

NEW DURHAM ZONING BOARD OF ADJUSTMENT

New Durham Town Hall

December 11, 2018, 7:00p.m.

Present

Terry Jarvis, Chair

Wendy Anderson, Vice Chair

Stephanie Richard, Member

Art Hoover, Member

Paul Raslavicus, Alternate Member

Excuse Absence

Joan Martin, Member

David Wessell, Alternate Member

Also Present

Laura Zuzgo, Administrative Assistant

Challis Krulewitz, Applicant

Michael Hayward, Hayward & Company

Tom Varney, Engineer

Linda Callaway, Resident

Eric Buck, Terrain Planning & Design, LLC

Romy Maurer, Terrain Planning & Design, LLC

Jan Abbott Michaud, Resident

John Michaud, Resident

Call to Order

Chair Jarvis called the meeting to order at 7:02pm. Mr. Raslavicus was appointed to sit on the board as a full member in Ms. Martin's place.

Continuation of Case #2018-009 Map 111, Lot 3 and 4; 352 South Shore Road

Request for variances to Article V Section 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.1.(b)*** Building Setback: Except for water related structures, all buildings shall be set back a minimum of seventy five (75) feet from the normal high water mark; ***Article XXI Section C. (2)*** New Buildings and Structures; Alteration and Expansion of Existing Nonconforming 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: Such expansion does not make any existing lot, structure, or use more nonconforming within the terms of this Ordinance; ***Article XXI Section G.2.(b):*** Nonconforming Setbacks- the following setbacks are required for Nonconforming buildings, land and uses addressed by this Article. 2. Buildings: a. 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.

Chair Jarvis stated the first three articles were initially requested and Article XXI Section G.2.a was discussed and added at the acceptance of the application with the correction to Article XXI, Section G.2.b. She stated the application was determined to be completed at the September 13, 2018 meeting; the public hearing was opened and it was determined a site walk was needed; site walk was conducted on November 15, 2018 and the findings will be part of the considerations at this meeting. It was clarified a question regarding one of the buildings will be referred to the Code Enforcement Officer.

Tom Varney, Varney Engineering, stated that what they are proposing to do will take a lot size coverage from 30% to 20%; it will include: a removal of a shed; addition of infiltration steps down to the culvert; walkway will be porous pavers as will the patio. He stated this needs to be done as the area in front of the house is unsafe with

December 11, 2018

Approved

a drop off. It will also help control runoff before it gets to the lake. Mr. Varney explained it won't be possible to have the 75' setback and the lot is also steep slopes.

Chair Jarvis opened the hearing to input from abutters or the public. None was made.

Chair Jarvis stated she was surprised at how steep the slopes were. Mr. Raslavicus stated at the hearing with the owners present, it was indicated a shed was used by them as "overflow bedroom" although it is not confirmed this use is permitted; he stated he is also concerned about the number of bedrooms on the property as well as whether the shed is approved. Chair Jarvis replied the shed used as a sleeping area, is part of the case which was referred to the Code Enforcement Officer. It was confirmed the septic is approved for two bedrooms. Ms. Richard stated the shed doesn't really impact their decision as the proposed building plan is also two bedrooms. Mr. Hoover concurred that they need to ensure the shed is not going to be used as a bedroom. The board discussed the steepness of the lot; it was noted some changes are proposed to mitigate the problems with safely navigating the property.

Chair Jarvis closed the public hearing at 7:18pm. She stated the board members deliberating the case would be: Terry Jarvis, Chair, Wendy Anderson, Vice Chair Stephanie Richard, Art Hoover, and Paul Raslavicus.

Discussion: Variances to Article V, Section E; Article XIV, Section C.1.B; Article XXI, Section G.2.b

Granting the variance would/would not be contrary to the public interest: Chair Jarvis stated they will be decreasing the impervious surface from 30% to 20%, which is a major assistance to the lake. The Board concurred. It was agreed that in addition, rebuilding the house would be a safety improvement.

The spirit of the ordinance would/would not be observed because: The Board concurred they are working toward decreasing the water going into the lake. Ms. Richard stated there are a lot of mitigation measures that are being proposed to keep within the spirit of the ordinance.

Granting the variance would/would not do substantial justice because: The Board concurred that granting the variance would do substantial justice, due to the fact that it will benefit the lake and public.

For the following reasons the values of surrounding properties would/would not be diminished: The Board concurred the values of the surrounding properties would not be diminished. The property would be improved and impact on the lake diminished.

Unnecessary Hardship: The Board concurred this is an unusual property. It was noted a shoreline permit from DES would be required; a steep slope permit may be needed from the Planning Board as well.

Chair Jarvis made a motion to approve the variance requests for Article V, Section E, Article XIV, C.1.b, and Article XXI, Section G.2.b. with the conditions that they receive steep slope approval from the New Durham Planning Board, and receive a shoreline permit from the NH Department of Environmental Services and that the property have no more than two bedrooms unless the septic system is upgraded. Ms. Richard seconded the motion. Motion passed, 5-0-0.

Discussion: Variances to Article XXI, Section C.2:

Granting the variance would/would not be contrary to the public interest: Ms. Richard stated it would not be contrary to the public interest. The house may be come less conforming but the lot will become less nonconforming.

The spirit of the ordinance would/would not be observed because: The Board concurred the spirit of the ordinance would be observed for the same reasons as discussed in the prior articles.

Granting the variance would/would not do substantial justice because: The Board concurred that granting the variance would do substantial justice for the same reasons discussed in the prior articles.

For the following reasons the values of surrounding properties would/would not be diminished: for the same reasons as discussed in the prior articles. As the addition to the house is hidden from the road, it will not impact anyone's view of the lake.

Unnecessary Hardship: The Board concurred that denying the variance would be an unnecessary hardship to the property owners.

Ms. Richard made a motion to approve the request for a variance to Article XXI, Section C.2. Mr. Hoover seconded the motion. Motion passed 5-0-0.

Chair Jarvis closed ZBA Case# 2018-009.

Review and Acceptance of Case #2018-010: Map 112, Lot 001 - 228 South Shore Road

Chair Jarvis stated the case was initially presented in October 2018, the application was determined to be incomplete. A deadline of November 28 was given for resubmission of requested information. The variances requested include: Article V, Section E; Article XIV, Section C.1.(b); Article XXI, Section C.1 and C.2; Article XXI, Section G.2.(b).

The board reviewed the application for completeness. It was agreed all information on the application is identical except for changes in the variances requested. Chair Jarvis asked if there are any plans submitted on November 28 versus the plans submitted for the October hearing. The applicant replied no changes were made.

The Board reviewed and discussed the application for completeness. Mr. Raslavicus stated the request for a setback is moot because it's not outside of the building setback and is within. Ms. Richard stated the proposed building will be moving back 2' from the existing footprint; but it was clarified the state requirement is being cited but the Town requirement is not. Chair Jarvis stated this does not make the application incomplete. Ms. Anderson questioned whether photographs of the property were included with the application. It was determined they were.

Ms. Anderson made a motion to accept the application for Case #2018-010, Map 112, Lot 001, as complete. Ms. Richard seconded the motion. Motion passed, 5-0-0.

The applicant presented maps and plans for review by the Board.

Ms. Richard stated she has a professional relationship with Mr. Brown who submitted a letter in regards designing the septic system. The applicant confirmed the work was actually done by Mr. Brown's partner. No one indicated concern for a conflict of interest.

Chair Jarvis opened the public hearing at 8:01pm. She read a letter of support received on November 7, 2018, from abutters, prior to the request for additional information.

December 11, 2018

Approved

Mr. Buck, applicant's representative, gave an overview of the property. He stated its 0.57 acres with 270' feet of water frontage. Colored plans and maps were also presented for review, showing current and proposed setbacks. Plans of the proposed cottage were also presented and reviewed. Mr. Buck outlined the proposed project which includes demolition of the current cottage and replacement with a 3 bedroom, two story cottage with attached garage; a shed will be removed; the septic system will remain in place and intact; a stone retaining wall will be placed to elevate the building; trees along the shoreline will be preserved; a new curb cut will be placed on South Shore Road; the existing culvert under the road which currently runs off to the property, will have a swale put in to redirect the runoff. The total impervious coverage will be less than 20%, although it will be double the original coverage. Chair Jarvis asked if they have discussed the swale and runoff plans with the Road Agent. That has not been done. A shoreline permit has been received from the State. The Board reviewed and discussed the proposed plans and maps. Ms. Anderson asked for more details on drainage and how runoff will be directed. The driveway is going to be completely impervious as the turn-key was removed from the original plans.

Jan Abbott, abutter, stated she is supportive of her neighbors' plans and thinks it will only improve the water quality of the lake. There is currently nothing in place to catch run off but the proposed plans change that.

Chair Jarvis made a motion to do a site walk for Case #2018-010. Mr. Hoover seconded the motion. Motion passed, 3-0-2.

The site walk was scheduled for Monday, December 17, 2018 at 11:15am for 228 South Shore Road.

Challis Krulewitz, applicant, stated she is disappointed they have gone through all these meetings to try to build a home and it has cost extra money and time as well as lost time with the builder. She stated they aren't asking anything outrageous and they are doing everything they should. Chair Jarvis stated because the initial application was incomplete, they couldn't move forward. She stated she has some questions that a site walk will hopefully answer, including issues with the culvert. Ms. Zuzgo stated a 2008 decision was issued that no building permit will be issued until the culvert is replaced. She explained only one property owner/abutter has paid the fees charged for replacing the culvert. Ms. Michaud questioned why they have to pay for a culvert that doesn't affect them. Chair Jarvis explained the issue came up back in 2008 and she is unsure of the answers and stated she will have to consult the Town Administrator and possibly Town Counsel on the matter. Ms. Anderson stated she would like to see more information on the plans, such as the possibility for a turn-around and drainage issues.

Mr. Hayward, the builder from Hayward and Company, explained their reasoning for not wanting to move the garage closer to the road as it's a safety hazard for backing into the roadway. He stated the setbacks are not adequate for today's vehicles.

Mr. Hoover stated the issue for him is it's a new building and they need to abide by the 75' setback. It does not qualify for the 50' setback.

Chair Jarvis made a motion to continue the public hearing for Case#2018-010 to Tuesday, January 8, 2019, 7:00pm at Town Hall. Mr. Raslavicus seconded the motion. Motion passed, 5-0-0.

Appointments

December 11, 2018

Approved

Chair Jarvis made a motion to appoint Linda Calloway to be an alternate to the New Durham Zoning Board of Adjustment for a term expiring December 11, 2021. Mr. Hoover seconded the motion. Motion passed, 5-0-0.

Approval of Minutes:

Meeting of October 23, 2018 – Edits were made. **Mr. Hoover made a motion to approve the minutes as amended. Ms. Anderson seconded the motion. Motion passed 4-0-1.** Mr. Raslavicus abstained.

Meeting of November 13, 2018 - Edits were made. **Mr. Raslavicus made a motion to approve the minutes as amended. Ms. Richard seconded the motion. Motion passed 5-0-0.**

Mr. Hoover left the meeting at 9:58pm.

Meeting of November 26, 2018 - Edits were made. **Ms. Richard made a motion to approve the minutes as amended. Ms. Anderson seconded the motion. Motion passed 4-0-0.**

Rules of Procedure:

Chair Jarvis spoke about changes to D.4.(b) on page 3 of the ZBA procedures. She is recommending that the 60 days be changed to 30 days at the request of the Code Enforcement Officer.

Future Meeting

January 8, 2019, 7:00pm – New Durham Town Hall

Adjourn

Chair Jarvis made a motion to adjourn. Mr. Raslavicus seconded the motion. Motion passed, 4-0-0.

The meeting was adjourned at 10:04pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary