

New Durham Joint Zoning Board of Adjustment and Planning Board Meeting
June 16, 2020
Approved August 11, 2020

**TOWN OF NEW DURHAM
JOINT ZONING BOARD of ADJUSTMENT and PLANNING BOARD
MEETING
June 16, 2020, 7:00 PM
at “ZOOM” Virtual**

*In accordance with Governor’s Executive Order #12, pursuant to RSA 91-A: 2
Attendees log into:*

<https://us02web.zoom.us/j/89984475022?pwd=OG5iS0d6dVpITWtrUzlBaGFoaGp2QT09>

Meeting ID: 899 8447 5022 Password: 354132

Or via telephone number:

1-646-558-8656; Meeting ID: 899 8447 5022 Password: 354132

*Technical difficulties contact Town Administrator Scott Kinmond at
skinmond@newdurhamnh.us or by phone at
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

Terry Jarvis, Chair of Zoning Board of Adjustment – via Zoom
Wendy Anderson, Vice Chair of Zoning Board of Adjustment – via Zoom
Stephanie Richard, Zoning Board of Adjustment – via Zoom
Linda Callaway, Zoning Board of Adjustment – via Zoom
Paul Raslavicus, Zoning Board of Adjustment – via Zoom

ALSO PRESENT

Scott Kinmond, Town Administrator – via Zoom
Jeff Allard, Chair, Planning Board – via Zoom
Bob Craycraft, Planning Board Vice Chair – via Zoom
Scott Drummey, Planning Board – via Zoom
Dorothy Veisel, Board of Selectmen representative Planning Board – via Zoom
David Bickford, Planning Board – via Zoom

CALL TO ORDER

Chair Jarvis called the Zoning Board of Adjustment meeting to order at 7:07pm.
Chair Jarvis confirmed the meeting was posted appropriately with access numbers. She stated that in the event the public is unable to access the meeting, it would be adjourned and rescheduled. Chair Jarvis stated all motions would be taken by roll call; roll call attendance was taken for those participating in the Zoom meeting. Chair Jarvis asked Zoning Board members to introduce themselves and identify anyone in the room with them.

Chair Jarvis stated she would like to request the Planning Board to review the Zoning Ordinance in regards to Article XXI, F, as the ZBA recently had a case come before them in which, if they had been 49' 11" from the water, they could have put up a deck, but since a small portion of the deck would be less than 75' from the water, a variance was required. Chair Jarvis stated she would like the Planning Board to review the ordinance to avoid any inequities. Chair Allard stated they have a list of zoning ordinances to consider and would have Mr. Cauler add it to the list.

Rebuilding on Non-Conforming Properties

Chair Allard stated they have continual requests for variances, conditional use permits and building permits on properties around the lake which were all built as camps, mostly prior to the 1970s. Many are now being expanded and renovated, but it raises the question of how to regulate these. Chair Allard suggested outlining the specific issues that need solutions. He stated he is concerned anytime a house is demolished and rebuilt on a non-conforming lot without coming before the Planning Board for reasons including whether they are utilizing proper silt filtration and management of water runoff. He is also concerned with the overall design plans on the property and how much water is sheeting off the property into the lake. He stated Mr. Varney uses some beneficial calculations for determining phosphate runoff levels for old versus new systems. Chair Allard stated his other topic is whether NH State RSA can be specifically incorporated into the ordinances, particularly the 50' buffer for waterfront. He suggested conditional use permits should be required in more instances.

Chair Jarvis stated she has concerns about the number of nonconforming septic disposal systems around the lake and resulting runoff.

Ms. Veisel asked what type of lots the conditional use permits would be attached to; Chair Allard replied he was thinking it would be required for any instance where a current structure is to be demolished and rebuilt within the New Durham Shoreline Overlay District. Mr. Bickford asked what type of structures. Chair Allard stated he was thinking homes/dwellings, not sheds, and is concerned about sizes and expansion. He stated he would propose that if there is a rebuild, a conditional use permit would be required along with a storm water management plan. Ms. Veisel asked if they would require a reduction of impervious surfaces and best management practices. Chair Jarvis stated there could be a huge increase in work load for the ZBA in requests for variances if they don't decrease the runoff by enough of the percentage. She suggested the impervious surfaces be more stringent for shorefront, nonconforming lots. Mr. Drummey referenced the applicability section; he suggested adding that when the area disturbed is more than 2000 square feet, a storm water management plan is required.

Chair Jarvis asked when the need for a storm water management plan and a conditional use is triggered; Chair Allard replied that anything under section C.1. must meet the requirements of section 17. Mr. Raslavicus noted many lots are bare land in the first 50'; he stated there is a requirement in the Shoreline Conservation Overlay District, which outlines specific characteristics for communal waterfront and woodland buffer zones.

Chair Jarvis questioned when the date of this was, as any changes made, may not be enforceable.

Mr. Drummey stated Town Administrator Kinmond suggested that all building permits in the shoreline overlay district have a storm water management plan but doesn't think that would be appropriate for all applications. Chair Jarvis asked if there are protections in place for when heavy equipment is being used. Mr. Drummey noted there are different requirements for disturbances. Ms. Richard stated they want to be careful to not encourage people to build more if permits are required regardless of proposal. Ms. Anderson stated that when they are talking about storm water management, they need to be sure to encourage innovative ways to reduce the impact on the lake. She stated even small impacts can have an effect on the lake. There was discussion that a 2000 square feet minimum disturbance requiring compliance with Article XVII.

Chair Jarvis noted they also need to have a discussion about "footprints." Mr. Raslavicus concurred, noting he finds it disturbing that the term is not even in the ordinance. He noted there is already an article which addresses the waterfront buffer zone. Chair Allard asked if it would be a benefit to the residents to recapitulate state law in the ordinances and encourage the Code Enforcement officer to enforce the laws. Mr. Drummey suggested a statement that any state law is still in effect, and they could then enforce locally. Chair Jarvis questioned how it would be handled if an ordinance appears to conflict with an RSA. Chair Allard summarized the suggested changes and reiterated the concerns voiced by the Boards.

Mr. Raslavicus stated he would be concerned about a 75' setback, as that would be impossible for some lots and suggested a gradient between 50' and 75'; he also suggested using the word "restoration". Ms. Veisel suggested a septic system could also limit bedrooms. Chair Jarvis explained many times a house will remain three bedrooms but it goes from one to two stories. She asked if there are any ordinances the Planning Board feels an individual should not be able to request a variance to, and noted within the ZBA Procedures there are two items which do not allow a request for waiver. Ms. Veisel stated the will of the people will accept and establish the ordinance, but the spirit of the law is to allow for mitigating circumstances, which is the role of the ZBA. She doesn't want to have instances where there are no exceptions unless well justified and very minimal in application. Chair Allard suggested wording to emphasize that a building needs to be as far back from the 75' as possible, which he understands is not always possible.

Chair Allard suggested forming a small team to meet separately from the boards, review the ordinances along with the RSAs and come back with more specific suggestions. Chair Jarvis stated it would need to be posted and done in a public meeting as a meeting of a subcommittee of the ZBA and Planning Board. There was further discussion of the makeup of the subcommittee. Town Administrator Kinmond recommended calling this a subcommittee and limiting the composition to two members of each board, along with properly posting the meeting with an agenda. Mr. Raslavicus confirmed the purpose of this committee would be to review, discuss and make recommendations.

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Sub Committee members are: Jeff Allard, David Bickford. Paul Raslavicus, Stephanie Richards and Linda Callaway (ZBA Alternate).

ADJOURN

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

The meeting was adjourned at 9:22pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary