

**TOWN OF NEW DURHAM
ZONING BOARD of ADJUSTMENT
November 10, 2022, 7:00PM
New Durham Town Hall**

PRESENT

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

ALSO PRESENT

Robin McClain, Land Use Assistant
Jeff Allard, Planning Board Chair
Mark Houston, resident
Donna Houston, resident
Deborah Randall, Architect – via Zoom
Josh Thibault, Varney Engineering, LLC
Tom Varney, Varney Engineering, LLC
Paul Raslavicus, resident – via Zoom
Deborah Bonano, resident – via Zoom
Tony Bonano, resident – via Zoom
Virginia Johnson – via Zoom

CALL TO ORDER

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

Roll call was taken for Board members present.

CONTINUED PUBLIC HEARING– Case #2022-010

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 the existing cottage and rebuild within the same footprint.

The applicants are 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 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.

Chair Jarvis stated she wasn't present for the meeting when this case was opened and would be stepping down from the case.

Vice Chair Anderson read the Public Notice into the record.

Vice Chair Anderson stated the Board agreed a Site Walk was needed, and this was done on October 18, 2022.

Mr. Varney distributed copies of the driveway parking plan; he stated after the last meeting he enlarged the parking area to comply with the required four parking spaces on the property. He stated it adds lot size coverage, but it remains under 20%; the building remains the same.

Vice Chair Anderson reopened the public hearing at 7:08PM.

Vice Chair Anderson closed the public hearing at 7:14PM.

Vice Chair Anderson stated the Board members hearing and deliberating the case would be Vice-Chair Anderson, Ms. Callaway and Mr. Bickford.

Findings of Fact

- The plan is to demolish the existing cottage and construct a new house on the same footprint.
- A small entry porch will be added on the roadside of the house.
- The cottage will have a full basement.
- The leach field will remain.
- The septic system will be replaced with a new design.
- A porous patio will be installed to infiltrate roof runoff on the side of the house.
- The lot size coverage is increasing from 16.3% to 16.9%.
- The parking will now be entirely on the property.
- The building setback on one side of the house is 15 feet.

Discussion - Special Exception

1. *The proposed use must otherwise be allowed in this Shorefront Conservation Overlay District.*

The Board agreed the use remains as residential and is allowed in the 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.*

The Board agreed that per the reports submitted, the runoff is decreased.

3. *The structure is proposed to be moved as far back from the reference line as possible.*

The Board agreed the building is on the existing footprint so the setbacks are not being changed.

4. *Property values in the district will not be reduced.*

The Board agreed the value would be improved as the property will now have space for parking.

5. *The use will not place excessive or undue burden on Town services and facilities.*
The Board agreed there would not be a change in burden.
6. *The proposed use or structure is consistent with the spirit of this Article as described in paragraph XIV.A.1 above.*

The Board agreed the proposal is consistent with the spirit of the article.

Motion: *To approve the request for a Special Exception for Article XIV, Section G for Case #2022-010, for property located at 22 South Shore Road, Map 120 Lot 6, based on plans dated October 19, 2022, and an application dated August 20, 2022.* Motion by Vice Chair Anderson. Seconded by Ms. Callaway. **Roll Call Vote:** Ms. Callaway – aye; Mr. Bickford - aye; Vice Chair Anderson – aye. **Motion passed, 3-0-0.**

Discussion Variances Article VI Section C.3(a)(i): Article XIV Section C.3 and Article XXI Section G.1.b-

Granting the variance would/would not be contrary to the public interest: Mr. Bickford stated it's not contrary. Ms. Callaway stated it is no worse than the current situation and there is now going to be an approved NH DES septic plan. Vice Chair Anderson stated it is not contrary as it will keep a functioning septic which will protect the lake.

The spirit of the ordinance would/would not be observed because: Ms. Callaway stated the spirit is observed as the septic is being located as far from the lake as possible. Vice Chair Anderson stated it will protect the lake and the public.

Granting the variance would/would not do substantial justice because: Ms. Callaway stated it will do substantial justice as the foundation will be more stable; processes will be put in place to protect the lake from runoff. Vice Chair Anderson stated the property owners will get a new and improved home and the Town will get better protections for the lake. She stated it will also be safer for everyone to get the parking spaces off the road and onto the property.

For the following reasons the values of surrounding properties would/would not be diminished:
The Board agreed values would not be diminished but this property will be improved.

The Board agreed the general purpose of the ordinance is being observed and agreed the proposed use is reasonable.

Motion: *To approve the request for variances for Case #2022-010, for property located at 22 South Shore Road, Map 120 Lot 6, based on plans dated October 19, 2022, and an application dated August 20, 2022 to the following articles:*

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.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 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.*

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

Discussion Variances – Article V, Section D

Granting the variance would/would not be contrary to the public interest: Ms. Callaway stated it is not contrary as the house is remaining on the same footprint. Mr. Bickford stated it's not contrary. Vice Chair Anderson stated its not contrary, the house can't be pushed back further and it is remaining on the same footprint.

The spirit of the ordinance would/would not be observed because: Vice Chair Anderson stated it's observed and using the same footprint.

Granting the variance would/would not do substantial justice because: Ms. Callaway stated substantial justice is being done as they could not have a house without the variance. Vice Chair Anderson stated the building is within the footprint even though it is within the setback; the footprint is not changing; a new house is being built and is justice to the applicant.

For the following reasons the values of surrounding properties would/would not be diminished: The Board agreed values would not be diminished.

The Board agreed it would be a hardship to deny the variances; the general purpose of the ordinance is being observed and agreed the proposed use is reasonable.

Motion: *To approve the request for variance for Case #2022-010, for property located at 22 South Shore Road, Map 120 Lot 6, based on plans dated October 19, 2022, and an application dated August 20, 2022 to the following article:*

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.*

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

Discussion Variance Article V Section E; Article XIV Section C.2:

Granting the variance would/would not be contrary to the public interest: The Board agreed there is no way to move the building back further.

The spirit of the ordinance would/would not be observed because: Vice Chair Anderson stated the spirit is observed as the building envelope is not large enough to meet all the requirements and the house is being built on the same footprint.

Granting the variance would/would not do substantial justice because: Mr. Bickford stated there is nowhere else for the building to go. Ms. Callaway stated the house is not being expanded outside the footprint and justice will be done. Vice Chair Anderson stated it would be an injustice to not grant the variance.

For the following reasons the values of surrounding properties would/would not be diminished: The Board agreed values would not be diminished.

The Board agreed it would be a hardship to deny the variances; the general purpose of the ordinance is being observed and agreed the proposed use is reasonable.

MOTION: *To approve the request for variances for Case #2022-010, for property located at 22 South Shore Road, Map 120 Lot 6, based on plans dated October 19, 2022, and an application dated August 20, 2022 to the following article:*

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 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.*

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

Discussion Variance Article XXI Section C.1:

Granting the variance would/would not be contrary to the public interest: Vice Chair Anderson stated the only expansion is with the front porch, but it is within the building area and would not be contrary; the proposal is within the lot and building coverage requirements. The Board agreed the porch is within the area allowed.

The spirit of the ordinance would/would not be observed because: Vice Chair Anderson stated it would be observed as there is no expansion of the house.

Granting the variance would/would not do substantial justice because: Vice Chair Anderson stated the applicants will get a new house and a porch, but nothing is lost by the public.

For the following reasons the values of surrounding properties would/would not be diminished: Vice Chair Anderson stated the property is being improved. The Board agreed that values would not be diminished.

Unnecessary Hardship: Vice Chair Anderson stated the building is existing and the new house will be on the same footprint; it would be a hardship to deny the variance to build on the same footprint. The Board agreed the use is not changing and remains reasonable.

Motion: *To approve the request for variance for Case #2022-010, for property located at 22 South Shore Road, Map 120 Lot 6, based on plans dated October 19, 2022, application dated August 20, 2022 to the following article: **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.*

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

Chair Jarvis returned to the Board.

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.

Chair Jarvis read the Public Notice into the record.

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

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

The Board reviewed the application for completeness.

Chair Jarvis stated this property came before the Board in 2019; approval was received for several variances but those expired.

Motion: *To accept the application for Case #2022-011 as compete.* Motion by Chair Jarvis. Seconded by Vice Chair Anderson. **Roll Call Vote:** Ms. Callaway – aye; Mr. Bickford - aye; Vice Chair Anderson – aye; Chair Jarvis - aye. **Motion passed, 4-0-0.**

Review and Acceptance of Case #2022-012

Application submitted by Varney Engineering LLC, on behalf of the Thomas and Heather Minkler for property located at 89 North Shore Road, Map 108 Lot 74.

The applicants are requesting Variances to:

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 VI Section C.3.(a)(ii): 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 seventy-five (75) feet from any well, or from a dwelling other than to which it is appurtenant.

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.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 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.

Article XXI Section F: Non-Conforming Buildings, Land or Uses. Decks, Stairs, and Walkways. For any building less than seventy-five (75) feet from the reference line, no alteration, addition, or new building shall extend the structure closer to the reference line. All stairs and walkways within seventy-five (70) feet of the reference line shall not exceed four (4) feet in width.

Chair Jarvis read the Public Notice into the record.

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

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

The Board reviewed the application for completeness. It was noted the Building Inspector's review is not included. After reviewing the maps, it was agreed the variance for **Article VI Section C.3.(a)(ii) is not necessary.**

Motion: The request for variance to Article VI Section C.3.(a)(ii) is not necessary. Motion by Chair Jarvis. Seconded by Vice Chair Anderson. **Roll Call Vote:** Ms. Callaway – aye; Mr. Bickford - aye; Vice Chair Anderson – aye; Chair Jarvis - aye. **Motion passed, 4-0-0.**

Motion: *To accept the application for Case #2022-012 as complete.* Motion by Chair Jarvis. Seconded by Mr. Bickford. **Roll Call Vote:** Ms. Callaway – aye; Mr. Bickford - aye; Vice Chair Anderson – aye; Chair Jarvis - aye. **Motion passed, 4-0-0.**

Review and Acceptance of Case #2022-013

Application submitted by Varney Engineering, LLC, on behalf of the Matthew LoPiano for property located at 309 South Shore Road, Map 113 Lots 69 and 26.

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 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.

And 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 applicant is seeking to add a shed for maintenance and storage of waterfront accessories.

Chair Jarvis read the Public Notice into the record.

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

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

The Board reviewed the application for completeness.

Chair Jarvis stated she does not believe this application is complete; she stated because it is a new building for storage of water related items, a variance to Article XIV, Section C.a. is required. The Board agreed it is a building and meets the definition of new development. Chair Jarvis stated parking spaces would also be required for this development. She stated putting a building where one doesn't exist makes the lot more nonconforming.

Chair Jarvis asked Mr. Varney what type of “maintenance” is going to occur in the building, as indicated by the application description. Mr. Varney replied it would be storage for a lawnmower and lawn equipment. Chair Jarvis stated she doesn’t consider those items as “water related”. Ms. Callaway agreed, noting it would be chairs, floats, kayaks, etc. Mr. Varney stated it could be an “accessory building” but that definition was removed from the ordinance.

The Board agreed additional variances are needed as this is for a new building closer to the shoreline.

Chair Jarvis suggested that Article XXI, Section F is needed.

Motion: *The application for Case #2022-013 is not compete.* Motion by Chair Jarvis. Seconded by Vice Chair Anderson. **Roll Call Vote:** Ms. Callaway – abstain; Mr. Bickford - aye; Vice Chair Anderson – aye; Chair Jarvis - aye. **Motion passed, 3-0-1.**

Chair Jarvis stated the Public Hearing can go forward, however any variances granted would include conditions that variances from the additional five articles would need to be obtained. She asked if the applicant wants to continue with the application as submitted.

Mr. Varney stated he doesn’t believe they can go forward, and the issues need to be resolved. Mr. LoPiano concurred.

Chair Jarvis noted the time is now 9:05PM and there is a remaining agenda item to discuss 2022 zoning ordinance changes with the Planning Board Chair. She stated the public hearings for Case #2022-011 and Case #2022-012 would need to be continued.

The Public Hearings for Case #2022-011 and Case #2022-012 were continued to Monday, November 21, 2022, 10:00AM at the New Durham Community Room

Discussion with Planning Board Chairman Jeff Allard pertaining to the 2022 Zoning Ordinance Changes

The Board discussed the costs associated with Special Exceptions and Article XIV; Chair Jarvis stated there are added costs to applicants and there is an increase in time for the ZBA’s cases. Ms. Callaway noted one of the reasons for adding the Special Exception was to take the place of variances, but it is only taking the place of one and it is making more work instead of less. Mr. Allard stated the idea is that Special Exceptions and variances accomplish the same thing; he stated the reasoning to support the change was that the Town can determine the criteria. Chair Jarvis explained when variances are reviewed, the Board already considers all the same criteria; she stated there is already a lot of redundancy and this creates more. She stated Special Exceptions requests are almost always accompanied by 4 to 8 variance requests. The Board discussed whether a variance or special exception should be requested in various instances. Chair Jarvis stated there are often instances where a building isn’t moving as far back as possible; Ms. Callaway explained there is also the fact that there is a conflict with State statute which supersedes the ordinances, so it creates a hardship for applicants. Mr. Allard stated he disagrees

and believes they have the latitude to require moving back. He suggested they could revise Article XIV to help resolve some of the concerns of the Board.

Motion: *To continue the discussion past 10:00PM.* Motion by Vice Chair Anderson. Seconded by Ms. Callaway. **Roll Call Vote:** Ms. Callaway – yes; Vice Chair Anderson – yes; Mr. Bickford - yes; Chair Jarvis – no. **Motion passed, 3-1-0.**

Ms. Callaway stated she is in favor of having a draft revision as well as a draft warrant article prepared so if the Board wants to move forward with the edits, the public hearing process can be started. She stated it would also include the option to rescind last year's warrant article in regard to Article XIV special exception. Chair Jarvis suggested that Conditional Use Permits need to be for anything up to 150' back from the water instead of just 75'.

Ms. Callaway suggested there needs to be a Planning and Zoning board member on the technical review committee. Chair Jarvis stated this is not possible as it is a conflict. Chair Jarvis noted Highway Department is not on the committee either; she stated it is intended to assist the applicant and any decisions are non-binding.

NEXT MEETING

November 21, 2022, 10:00AM, New Durham Community Room

ADJOURN

Motion: *To adjourn.* Motion by Chair Jarvis. Seconded by Vice Chair Anderson. **Roll Call Vote:** Ms. Callaway – yes; Vice Chair Anderson – yes; Mr. Bickford - yes; Chair Jarvis – aye. **Motion passed, 4-0-0.**

The meeting was adjourned at 10:29PM.

Respectfully Submitted,

Jennifer Riel

Jennifer Riel, Recording Secretary