

**TOWN OF NEW DURHAM
ZONING BOARD of ADJUSTMENT
March 11, 2021
New Durham Town Hall – 7:00 PM**

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

Meeting ID: 889 9690 6980 Password: 784832

Or via telephone number: 1-646-558-8656; Meeting ID: 889 9690 6980 Password: 784832

*Technical difficulties contact Town Administrator Scott Kinmond at
skinmond@newdurhamnh.us or by phone at 603-556-1516. Assistance with Zoom application
please contact Robin McClain at ndlanduse@newdurhamnh.us or contact Zoning 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– via Zoom
Wendy Anderson, Vice Chair– via Zoom
Stephanie Richard, member – via Zoom
Linda Callaway, member – via Zoom

ALSO PRESENT

Robin McClain, Land Use Administrative Assistant – via Zoom
Tom Varney, Varney Engineering, LLC – via Zoom
Kenneth Lance, applicant – via Zoom
Ron Gehl, resident – via Zoom
Stephen Rollins, applicant - via Zoom
Nancy Rollins, applicant – via Zoom
Jeff Coburn, contractor – via Zoom
Paul Raslavicus, resident – via Zoom
Thomas O’Neil, applicant – via Zoom

CALL TO ORDER

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

Chair Jarvis stated that due to the State of Emergency declared by Governor Sununu and pursuant to Executive Order #12, pursuant to Executive Order 2020-004, the Town is authorized to meet electronically. She stated there is no physical location to observe this meeting. However, in accordance with the Order, it was confirmed that they are providing public access to the meeting by telephone, with additional access possibilities by video (Zoom); all members of the Zoning Board of Adjustment and Town Administrator have the ability to communicate contemporaneously during this meeting; the public has access to contemporaneously listen and

participate via links posted on the agenda. Chair Jarvis confirmed the meeting was posted appropriately with access numbers. She stated in the event the public is unable to access the meeting, it would be adjourned and rescheduled. Chair Jarvis stated in the event they need to go into non-public session, a separate phone number will be used for the Zoning Board of Adjustment members to use and they will then reenter nonpublic session.

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 if there are objections to these cases being heard electronically. None were indicated.

Continued Review and Acceptance of Case #2021-002

Application submitted by Varney Engineering LLC, on behalf of Kenneth Lance. who is requesting a Special Exception to:

Article VII Section A.1: Special Exceptions. Uses Permitted by Special Exception. The following uses may be allowed by Special Exception through the Zoning Board of Adjustment which requires an application and a public hearing to be held in accordance with RSA 676:7. The conditions and requirements of the Special Exception contained in this Article are in addition to other applicable provisions of this Zoning and Land Use Ordinance. See Table 4 for a summary of uses and conditions which require a Special Exception. Refer to Article XII: Aquifer Protection Overlay District and the Article XIII: Wetland Conservation Overlay District for special exceptions required in those areas. See Table 4 Special Exception Summary for uses and conditions which require a Special Exception.

Applicant is also requesting a Variance to:

Article VII Section B.3.b.: Special Exceptions. General Requirements for Commercial or Industrial Uses Permitted by Special Exception. Sufficient acreage shall be included to allow the following setbacks: Side and rear setbacks shall be not less than fifty (50) feet from a building or parking lot to the lot line.

The property is located at Map 246 Lot 003, 213 Middleton Road. If the application is deemed to be complete, a Public Hearing may be held.

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

Chair Jarvis confirmed all fees were paid, abutters notified and public postings done.

Chair Jarvis stated this application was originally received in January; review was postponed as a question relative to the property being in the Conservation Overlay District needed to be sent to Town Counsel. At a Zoning Board of Adjustment meeting in February, the Board reviewed a letter from Mr. Varney which outlined why he feels the Conservation District Overlay is not applicable as the project is less than two acres. Town Counsel reviewed Mr. Varney's letter and indicated that since it is less than 2 acres of proposed development, the applicant needs to

demonstrate this on the plans that Article X is not required. In February, there was a request to deem this a project of regional impact. The required information was sent to the Strafford Regional Planning Commission, Middleton and Farmington. A response was received on March 9, 2021 from SRPC. If a Special Exception or Variance is granted, the Site Plans would need to be revised to specifically reflect the square footage involved for the restaurant, brewery, parking, etc.

The Board reviewed the application for completeness.

Motion: *To accept the application for Case #2021-002 as complete.* Motion by Ms. Richard. Seconded by Vice Chair Anderson. **Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Chair Jarvis – aye. **Motion passed, 4-0-0.**

Review and Acceptance of Case #2021-006

Application submitted by Varney Engineering LLC, on behalf of Stephen and Nancy Rollins who are requesting Variances to the following:

Article VI Section C.3a.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.1.c: Shorefront Conservation Overlay District. Dimensional Requirements. Development with Waterfront Access: All development with water frontage or with rights of access to water frontage shall meet the following requirements: Leach Field Setback: Any leach field shall be set back a minimum of 125 feet from the normal high water level. The Planning Board may require greater setback where more than one dwelling unit uses common sewage disposal facilities.

Article XXI Section G.1.a: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Leach fields: a. Not less than ten (10) feet from a lot line.; and

Article XXI Section G.1.c: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Leach fields: a Not less than ten (10) feet from the road frontage property line of any road except with the approval of the road agent.

The property is located at Map 120 Lot 007, 24 South Shore Road. If the application is deemed to be complete, a Public Hearing may be held.

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

Chair Jarvis confirmed all fees were paid, abutters notified and public postings done.

The Board reviewed the application for completeness. Ms. Richard noted the proposed lot coverage is over 20% and asked if a variance should be required. Chair Jarvis stated the building is remaining on the footprint and Mr. Varney confirmed it will be a bit smaller so less nonconforming. After discussion, it was agreed the additional variance is needed for the 20%. The applicant's representative indicated he would like to go forward with hearing the case on the current five requests which are related to the septic.

Motion: *To accept the application for Case #2021-006 as incomplete as it needs a request for a variance relative to lot size coverage of greater than 20%. However, the applicant wishes to move forward on the five variance requests dealing with septic systems, leach fields, etc.* Motion by Chair Jarvis. Seconded by Ms. Callaway.

Discussion: Vice Chair Anderson questioned whether they can go forward with an incomplete application. The Board reviewed procedures, and it was confirmed the application could be declared incomplete if the applicant requests to go forward with the understanding there will be a new application and fees for the additional variance. Vice Chair Anderson suggested the impermeability is changing, it is still over and therefore the variance is needed; the Site Plan is changing, requiring the variance. Ms. Richard noted they shouldn't consider the deck as that is permitted. Ms. Callaway asked if there is going to be a balcony on the second floor. Mr. Varney confirmed it would not. Chair Jarvis asked if the applicant still wants to continue. Mr. Varney stated they do.

Roll Call Vote: Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Chair Jarvis – aye. **Motion passed, 4-0-0.**

Review and Acceptance of Case # 2021-007

Application submitted by Changing Seasons Engineering PLLC, on behalf of Marjack Oasis LLC, Thomas O'Neil Representative. The applicant is requesting variances to the following:

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.1.b: Shorefront Conservation Overlay District. Dimensional Requirements. Development with Waterfront Access: All development with water frontage or with rights of access to water frontage shall meet the following requirements: Building Setback: Except for water related structures (see below), all buildings shall be set back a minimum of seventy-five (75) feet from the normal high water level.

Article XIV Section C.1.e: Shorefront Conservation Overlay District. Dimensional Requirements. Development with Waterfront Access: All development with water frontage or with rights of access to water frontage 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.1: 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: 1. They conform to Non-Conforming Setback and height requirements below.

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 G.2.b: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Buildings: 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.

Article XXI Section G.2.d: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Buildings: No more than a total of twenty (20) per cent of the lot area shall be covered by all impervious surfaces.

The property is located at Map 111, Lot 027, 43 Meaders Point Road. If the application is deemed to be complete, a Public Hearing may be held.

Chair Jarvis asked if any member of the public has a real or perceived conflict with any member of the Board hearing this case. Ms. Richard stated she would be recusing herself from hearing this case as she is a representative for the applicant. s

Chair Jarvis asked the applicant and applicant's representative if they agree to go forward with three members of the Board hearing the case. Mr. O'Neil confirmed he would like to proceed.

Chair Jarvis confirmed all fees were paid, abutters notified and public postings done.

The Board reviewed the application for completeness.

Motion: *The application for Case #2021-007 is complete.* Motion by Vice Chair Anderson. Seconded by Ms. Callaway. **Roll Call Vote:** Vice Chair Anderson – aye; Ms. Callaway – aye; Chair Jarvis – aye. **Motion passed, 3-0-0.**

PUBLIC HEARING– Case #2021-002

Application submitted by Varney Engineering LLC, on behalf of Kenneth Lance.

Chair Jarvis read the case and public notice into the record.

Applicant is requesting a Special Exception to **Article VII Section A.1: Special Exceptions. Uses Permitted by Special Exception.**

Applicant is requesting a Variance to **Article VII Section B.3.b.: Special Exceptions. General Requirements for Commercial or Industrial Uses Permitted by Special Exception.**

The property is located at Map 246 Lot 003, 213 Middleton Road.

Chair Jarvis opened the public hearing at 7:51 PM.

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

Tom Varney, Varney Engineering, LLC, representative for the applicant, stated Mr. Lance has grown hay and vegetables on this property since 1999. He stated there is a barn and greenhouse on the land with a microbrewery being established in 2018 as a home occupation. Mr. Lance has served customers in the outside lounge area on the property and would like to convert the barn into a restaurant; the brewery will remain. The barn would be expanded 12' on one side; the green house would be removed. A state approved septic system would be installed; the parking lot expanded and storm-water measures installed. A Site Plan review and approval is required by the Planning Board. Mr. Varney presented maps, plans and pictures of the current lot. He noted there is a current home occupation permit. Mr. Varney stated the flood map shows the property being in a 100 year flood zone. He stated the proposed seating capacity of the restaurant is 102 seats; there will be no seating in the brewery. It was clarified everything except the parking lot will work within the applicable setbacks. The barn will have drip edges. Mr. Varney noted Mr. Lance will be heavily regulated as a microbrewery under the licensing with the State of New Hampshire, including license from the State liquor commission and DHHS.

Chair Jarvis stated she is concerned that this is in the conservation overlay district and wants the parking as far away from the wetlands as possible. She suggested other areas which could be used and still be within the ordinance. Mr. Lance stated the maximum staff is anticipated to be 5, including himself.

Ms. Richard asked about the anticipated traffic production on Middleton Road with the addition of the restaurant. Mr. Lance stated it could be as many as 80 cars per day if full capacity; it's about 15 to 20 cars per day when open currently. Proposed hours of operation would be 3:00-8:00PM, Saturday and Sunday; 4:00-8:00PM on Friday.

Ron Gehl, chair of the Conservation Commission, speaking as a resident, explained the reasoning behind this area being placed within the watershed, noting the Cocheco River runs close to the property. It is a river of state wide importance and pointed out that if as part of the activities that are proposed here, if there is a wetlands or other related application being proposed before the DES, that application would also have to be reviewed by the Cocheco River Management Advisory Group. Mr. Gehl stated it puts focus on the development in the vicinity of important rivers. He stated the Town recognized this as one of several areas which deserves more focus and review during development applications but given the square footage for disturbance, it probably doesn't come under the Town's jurisdiction.

Chair Jarvis noted the area requesting a variance for the parking is close to the wetland; it is less than 2 acres and asked Mr. Gehl if there are concerns with parking being so close to wetlands. Mr. Gehl stated he is not representing the commission with these comments, and stated it would seem with the proposed rain garden, they may still look at submitting a wetlands application. He stated it's subject to State jurisdiction, then the Conservation Commission will have the opportunity to comment on that application. There was discussion to clarify which part of the

parking area would be expanded. Mr. Gehl stated he can't be sure whether a wetlands permit would be required.

Ms. Callaway questioned ADA compliance. Chair Jarvis stated all the permits and licensing will ensure compliance as well as the Building Inspector. The comments from Mr. Gehl indicates he doesn't have any concerns with hazardous materials or substances; he also felt there would not be an adverse impact on air or ground water quality but the Board (ZBA) should ensure the wetlands area impact is not going to negatively impacted.

Ms. Callaway asked what products will be used for deicing if operating in the winter. Mr. Varney stated snow would be plowed and a sand/salt mixture may be used. He stated all the runoff from the parking lot would go to the rain garden, instead of north towards the wetlands. He also explained the area around the brewery is flat, so there won't be runoff.

Chair Jarvis stated she is also concerned with impacts on Fire/ EMS; she stated she thinks it's a huge proposal for a rural area.

Chair Jarvis opened the public hearing to members of the public.

Paul Raslavicus, resident, stated there is a current permit for a home occupation; however, that permit states the business will be performed from the residence and this would not be in his home residence but rather an outlying, larger building. He stated there is no permission to brew in an external building. Mr. Raslavicus stated the requirements for a residential lot in this overlay district is 5 acres although a portion of it is wetlands. He stated the intrusion of the restaurant into a wetland on a lot that is only big enough for one residence, is concerning to him; it would then be a mixed use lot and to his knowledge the ordinance only has that in the center of Town where businesses and homes are allowed on the same lot.

Chair Jarvis closed the public hearing.

Chair Jarvis stated at this time she is not ready to make a decision on this request; she would like to compile some questions for the Road Agent, Police Chief and Fire Chief and the Conservation Commission in regards to this proposal. She stated because its less than 2 acres it's exempt from the Conservation Overlay District ordinance but she wants assistance in what the experts in these areas think. Chair Jarvis stated she has concerns relative to fire safety; the road and public safety; she asked if the Board members agree to have these department heads attend the next meeting and receive written comments from the Conservation Commission. The Board agreed. Ms. Callaway suggested taking a look to see if this makes it mixed use as opposed to just an expansion of a home brewery. It was agreed input from the Planning Board would be helpful as well.

Motion: *To continue the public hearing for Case 2021-002, Kenneth Lance, until Tuesday, April 13, 2021 at 7:00PM, via Zoom.* Motion by Chair Jarvis. Seconded by Vice Chair Anderson.

Roll Call Vote: Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Chair Jarvis – aye. **Motion passed, 4-0-0.**

PUBLIC HEARING Case #2021-006

Application submitted by Varney Engineering LLC, on behalf of Stephen and Nancy Rollins.

Chair Jarvis read the case and public notice into the record.

Applicants are requesting Variances to the following:

Article VI Section C.3a.i.: General Provisions/Use Regulations for Town of New Durham.

Article VI Section C.3.a.ii: General Provisions/Use Regulations for Town of New Durham.

Article XIV Section C.1.c: Shorefront Conservation Overlay District.

Article XXI Section G.1.a: Non-Conforming Buildings, Land or Uses.

Article XXI Section G.1.c: Non-Conforming Buildings, Land or Uses.

The property is located at Map 120 Lot 007, 24 South Shore Road.

Chair Jarvis opened the public hearing at 8:36PM.

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

Tom Varney, Varney Engineering, LLC, stated the applicants have owned the property for many years and plan to demolish the existing cottage and replace it with a new house. The new house is to be constructed on the same footprint, minus the 9x12' bump out. The existing lakeside deck is to be expanded in length. Mr. Varney stated the variance is for the construction of a new septic system as the existing system is not state approved. A NH DES Shoreline Permit and NH DES Septic Design have been approved. A Conditional Use Permit is not needed for steep slope disturbance. Storm water measurements will be installed. Mr. Varney presented maps and plans for the proposed reconstruction. He stated the septic leach field will be 112' from the lake; the tank will be 66' from the lake. The septic also needs a variance for the 75' setback from the dwellings on the right and left of the property. The existing septic is just a holding tank in the ground.

Mr. Varney stated it's not a steep lot but it is over 15%; the disturbance of land is under 2000 square feet. The driveway will be upgraded significantly as the building is being raised and makes less of a grade. Mr. Varney outlined the storm water measures, noting there will be a drywell, catch basin along with rain gutters. He stated trees will be removed where the leach field is being placed. It was noted the lot size is 12,700 square feet.

Chair Jarvis asked what the shed is used for. Mr. Rollins stated its used for storage of a dock in the winter then in the summer used for grills, skis, etc.; it is too shallow to store a boat.

Chair Jarvis opened the public hearing to members of the public.

Chair Jarvis closed the public hearing at 8:52PM.

Findings of Fact

- There is currently a 2000 gallon holding tank on the property
- No state approved septic system.
- Proposal is to replace the holding tank with a state approved septic system.
- The home is to be rebuilt on the same footprint with the bump out which is approximately 85 square foot on the right side will be removed.
- The deck on the front will be made larger.
- No Conditional Use Permit is required.
- The driveway is being upgraded to decrease the impervious surface although the total impervious surface will remain about 20%.
- A rain garden with a drywell will be installed.
- The lot is 12,700 square feet is 128' deep.
- If the variances are approved there will still be a necessary variance needed for the greater than 20% of impervious surface.

Discussion: Article VI Section C.3a.i.; Article VI Section C.3.a.ii: General Provisions/Use Regulations for Town of New Durham; Article XIV Section C.1.c; Article XXI Section G.1.a; Article XXI Section G.1.c.

Granting the variance would/would not be contrary to the public interest: Chair Jarvis stated it would not be contrary as there will be a new state approved septic system installed. The Board agreed.

The spirit of the ordinance would/would not be observed because: Chair Jarvis stated the septic system is being improved; the impervious surface has been reduced but a variance will still be needed as it will be over 20%. The Board agreed.

Granting the variance would/would not do substantial justice because: Vice Chair Anderson stated the public gets a more reliable system that will keep the lake water clean and everyone safe. Ms. Callaway stated it does justice for the applicants as the lot is not big enough to meet the setbacks. The Board agreed.

For the following reasons the values of surrounding properties would/would not be diminished: Chair Jarvis stated improved septic systems improve both the property and that of surrounding properties as they don't have to worry about contamination. The Board agreed values of surrounding properties would not be reduced.

Unnecessary Hardship: Vice Chair Anderson stated this lot is too shallow to meet the setbacks; the organization of the lot only allows the field and tank to be where proposed. Ms. Richard stated the purpose of the ordinance is to keep the system as far away from the lake as possible, and that has been done. The Board agreed.

Motion: *To grant the request for variance to the following:*

Article VI Section C.3a.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.1.c: Shorefront Conservation Overlay District. Dimensional

Requirements. Development with Waterfront Access: All development with water frontage or with rights of access to water frontage shall meet the following requirements: Leach Field Setback: Any leach field shall be set back a minimum of 125 feet from the normal high water level. The Planning Board may require greater setback where more than one dwelling unit uses common sewage disposal facilities.

Article XXI Section G.1.a: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Leach fields: a. Not less than ten (10) feet from a lot line.

Article XXI Section G.1.c: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Leach fields: a Not less than ten (10) feet from the road frontage property line of any road except with the approval of the road agent.

Motion by Chair Jarvis. Seconded by Vice Chair Anderson

Discussion: Ms. Rollins asked for clarification why the additional variance would be needed for the lot coverage. It was noted if the shed was not on the property, the coverage would not exceed the 20% limit although the lot is not “grandfathered” for this purpose. Vice Chair Anderson noted conditions need to be outlined.

Motion to amend the motion: With the following conditions:

- Variances shall be received for exceeding the 20% impervious surface requirement of a lot.
- Written approval is required to come from the Road Agent to have a leach field no less than 10’ from the road frontage.

Motion by Chair Jarvis. Seconded by Ms. Richard.

Roll Call Vote: Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Chair Jarvis – aye. Motion to amend passed, 4-0-0.

Roll Call Vote on the motion as amended. Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Chair Jarvis – aye. **Motion as amended passed, 4-0-0.**

PUBLIC HEARING Case # 2021-007

Application submitted by Changing Seasons Engineering PLLC, on behalf of Marjack Oasis LLC, Thomas O'Neil, Representative. The applicant is requesting variances to the following:

Article V Section E: Dimensional Requirements for Town of New Durham. E. Flood Hazard Area and Water Body Setbacks.

Article XIV Section C.1.b: Shorefront Conservation Overlay District.

Article XIV Section C.1.e: Shorefront Conservation Overlay District.

Article XXI Section C.1: Non-Conforming Buildings, Land or Uses.

Article XXI Section C.2: Non-Conforming Buildings, Land or Uses.

Article XXI Section G.2.b: Non-Conforming Buildings, Land or Uses.

Article XXI Section G.2.d: Non-Conforming Buildings, Land or Uses.

The property is located at Map 111, Lot 027, 43 Meaders Point Road.

Chair Jarvis stated the Board members hearing and deliberating the case would be Chair Jarvis, Vice-Chair Anderson, and Ms. Callaway. Chair Jarvis stated the applicants have the right to have five members of the Board hearing the case; granting a request will require three affirmative votes and asked for confirmation the applicants want to proceed. Mr. O'Neil stated they want to proceed.

Chair Jarvis opened the public hearing at 9:17PM.

Stephanie Richard, Changing Seasons Engineering PLLC, on behalf of Marjack Oasis LLC, Thomas O'Neil, stated the cottage is an older style building on posts, in need of repairs. The applicants want to make repairs and upgrades. Lot maps, photographs and plans were presented for review. Ms. Richard stated they also want to put on a small addition on the road side of the house for the purpose of putting a bedroom on the first floor of the home. The number of bedrooms would not change. A covered porch is added to the side as well.

Ms. Richard stated no changes are proposed to the septic system as it all works as it should. She stated impervious coverage is currently over 20% and the proposed does not increase.

Thomas O'Neil, applicant, explained the reason for moving the bedroom to the first floor is due to his aging parents and siblings, and it becoming harder to access the second floor. He stated there are many things around the cottage that need to be repaired and improved so want to make these changes at the same time.

Ms. Callaway asked what the materials of the foundation for the new building will be. Ms. Richard stated it will be a concrete foundation. There is not currently a basement; it is built on posts and is open underneath.

Vice Chair Anderson noted the impervious coverage is over by so little and asked about replacing more of the driveway parking to achieve the 20%. Ms. Richard stated they wanted to minimize disturbance overall on the lot and to remain under the 2000 square feet of disturbance.

Chair Jarvis asked about moving the house back. Mr. O'Neil stated they don't want to completely demolish the cottage; moving it back would also affect the septic and overall have a larger impact on the site.

Ms. Richard stated most of the lot except where the house is currently, is natural woods, undergrowth, etc., and they want to minimize the disturbance of the natural land. The proposed plans don't require the removal of any trees; it is within the steep slopes area, averaging 16% throughout except near the shoreline.

Chair Jarvis outlined the current and proposed setbacks for the septic system and noted she doesn't see any improvements. Ms. Richard stated they don't want to make any changes to the system, noting it is a functioning and State approved system which was installed in 1988. She

stated it's not a system that is used year-round and should have a longer life. Ms. Richard stated their goal is to mitigate any new impacts including drip edges around the buildings; installation of pervious surfaces to mitigate any additional impervious surfaces with the porch. Vegetation around the home will remain as it is.

Ms. Callaway stated by adding on the extra, they aren't holding to the grandfathered footprint. She noted the lot is 180' deep and suggested it would make more sense to move the house back to meet the 75' setback to restore the 50' shoreline buffer. She stated it doesn't seem to be a hardship and the setback could be met.

Chair Jarvis suggested working to make more pervious surface.

Ms. Richard explained if they moved the house back, the side setbacks would be affected.

Mr. O'Neill stated they want to do something that protects the land with the least disturbance possible; he stated they don't want a lot of grading materials on the lot and the setback dimensions would not allow it to be moved back. He stated there is some foundation under the existing house but it's not permanent; they want to upgrade it so it can last and improve the area.

The Board agreed a site walk would be beneficial. Vice Chair Anderson noted she doesn't have many concerns but it may be beneficial to see the disturbance that would occur with moving the house back.

Mr. O'Neill asked if he could be present for the site walk. Chair Jarvis explained a site walk is a public meeting of the Board which means it's open to the public and the applicants as well as their representatives are welcome to attend. The site walk was set for Sunday, March 21, 2021.

Motion: *To continue the public hearing for Case #2021-007 to April 13, 2021 at 7:00PM.*

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

Motion: *To have a Site Walk on March 21, 2021 at 43 Meaders Point, Map 111, Lot 027 at*

5:00PM for Case #2021-007. Motion by Chair Jarvis. Seconded by Vice Chair Anderson seconded the motion. **Roll Call Vote:** Vice Chair Anderson – aye; Ms. Callaway – aye; Chair Jarvis – aye. **Motion passed, 3-0-0.**

APPROVAL OF MINUTES

Meeting of February 9, 2021 – Postponed.

NEXT MEETING April 13, 2021

ADJOURN

Motion: *To adjourn.* Motion by Chair Jarvis. Seconded by Vice Chair Anderson seconded the amendment. **Roll Call Vote:** Vice Chair Anderson – aye; Ms. Richard – aye; Ms. Callaway – aye; Chair Jarvis – aye. **Motion passed, 4-0-0.**

Town of New Durham Zoning Board of Adjustment Meeting

March 11, 2021

Approved 5/11/21

The meeting was adjourned at 10:01PM.

Respectfully Submitted,

Jennifer L. Riel

Jennifer Riel, Recording Secretary