring to information brought to the Board of a Court decision involving Granite State Minerals vs. the City of Portsmouth wherein the Court found that the addition of a second story, even without a footprint expansion may be a prohibited expansion. . Ms. Richard indicated that in order to apply such a restriction it would require that it be so stated in the Ordinance. Mr. Raslavicus stated the ordinance language could be more broadly worded--if the volume of the building goes up it becomes more nonconforming. Chair Jarvis indicated that she never considered going up to the second floor was more nonconforming as long as the number of bedrooms did not increase. Mr.

Raslavicus commented that the doubling of square footage made the building more nonconforming.

Vice Chair Anderson noted it appears that some things such as well radius, distance from abutting properties, and location of the field, are missing from the plan. It was noted the assessing card is not included; utilities are not defined, nor are wells and septic systems for this property and abutting properties. Mr. Buck noted there is no well on this property, as water is pumped from the lake, similar to many surrounding properties; the easement is on the eastern property line and is identified on the plans. He noted a well would be included in the plans submitted to NH DES for the shoreline permit. Chair Jarvis stated the Board considers the location of a well in conjunction with the septic system as well as in relation to the wells and septic systems of abutting properties. Mr. Buck replied that NH DES has no record of wells for 226 South Shore Road and 234 South Shore Road. At 229 South Shore Road a new well was installed with no reliefs indicating it is entirely within the 75' of property lines. Chair Jarvis noted none of this is indicated on the plans; it was also confirmed no packets included a copy of the assessing card. The Assessing Card is required as part of the application package as it contains more information than the property card which was included in the application package.

Ms. Richard stated she agrees with Mr. Raslavicus that the leach field is within the limits described in Article XXI Section G.1.b. Mr. Raslavicus asked whether Ms. Richard feels that the issue of the septic tank is moot and no application is needed. She agreed, as it is a nonconforming lot.

Chair Jarvis asked whether the new house is being built on the current footprint. Mr. Raslavicus stated that the applicant did not ask for a variance for this issue, but the house is not on the same footprint. Chair Jarvis indicated that the Board looks at the entire application and it is possible that while no variance is necessary to Article VI Section C3.a.1, a variance from Article XIV and Article XXI might be necessary because the house is not being built on the same footprint. Mr. Raslavicus stated that the application was for only one requested item.

There was further discussion about what the ordinances allow. It was noted the current house is back from the 50' setback while the proposed house is on the 50' setback. Mr. Buck stated that is a discrepancy by the surveyors and noted that NH DES has already approved it as a nonconforming house that is within the 50' setback; a shoreline permit has been received from NH DES. Chair Jarvis noted that if the house is within the 50' setback then a deck, maximum of 12', is permitted by the zoning ordinance.

Ms. Callaway stated that just looking at the variance requested on the application and the plans submitted, that the variance is not needed. Ms. Richard concurred, as did Vice Chair Anderson. Chair Jarvis stated that because the Building Inspector directed the applicant to the Zoning Board, the Board would make a formal ruling that the variance is not required. She asked if there is not a requirement for variance to Article VI, it will be

up to the Building Inspector whether he needs to know the various well locations before he can issue a building permit.

Chair Jarvis asked the width and depth of the stairs off the front deck. Mr. Buck stated those are to be 4' wide; no variance would be needed for that. Chair Jarvis asked if the house not being on the current footprint is an issue. Ms. Callaway asked if the footprint currently includes a deck or porch that could become part of the house. She also noted that as long as the expansion is not in the setback, there is no issue and asked for more details as far as the decks go. Mr. Buck explained the open porch on the south side of the cottage is depicted on the plans and it will be removed and not used in the proposed footprint; there will be a new screen porch. Chair Jarvis confirmed the screen porch was part of the calculations for impervious surface.

The Board concurred it is difficult to know if the proposed expansion is beyond the 75' and whether it is on the same footprint. Vice Chair Anderson noted it is hard to tell if the overhangs are outside the setback. Mr. Buck asked if "as built" plans are required before occupancy permits are issued. Ms. Hayward stated that as far as the footprints go, they understand the importance in staying on the footprint and went great lengths in the design to ensure the plans remained on the footprint. She stated that in reviewing this project with the Building Inspector, that was the intention and they are not trying to get additional feet out of this.

**Chair Jarvis made a motion that in regards to Case #2020-004, Article VI, Section C.3.A.1 a variance is not required. Vice Chair Anderson seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – no. **Motion passed, 4-1-0.**

Chair Jarvis stated this decision should be officially available in five days however due to staffing and the situation with COVID-19, they will do their best to get signed copies available in that time frame.

Chair Jarvis closed Case #2020-004.

**Review and Acceptance of Case # 2020-005- MAP 103, LOT 16, 170 Pine Point, Raymond and Bridget Halpin**

Chair Jarvis read the case into the record.

Application submitted by Varney Engineering LLC on behalf of Raymond and Bridget Halpin. The applicant is requesting a variance from:

**Article VI Section C.3 (a): General Provisions Use Regulations for Town of New Durham General Requirements** Sewage Disposal and Leach Field Setbacks. a. No privy, cesspool, septic tank, or sewage disposal area shall be constructed or reconstructed:



- i. less than one hundred twenty-five (125) feet from the edge of a public water body; or,
- ii. less than seventy-five (75) feet from any well, or from a dwelling other than to which it is appurtenant.

The property is located at Map 103, Lot 16 - 170 Pine Point Road. If the application is deemed to be complete, a Public Hearing may be held.

Chair Jarvis asked if any member of the Board has a real or perceived conflict with hearing this case. None was indicated by roll call. **Roll Call Vote:** Vice Chair Anderson – no; Ms. Richard –no; Ms. Callaway –no; Mr. Raslavicus – no; Chair Jarvis – no.

Chair Jarvis asked if any member of the public believe that a member of the Board has a real or perceived conflict with hearing the case. None was indicated.

The Board reviewed the application for completeness. Chair Jarvis noted this property is located on a private road. She stated in the past when there have been requests for work on property on Pine Point Road, the Board has been concerned with the right-of-passage over the road. Chair Jarvis stated she received a copy of a corrected confirmatory easement and right-of-way deed; it indicates the owner of the road, Charles McKay, has given an easement and right-of-way to the last owner which passes on to the current owner so that the present owners, Mr. and Mrs. Halpin, do have the right-of-passage over Pine Point Road, so it is not an issue as it has been in the past.

Vice Chair Anderson noted they need to ensure that abutters' wells are indicated on plans to ensure the septic systems are outside the 75' setback. Chair Jarvis noted the well on the property to the left is clearly outside the 75' radius even though there is no circle indicated. She did not find a well indicated for the property on the right. Mr. Varney stated he can't find the well on the property to the right; however, he located the septic tank and leach field, and knows it's not near there. The Board agreed that based on the other information presented, the well is probably beyond the 75' radius of the proposed leach field.

**Chair Jarvis made a motion to accept the application for Case #2020-005 as complete. Mr. Raslavicus seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 5-0-0.**

Chair Jarvis stated the procedures require election of officers of the Zoning Board of Adjustment before the meeting is adjourned. She stated it is possible that the public hearings will not be completed and she proposed having a special meeting to continue the public hearings. Chair Jarvis stated staff at Town Hall conducted a doodle poll regarding possible dates. April 22 and April 23 will have five ZBA Members available. She confirmed the dates work with Mr. Varney and the applicants.

**Public Hearing: Case #2020-001**

Chair Jarvis opened the Public Hearing at 9:27pm.

Chair Jarvis confirmed all fees have been paid and read the public notice into the record. Chair Jarvis noted a letter from an abutter at Map 250, Lot 127 was received January 25, 2020, and indicates opposition to granting of the special exception due to the type of business proposed and the noise involved with the type of business. The letter was read into the record.

Mr. Varney explained the location of the property, presented a copy of the design map and gave an overview of the proposed plans for the lot. He presented a scale map showing the location of buildings on the lot and stated the applicant wants to use the existing building and lot for sales and service of motorized equipment including trailers, ATVs and snowmobiles. The plans also include construction of a 40'x50' building; the parking lot will remain the same, but one driveway would be discontinued. Mr. Varney explained where the machines and trailers would be displayed. He stated this would go to the Planning Board for a site plan review, but a Special Exception is needed for the type of business in this area and noted in the past it was a sporting goods sales and gun sales shop; it is zoned commercial, but the change of use to motorized vehicles requires a special exception. The existing building would be used for an office and retail space with the new building to be for a garage and repairs. A special exception is also needed due to the aquifer protection zone; an environmental study was submitted.

Chair Jarvis asked what is the number of anticipated customers and vehicles per day. Mr. Varney replied the employees would be two to three per day; Mr. Wawrzkievicz stated the number of customers will depend on the season. He expects snowmobiles may come across the street from Johnsons during the winter and doesn't expect more than 5 to 10 a day. Vice Chair Anderson stated she is concerned about noise as well with starting up machines and noted she talked with the Police Department who indicated 96 decibels is what conservation officers allow on trails but didn't see anything about plans for keeping the noise below that. Mr. Wawrzkievicz stated they will be doing new machines, and 96 is the maximum a brand-new machine will do per manufacturer guidelines. He stated they would be loading and unloading with a forklift and as well as moving machines with the forklift so any of the noise is only going to be normal traffic in the area; he stated there won't be machines running all the time. Chair Jarvis suggested a condition of approval being that decibels are not to exceed 96 at any time; Mr. Wawrzkievicz replied that would not be a problem and explained what Fish and Game is addressing is aftermarket exhausts.

Ms. Callaway asked where the location of the abutter is who submitted the letter of opposition. It was noted to be a big lot on Old Bay Road; Chair Jarvis noted the property being discussed is 19-20 acres, and it appears the abutting property is also several acres. The Board reviewed the lot maps for clarification. Ms. Callaway stated she realizes machines won't be started up in and out of the shop, but would there be test drives? Mr. Wawrzkievicz stated typically test drives are not allowed; he won't be offering the

option. Vice Chair Anderson asked if there will be some sort of exhaust system from the building. Mr. Wawrzkievicz stated generally most shops will start the machines after repairs but his plans are to work with the Powder Mill Snowmobile club to possibly use trails that are across on Depot Road, north on Route 11 without crossing Route 11. Mr. Raslavicus asked for clarification regarding possible use by the snowmobiles of the whole property and suggested a restriction that no snowmobile traffic would be allowed past the shop. Mr. Wawrzkievicz replied there are still snowmobile signs on the property where the trail used to go through the property, but they don't have to do that, noting his previous suggestion of taking the trail across Depot Road would be safer than crossing Route 11. Mr. Raslavicus stated he wants to be sure the snowmobiles are confined on the property. Chair Jarvis stated that she doesn't understand why, if the property owner wants it, they would restrict the trails going across the property as it doesn't have anything to do with the business. Mr. Wawrzkievicz explained the layout of the property and where the trails are located and clarified he doesn't intend on using the trails, but if the club asked to open them, he would not be opposed. Chair Jarvis stated she would be opposed to making any restrictions on the trails. Vice Chair Anderson proposed a condition limiting the total decibels. Mr. Wawrzkievicz reiterated the new machines would not exceed the 96 decibels limit; he explained the only exhausts which are loud are not stock and it's illegal to change the exhaust in NH. He confirmed the same applies to ATVs; he won't allow them to drive through the property. Mr. Raslavicus asked if there would be a dumpster on the property. Mr. Wawrzkievicz stated it would be enclosed with a nice, solid vinyl fence.

Chair Jarvis noted it is 10:10pm and asked if the Board wanted to wrap up this public hearing within the next 15 minutes or to continue the hearing. By consensus of the Board, it was agreed to continue the meeting as more discussion is needed. Chair Jarvis asked if Mr. Wawrzkievicz or Mr. Varney have any objections to continuing the Public Hearing. None were indicated. After discussion it was agreed the public hearing would be continued to April 22, 2020, at via Zoom.

**Chair Jarvis made a motion to continue the Public Hearing for Case #2020-001, Map 250, Lot 138, to Wednesday, April 22, 2020 at 7:00pm. Ms. Richard seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 5-0-0.**

**Chair Jarvis made a motion to move the Public Hearing for Case #2020-005, to Wednesday, April 22, 2020 at 7:00pm. Ms. Callaway seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 5-0-0.**

Chair Jarvis asked Mr. and Mrs. Halpin if they will be available for April 22, 2020. It was confirmed they would be.

Chair Jarvis stated the Public Hearings will continue via Zoom and the appropriate information will go to the Board members, Mr. Varney and the applicants.

**Election of Officers**

Chair Jarvis asked if there is anyone who would like to volunteer to be chair.

**Vice Chair Anderson made a motion to nominate Terry Jarvis as Chair of the Zoning Board of Adjustment. Ms. Callaway seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – abstained. **Motion passed, 4-0-1.**

**Chair Jarvis made a motion to nominate Wendy Anderson as Vice Chair of the Zoning Board of Adjustment. Ms. Richard seconded the motion. Roll Call Vote:** Vice Chair Anderson – abstained; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 4-0-1.**

**Future Meetings**

May 12, 2020, 7:00pm – Materials to be submitted by April 20, 2020.

TBD - Joint meeting of ZBA and Planning Board

**ADJOURN**

**Mr. Raslavicus made a motion to adjourn. Vice Chair Anderson seconded the motion. Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Mr. Raslavicus – aye; Chair Jarvis – aye. **Motion passed, 5-0-0.**

The meeting was adjourned at 10:25pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary

### **A Checklist to Ensure Meetings Are Compliant with The Right-to-Know Law During the State of Emergency**

As Chair of the New Durham ZONING BOARD of ADJUSTMENT, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

***a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:***

We are utilizing **ZOOM** for this electronic meeting. All members of the ZBA 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 phone # **1-301-715-8592**, meeting **ID 769 973 993** and password **916395** or by clicking on the following website address: Join Zoom Meeting

<https://zoom.us/j/769973993?pwd=ek1NSkI3SGZRVytaWkdzVXZlIdElpQT09>

**Please note the ZOOM electronic meeting will also be on Town Hall Stream via the video link on the website.**

***b) Providing public notice of the necessary information for accessing the meeting:***

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Select Board at: [www.newdurhamnh.us](http://www.newdurhamnh.us).

***c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:***

If anybody has a problem, please call **603-556-1516** or email at: [skinmondnewdurhamnh.us](mailto:skinmondnewdurhamnh.us).

***d) Adjourning the meeting if the public is unable to access the meeting:***

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled. Please note that **all votes** that are taken during this meeting shall be done by **Roll Call Vote**.

***e. Public Input and Muting***

Only members of the ZBA will remain UNMUTED during the meeting. When the Board calls upon an individual they will be unmuted. If you have a question or comment, and are muted, you can click on **participants** (bottom of screen). This will ring a list up on the right side of your screen. At the bottom of the participant list you can click on "raise your hand". During Public input **or** when the Board is accepting public input- public attendees will be unmuted. Please start by restating your name.

**Roll Call Vote:**

We will start the meeting by identifying who is present starting with the ZBA Members. When called please confirm your presence. Please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law.