

**TOWN OF NEW DURHAM
ZONING BOARD of ADJUSTMENT
October 11, 2022, 7:00PM
New Durham Town Hall**

PRESENT

Wendy Anderson, Vice Chair
Linda Callaway, Member
David Bickford, Member

Terry Jarvis, Chair – excused absence

ALSO PRESENT

Robin McClain, Land Use Assistant
Mark Houston, resident
Donna Houston, resident
Deb Randall, Architect
Josh Thibault, Varney Engineering, LLC
Tom Varney, Varney Engineering, LLC
Paul Raslavicus, resident – via Zoom
Bob Kroepel, resident

CALL TO ORDER

Vice Chair Anderson called the meeting to order at 7:00PM.

Roll call was taken for those Board members present.

Review and Acceptance of Case #2022-010

An application submitted by Varney Engineering, LLC, on behalf of Mark and Donna Houston, for property located at 22 South Shore Road, Map 120 - Lot 6.

The applicants are requesting a Special Exception to:

Article XIV Section G: Deviations from the requirements of this Article may be permitted by Special Exception. Such a Special Exception is required in addition to any other relief which may be required herein, such as a Conditional Use Permit. Special Exceptions granted under this Article for one- or two-family homes shall be exempt from the requirements of Article VII. Other uses listed in Table 4. in Article VII must comply with the requirements of Article VII. The Zoning Board of Adjustment shall grant a Special Exception if all of the following requirements are met:

1. The proposed use must otherwise be allowed in this Shorefront Conservation Overlay District.
2. The proposed use will not reduce water quality in the adjacent water body measured by methods such as increased stormwater runoff and increased phosphorus and nitrogen runoff.
3. The structure is proposed to be moved as far back from the reference line as possible.

4. Property values in the district will not be reduced.
5. The use will not place excessive or undue burden on Town services and facilities.
6. The proposed use or structure is consistent with the spirit of this Article as described in paragraph XIV.A.1 above. The applicants are seeking to demolish existing cottage and rebuild within the same footprint.

And Variances to:

Article V Section D: Dimensional Requirements for Town of New Durham: Setbacks. No new building shall be less than twenty (20) feet from the road frontage property line of any road or fifteen (15) feet from the property line of an abutter.

Article V Section E: Dimensional Requirements for Town of New Durham. E. Flood Hazard Area and Water Body Setbacks. 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 VI Section C.3(a)(i): General Provisions/Use Regulations for Town of New Durham. General Requirements. No privy, cesspool, septic tank, or sewage disposal area shall be constructed or reconstructed: Less than one hundred twenty-five (125) feet from the edge of a public water body.

Article XIV Section C.2: Dimensional Requirements All development within the Shorefront Conservation Overlay District, whether on conforming or non-conforming lots, shall meet the following requirements: Building Setback: Except for water related structures, all buildings shall be set back a minimum of seventy-five feet from the reference line.

Article XIV Section C.3: Dimensional Requirements All development within the Shorefront Conservation Overlay District, whether on conforming or non-conforming lots, shall meet the following requirements: Leach Field Setback: Any leach field shall be set back a minimum of 125 feet from the reference line. The Planning Board may require greater setback where more than one dwelling unit uses common sewage disposal facilities.

Article XXI Section C.1: Non-Conforming Buildings, Land or Uses. New Buildings and Structures; Alteration and Expansion of Existing Non-Conforming Uses All nonconforming 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 G.1.b: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. The following setbacks are required for non-Conforming buildings, land and uses addressed by this Article. 1. Leach fields: Not less than seventy-five (75) feet from open surface water or hydric A wetlands or fifty (50) feet from hydric B wetlands.

Vice Chair read the public notice into the record. The Board reviewed the application for completeness.

Paul Raslavicus, resident via Zoom, stated he is concerned there was no public posting of the meeting on the Town website as of last night. Vice Chair Anderson stated it is her understanding that the public posting was posted at the Post Office and at Town Hall, so the legal requirements

were met. Ms. McClain confirmed the website was not updated but the public posting was made available in other locations. Mr. Bickford noted the Board of Selectmen voted to make the website an official posting location, so it should be posted there.

Motion: *To accept the application as complete.* Motion by Ms. Callaway. Seconded by Vice Chair Anderson. **Roll Call Vote:** Ms. Callaway – yes; Vice Chair Anderson – yes; Mr. Bickford - yes. **Motion passed, 3-0-0**

Review and Acceptance of Case #2022-011

Application submitted by Varney Engineering, LLC, on behalf of the Paula J. Mason Revocable Trust, Paula J. Mason – Trustee, for property located at 354 Merrymeeting Road, Map 118 Lot 11.

The applicant is requesting Variances to:

Article V Section D: Dimensional Requirements for Town of New Durham: Setbacks. No new building shall be less than twenty (20) feet from the road frontage property line of any road or fifteen (15) feet from the property line of an abutter.

Article VI Section C.3.a: 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.

Article VI Section C.3.b: General requirements: Sewage Disposal and Leach field Setbacks
b. No part of a leach field shall be located less than: i. twenty (20) feet from a property line on a lot less than 80,000 square feet; ii. less than thirty (30) feet from a property line on an eighty thousand (80,000) square feet to one hundred fifty thousand (150,000) square feet lot; or, iii. less than forty (40) feet from a property line on a one hundred fifty thousand (150,000) square feet lot.

Article XIV Section C.5: Dimensional Requirements All development within the Shorefront Conservation Overlay District, whether on conforming or non-conforming lots, shall meet the following requirements: 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 XIV Section C.8: Dimensional Requirements All development within the Shorefront Conservation Overlay District, whether on conforming or non-conforming lots, shall meet the following requirements. All New Development, as defined in Article III, within this Overlay District, must provide parking for a minimum of four vehicles with dimensions of 9 ft wide by 21 ft long. Parking may be provided on the same lot, or on lots abutting the waterfront property over which the waterfront property owner has an easement.

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.

Vice Chair Anderson noted the applicant has requested the public hearing be continued.

PUBLIC HEARING– Case #2022-010

Vice Chair Anderson read the case and public notice into the record.

Vice Chair Anderson asked if any member of the Board have a real or perceived conflict with hearing this case. None was indicated. Vice Chair Anderson asked if the applicant or any member of the public have a real or perceived conflict with any member of the Board hearing this case. None was indicated.

Vice Chair Anderson opened the public hearing at 7:24PM.

Tom Varney, Varney Engineering, LLC, stated the plans are to demolish the existing structure and replace it with a new house on the same footprint. An overhang will be added to the roadside door. The parking area and retaining wall will remain the same; a NH DES Shoreline permit was approved in 2021; a Conditional Use permit will be obtained. The current septic system is State approved.

Mr. Varney stated the land was surveyed and presented pictures for review by the Board along with the Stormwater Study. He presented maps and plans depicting the current conditions and proposed plans. The lot is 11,400 sq ft; they will be maintaining tree cover on the lot. Mr. Varney stated the shed on the lot will remain; trees in the waterfront area will remain. He stated the building is not going to be bigger and no garage is being added; he explained the stormwater measures which will be installed including porous patio, rain gutters and downspouts which will help reduce the runoff into the lake. Mr. Varney stated the house will be two stories; no deck will be added; the building cannot be moved back as there is a retaining wall and it can't be moved closer to the septic. Mr. Varney stated the variances are needed because the house will be within the 75ft setback. He stated the septic design will be able to meet all the zoning.

Mr. Bickford noted the parking is still within the Town's right of way, but the new requirement for Article XIV is parking has to be on the property and space for four vehicles. Vice Chair Anderson stated this has been reviewed by the Building Inspector and a variance is not required.

Deb Randall, Architect, stated if they moved the parking further off the road, there would potentially be more damage to the area and the lake, as the terrain is quite steep. She stated the buffer zone on the righthand side would also be affected; she clarified the vehicles are completely off the road.

Mr. Bickford suggested they do a Site Walk; he also suggested a Special Exception may be needed for Article XIV, A.1 for the parking. Vice Chair Anderson stated she doesn't read the article that way and suggested just having this reviewed by the Building Inspector. Ms. Callaway stated she doesn't believe the parking should be taken into consideration for the Special Exception. The Board agreed a Site Walk should be done.

Vice Chair Anderson opened the public hearing to members of the public.

Bob Kroepel, resident, stated he doesn't understand why the parking is a problem; he explained there is plenty of space and it doesn't cause any issues with runoff. Vice Chair Anderson stated it's a technicality with the ordinance as the parking is to be within the property lines and not on the right-of-way. In this case, the spaces aren't entirely within the lot. Mr. Kroepel stated he also plows the area during the winter and there is plenty of space; he suggested they leave the parking as it is.

Ms. Callaway suggested moving forward with the variance portions which have to do with the house, then do a Site Walk and then move forward with the special exception. The Board discussed the variances which would be deliberated; Vice Chair Anderson noted Article VI, Section C.3.a.1 and Article XIV, Section C.3 were requested but not required by the Building Inspector so will not be considered. Mr. Bickford noted the public hearing has to be closed before deliberations and suggested it needs to be kept open for all the items.

The Board agreed the public hearing would need to be continued to November 10, 2022.

Motion: *To continue the public hearing for Case #2022-010 to November 10, 2022, 7:00PM at New Durham Town Hall.* Motion by **Vice Chair Anderson**. Seconded by Ms. Callaway.. **Roll Call Vote:** Ms. Callaway – yes; Vice Chair Anderson – yes; Mr. Bickford - yes. **Motion passed, 3-0-0.**

The Site Walk was schedule for October 18, 2022 at 10:00AM at 22 South Shore Road.

APPROVAL OF MINUTES

Meeting of September 12, 2022 – Edits were made. **Motion:** *To approve the minutes as amended.* Motion by Vice Chair Anderson. Seconded by Ms. Callaway. **Roll Call Vote:** Ms. Callaway – yes; Vice Chair Anderson – yes; Mr. Bickford - yes. **Motion passed, 3-0-0.**

Other

Ms. McClain stated she presented the ZBA budget for review by the Board of Selectmen; she stated the Board cut the proposed budget by about 25%.

ADJOURN

Motion: *To adjourn.* Motion by Vice Chair Anderson. Seconded by Ms. Callaway. **Roll Call Vote:** Ms. Callaway – yes; Vice Chair Anderson – yes; Mr. Bickford - yes. **Motion passed, 3-0-0.**

The meeting was adjourned at 9:04PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary