

NEW DURHAM ZONING BOARD OF ADJUSTMENT

New Durham Town Hall

November 13, 2018, 7:00p.m.

Present

Terry Jarvis, Chair

Wendy Anderson, Vice Chair

Stephanie Richard, Member

Art Hoover, Member

Paul Raslavicus, Alternate Member

Excused Absence

Joan Martin, Member

David Wessell, Alternate Member

Also Present

Tom Varney, Varney Engineering

May Varney, Varney Engineering

Michael Narkis, Applicant

Bonnie Bach, Applicant

Mike Hayward, Builder for Applicant

Kate Varney, Varney Engineering

John Michaud, Resident

Romy Maurer, All Terrain Architect

Jerry Bach, Applicant

Eric Buck, All Terrain Architect

Call to Order

Chair Jarvis called the meeting to order at 7:00pm. Mr. Hoover was appointed to sit on the board as a full member in Ms. Martin's place.

Approval of Minutes

Meeting of October 23, 2018 – Edits were made. **Ms. Anderson made a motion to postpone approval of the October 23, 2018 minutes until December 11, 2018. Ms. Richard seconded the motion. Motion passed, 5-0-1.** Mr. Raslavicus abstained.

Agenda Review

Chair Jarvis noted an error was made in going from Case 2018-006 to 2018-008 so there is no Case 2018-007.

Continued Public Hearing Case # 2018-005 Map 122, Lot 16 and 35, 125 South Shore Road

Chair Jarvis continued the hearing for Case 2018-005 at 7:16pm. She stated a site walk was conducted on October 28, 2018 at 125 South Shore Road.

Mr. Raslavicus stated he is concerned about the site-walk as it posted incorrectly. He explained he did not initially get to the right place and is concerned the public was not properly informed and referenced the Right-to-Know law. The Board discussed whether the site walk was valid. It was suggested to do a site walk again with proper notice. The Board concurred to have another site walk on November 15, 2018 at 11:45am at 125

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South Shore Road. The applicant asked if it was possible to waive the requirement for a site walk. Chair Jarvis replied the Board already determined a site walk is needed and it needs to be properly noticed for the public. The public hearing for Case 2018-005 will be continued to November 26, 2018 at 7:00pm at New Durham Town Hall.

Chair Jarvis made a motion that a new site walk occur on November 15, 2018 at 11:45am for Case 2018-005, Map 122, Lot 016 and Lot 035, located at 125 South Shore Road. It will be followed on November 26, 2018 at 7:00pm for a ZBA Meeting for discussion and deliberation of the case. Ms. Richard seconded the motion. Motion passed, 5-0-0.

Review and Acceptance of application for Case # 2018-008 - Map 113 Lot 009 – 288 South Shore Road

Chair Jarvis reviewed the application and stated the applicant is requesting variances from 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 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 nonconforming building may be altered and expanded provided: 2. Such expansion does not make any existing lot, structure, or use more nonconforming within the terms of this Ordinance; Article XXI Section G.2.(a) :Nonconforming Setbacks The following setbacks are required for Nonconforming buildings, land and uses addressed by this Article: 2. Buildings: No new building shall be less than twenty (20) feet from the road frontage property line.

The Board reviewed and discussed the application. It was noted the application indicates Article XIV Section C.b. however that is incorrect and should be C.1.b. It was also noted the address was incorrect on the application & agenda. The box was not checked to allow for a possible site walk if necessary.

Ms. Anderson made a motion to accept the application for Case #2018-008 as complete with the exception that the article designation is corrected, and the authorization to enter subject property is answered. Ms. Richard seconded the motion. Motion passed, 5-0-0.

Review and Acceptance of Application for Case # 2018- 009: Map 114, Lot 003/004, 352 South Shore Road

Chair Jarvis reviewed the application and stated the applicant is requesting variances from: 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

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less than seventy five (75) feet from any water body or river; Article XIV Section C.(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.(a): 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.

The Board reviewed and discussed the application. It was noted G.2. was incorrect and should be G.2.a; there is also no C.B. and should be C.1.b. It was confirmed the voluntary merger was approved by the Registry of Deeds on September 21, 2018. The Board concurred with having the applicants correct the article numbers.

Ms. Richard made a motion to accept the application as complete for Case #2018-009 with the revised sheet for page 3 of the application. Ms. Anderson seconded the motion. Motion passed, 5-0-0.

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

Chair Jarvis reviewed the application and stated the applicant is requesting variances from: Article XXI Section G.2.(b); Non-Conforming Setbacks 2. Buildings: b. No new building, except water related structures, shall be located in a flood hazard area, or less than seventy-five feet from any water body or river course.

The Board reviewed and discussed the application. It was determined the correct variance should be G.2.a as found on page 118 of the ordinances. It was also noted there was only one authorization signature although there are two property owners. The Board reviewed and discussed additional ordinances that may be needed.

Ms. Richard made a motion that the application for Case #2018-010, Map 112, Lot 001, 228 South Shore Road is incomplete: missing the signature of the second owner authorizing the agent to represent them; additional variance requests are also missing including but not limited to Article V, Section E, Article XXI, Section C.1 and C.2, Article XXI, Section G.2.a and it needs a correction on the application to Article XIV in regards to C.1.b. Ms. Richard seconded the motion. Motion passed, 5-0-0.

Chair Jarvis made a motion that the applicant or the agent for the applicants submit all the necessary information as requested no later than close of business on November 29, 2018 to avoid restarting the process. Mr. Rasclavicus seconded the

motion. Motion passed, 5-0-0. The amended application is scheduled to be reviewed at the December 11, 2018 meeting at the New Durham Town Hall at 7 PM. The public Hearing may be convened if the application is accepted as complete.

Public Hearing – Case #2018-008

Chair Jarvis opened the public hearing at 8:39pm. The Board reviewed and discussed the application.

Tom Varney, Varney Engineering, gave an overview of the proposed plans for 288 South Shore Road. He explained they are looking to building a 16' by 16' screen porch, to be built on a pier foundation. No other changes to the property are proposed. There will be a drip edge installed; a DES shoreline permit is required although a steep slopes permit is not required as the area is less than 2000' square ft. Mr. Varney noted the existing septic system is state approved and submitted a boundary survey along with pictures of the property for review by the Board. The Board reviewed the schematic plans of the structure. The Board discussed a site walk but the majority of the board did not feel it is necessary.

Chair Jarvis closed the public hearing at 9:12pm. She proposed combining discussion of three requests including Article V, Section E, Article XIV, Section C.1.b, Article XXI, Section G.2.a.

Discussion

Granting the Variance would or would not be contrary to the public interest: Ms.

Richard stated she believes that granting these variances would not be contrary to the public interest. Mr. Raslavicus stated the applicant did not make any statement in support of it being in the public interest. He also noted the property is in the shoreline conservation district and therefore granting the variances would be contrary to the public interests. Ms. Anderson concurred.

Granting the variance would or would not do substantial justice: It was agreed the screen porch only benefits the property owner and the setback is available to protect the lake. There are other options to have a screen porch.

Granting the variance would diminish the values of the surrounding properties: Chair Jarvis stated she doesn't think it would diminish the property values. It would be within the setbacks for the property lines. Ms. Anderson stated it could make the properties seem more crowded in an area which is already crowded.

Not granting the variance would make unnecessary hardship: The Board concurred there are still three ways the property owners could have a screen porch without building in the shoreline setback.

Chair Jarvis made a motion to grant the request to variances to Article V, Section E, Article XIV, Section C.1 and Article XXI, Section G.2.a, all of which prohibit

building within a 75' setback. Mr. Rasclavicus seconded the motion. Motion failed, 0-4-1. Mr. Hoover abstained. The variances requested are denied.

The Board reviewed and discussed the request for variance to Article XXI, Section C.2.

Discussion

Granting the Variance would or would not be contrary to the public interest: Ms. Richard stated that making a non-conforming lot, more non-conforming is contrary to public interest. Chair Jarvis stated its not in the public interest to have even more of the last covered, more non-conforming and less pervious. The Board concurred that granting the variance would not be in the spirit of the ordinance.

Granting the variance would or would not do substantial justice: The Board concurred that granting the variance would not do substantial justice.

Granting the variance would diminish the values of the surrounding properties: The Board concurred that making the lot more crowded has the possibility of decreasing the value of surrounding properties.

Not granting the variance would make unnecessary hardship: The Board concurred it would not be an unnecessary hardship. It was agreed a screen porch is not an unreasonable use however there are three other alternatives to have a screen porch without a variance.

Chair Jarvis made a motion to approve the variance to Article XXI, Section C.2. Ms. Anderson seconded the motion. Motion failed, 0-4-1. Mr. Hoover abstained. The request for a variance was denied.

Public Hearing: Case #2018-009, Map 114, Lot 003 and 004 – 352 South Shore Road
Chair Jarvis opened the public hearing at 9:31pm.

Tom Varney, Varney Engineering, gave a summary of the proposal plans to expand the existing cottage for more living space. The addition is to be 13' by 22'; the overall lot size coverage is being reduced with a shed being removed and some of the driveway removed to be replaced with gravel. Mr. Varney explained the measures for collecting runoff, a DES shoreline permit will be required as well as a conditional use permit as the change is more than 500 square feet. He presented a map and diagrams of the proposed structure as well as pictures of the lot, along with a schematic of the building. The Board reviewed the maps and plans. There was discussion whether another shed could be removed as well; the applicants replied the shed is used as a sleeping area. The other one has laundry. They would like to move the laundry and increase their living space. The Board discussed whether a site walk would be needed. Mr. Raslavicus asked Mr. Varney why the roofs don't align on the lakeside view, noting runoff will be going the wrong way. Mr. Varney noted there would be gutters. The Board concurred a site-walk would be done on November 15, 2018 at 12:15pm at 352 South Shore Road, Map 115, Lot 003 and 004.

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Chair Jarvis made a motion to conduct a site-walk on November 15, 2018 at 12:15pm at 352 South Shore Road, Map 115, Lots 003 and 004. Ms. Richard seconded the motion. Motion passed, 5-0-0.

Chair Jarvis made a motion to continue the public hearing for Case #2018-009 to Tuesday, December 11, 2018 at 7:00pm. Ms. Richard seconded the motion. Motion passed, 5-0-0.

Future Meetings:

November 15, 2018, 11:45am, 125 and 352 South Shore Road
November 25, 2018, 7:00pm, New Durham Town Hall (location is tentative)
December 11, 2018, 7:00pm, New Durham Town Hall

Adjourn

Ms. Anderson made a motion to adjourn. Ms. Richard seconded the motion. Motion passed, 5-0-0.

The meeting was adjourned at 10:17pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary