

**TOWN OF NEW DURHAM  
ZONING BOARD of ADJUSTMENT**

**July 15, 2021, 7:00 PM**

**New Durham Town Hall**

**APPROVED September 14, 2021**

*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

Wendy Anderson, Vice Chair

Stephanie Richard, member – excused absence

Linda Callaway, member

David Bickford, member

**ALSO PRESENT**

Robin McClain, Land Use Administrative Assistant

Chris Maynard, resident

Tom Varney, Varney Engineering, LLC

Greg Field, resident

Sarah Barley, resident

Erin Bajger

Steve Bajger

Tim Shanahan

Carol Shanahan, applicant

Stephanie Richard, Changing Seasons Engineering, PLLC

Mike Wawrzkievicz, applicant

Dot Veisel, resident

**CALL TO ORDER**

Chair Jarvis called the meeting to order at 7:01PM.

**AGENDA REVIEW**

Chair Jarvis added items to the Agenda: Decision of Case #2021-014 need to be discussed;  
Board discussion of hybrid meetings.

Mr. Bickford noted the public notice for this meeting was not posted on the Town website. Chair Jarvis confirmed the meeting was posted publicly at Town Hall and the post office. Chair Jarvis asked if anyone present has a problem with the meeting going forward, with the possibility the notice was not posted on the website. None was indicated. Ms. McClain stated she was advised recently that as long as the notice is posted in the three other locations, it is not a problem.

Chair Jarvis shared information with the Board that she received at New Hampshire Municipal Association classes.

**PUBLIC HEARING of Case #2021-016**

*Application submitted by Varney Engineering LLC, on behalf of BJW Enterprises, represented by Mike Wawrzkievicz of 30 Depot Road, Map 250 Lot 138. Applicants are requesting a special exception for the following:*

**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 Article XIII: Wetland Conservation Overlay District for special exceptions required in those areas. Commercial Use

Chair Jarvis read the public notice into the record.

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

Chair Jarvis opened the public hearing at 7:10PM.

Chair Jarvis read into the record a letter of support, dated July 14, 2021, received from a member of the public in regards to this request. It was signed David Swenson.

Tom Varney, Varney Engineering, stated that since the Site Plan approval by the Planning Board last year, parking areas were done, the wetland rain gardens were done, the dumpster was relocated and a fence placed around it, and a second driveway was removed. Mr. Varney stated Mr. Wawrzkievicz has done everything he was supposed to do, and he would now like to expand the use for the property to include retail sales of lawn and garden equipment, small engine sales and repair, and water sports equipment sales. He stated the inventory on site will change with the seasons, the business hours and number of employees will remain the same. No new construction is proposed. An Environmental Impact Study was completed January 21, 2021.

Chair Jarvis suggested they need some guidelines and definition for “small engine”; she stated she isn’t opposed to expansion but doesn’t want to see loud engines coming in. Mr. Wawrzkievicz stated it would be small engines like lawn mowers and snowmobiles. He stated it will be brand new equipment. Chair Jarvis stated she also has concerns about having storage of petroleum products, leachable liquids, hazardous materials, because those are not allowed on the aquifer zone if there are going to be repairs done. She noted there is currently a condition on the property that noise is limited to 90 decibels. The Board agreed the type of equipment needs to be specifically classified. Chair Jarvis stated any permissions granted now, stay with the property, so she wants to be sure they are clear on what is being allowed. Mr. Varney confirmed these changes will not require any changes to the environmental impact study.

Chair Jarvis opened the public hearing to input from the public.

Chris Maynard, resident, stated he owns the car dealership next to this property and he is in support of this project; he stated Mr. Wawrzkievicz has done a good job with the property and business, but he is irritated to see the hassles a small business is being given.

Dot Veisel, resident, stated she is supportive of the business; she stated Mr. Wawrzkievicz is very aware of the environmental issues of this property and is constantly focused on that. She stated she believes what he is proposing is reasonable and suggested listing specific small engine items along with examples of those which would be excluded.

There was extensive discussion to define the specific items which would be allowed with this special exception; the Board agreed the items which would be included are retail sales and repair of non-industrial lawn and garden equipment, retail sales of water related equipment such as floats, kayaks, canoes, small engine sales and repairs such as snow blowers, ATVs, snowmobiles, chainsaws, and jet skis.

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

### ***Discussion – Special Exception***

#### ***2. This special exception shall not cause undue hazards to:***

*A. The health of other individuals as evidenced by:* Chair Jarvis stated she doesn't see how it will affect the health of other individuals. The Board agreed.

*B. The safety of other individuals as evidenced by:* Chair Jarvis stated she doesn't see how it will affect the safety of other individuals. The Board agreed.

#### ***3. This special exception shall not diminish the property value of other land owners as evidenced by:*** The Board agreed property values would not be diminished. Ms. Callaway noted nearby landowners have expressed support of the proposals.

#### ***4. This special exemption is not offensive to the public due to:*** Chair Jarvis stated she doesn't see that any of the following would be offensive to the public; there won't be an excessive increase in motor vehicle traffic. The Board agreed.

*A. Noise as evidenced by:*

*B. Vibration as evidenced by:*

*C. Excessive traffic as evidenced by:*

*D. Unsanitary conditions as evidenced by:*

*E. Noxious odor as evidenced by:*

*F. Smoke as evidenced by:*

*G. Other similar reason as evidenced by:* Chair Jarvis stated she believes the property has been significantly upgraded. The Board agreed and have no additional concerns.

**Chair Jarvis made a motion based on the plans dated June 16, 2021, application signed June 18, 2021, and information received at the public hearing of July 15, 2021, the following Special Exception is granted:**

**Article VII, Section A.1:** authorized under this Special Exception will be retail sales of non-industrial lawn and garden equipment, small engines such as jet skis, ATVs, snow blowers, lawnmowers and sports related equipment; all approvals granted in Case 2021-001 remain.

**Vice Chair Anderson seconded the motion. Discussion:** Chair Jarvis noted a Special Exception was granted in 1998 for a sporting goods store; it did not close more than two years prior to Arctic Cat taking over, which means that special exception still stands. **Motion passed, 4-0-0.**

**Discussion: Case #2021-014**

Chair Jarvis stated she may have made some errors in reading the motions for the approvals and wants to go through to ensure the correct articles and sections are noted. She stated all the variance requests were approved and wants to make a motion for the record to clarify what was talked about.

**Chair Jarvis made a motion based on the plans dated June 14, 2021, the application signed June 17, 2021, and the information received at the July 13, 2021 public hearing, to grant the variance requests for the following:**

**Article VI Section C.3.a:** General Provisions/Use Regulations for Town of New Durham. General Requirements: Sewage Disposal and Leach field Setbacks. Sewage-Disposal and Leach field Setbacks a. 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; or, less than seventy five (75) ft from any well, or from a dwelling other than to which it is appurtenant.

**Article VI Section C.3.b:** General Provisions/Use Regulations for Town of New Durham. General Requirements: No part of a leach field shall be located less than: twenty (20) ft from a property line on a lot less than 80,000 sq ft; less than thirty (30) feet from a property line on an eighty thousand (80,000) sq ft to one hundred fifty thousand (150,000) sq ft lot; or, less than forty (40) ft from a property line on a one hundred fifty thousand (150,000) sq ft lot.

**Article XIV Section C.1.b:** Shorefront Conservation Overlay District. Dimensional Requirements. Building Setback: Except for water related structures (see below), all buildings shall be set back a minimum of seventy-five (75) ft from the normal high-water level.

**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 ft 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 C.1:** 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: They conform to Non-Conforming Setback and height requirements below.

**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 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 setback: No new building, except for water related structures, shall be located in a flood hazard area, or less than seventy feet (75) ft from any water body or river course.

**With the following conditions:**

- A New Hampshire Department of Environmental Services Shoreline permit must be obtained.
- A New Hampshire Department of Environmental Services septic system approval must be obtained.
- A Conditional Use Permit must be obtained from the New Durham Planning Board.
- A variance to Article V, Section E shall be obtained from the New Durham Zoning Board of Adjustment.

**Ms. Callaway seconded the motion. Discussion:** Mr. Bickford questioned the appropriateness of this action when there was no public notice. Vice Chair Anderson suggested a letter of affirmation/clarification be sent to the applicant instead. It was clarified no new information was discussed or being voted on. Chair Jarvis stated she read the text of the articles correctly, but she may have misspoke the section numbers.

**Chair Jarvis made an amendment to the motion to begin the motion that this is a motion to clarify the Zoning Board of Adjustment vote of July 13, 2021 for Case #2021-014.**

**Amendment failed for lack of second.**

Vice Chair Anderson suggested sending this to Town Counsel. Chair Jarvis stated she is concerned the Notice of Decision will go out with the wrong verbiage and it won't be addressed until mid-August, which will delay the applicant. Mr. Bickford noted the official record will be the minutes which can be approved at the next meeting, as will this discussion for further clarification. Vice Chair Anderson stated all members of the Board knew what was being voted on even if there was a mistake in the section numbers.

**Chair Jarvis withdrew her motion.**

**Chair Jarvis made a motion that the Zoning Board of Adjustment members acknowledge that some of the section numbers in the motions for Case #2021-014 may have been read incorrectly by the Chair on July 13, 2021. The members confirm they knowingly voted on the variances listed on the application and meeting agenda. Vice Chair Anderson seconded the motion. Roll Call Vote: Vice Chair Anderson – aye; Ms. Callaway – aye; Mr. Bickford – aye; Chair Jarvis – aye. Motion passed, 4-0-0.**

**PUBLIC HEARING Case #2021-015**

*Application submitted by Changing Seasons Engineering PLLC, on behalf of Walter and Carol Shanahan for Owls Head Point Road, Map 108 Lot 47. Applicants are requesting variances to the following:*

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

**Article V Section E:** Dimensional Requirements for Town of New Durham. 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) ft from any water body or river.

**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) ft from any well, or from a dwelling other than to which it is appurtenant.

**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) ft from the normal high-water level.

**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; and,

**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 ft (75) ft from any water body or river course.

**Article XXI Section G.2.e:** Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Buildings: No new building shall be less than fifteen (15) ft from the property line of an abutter or less than thirty (30) ft from an abutter's building.

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

Chair Jarvis stated the public hearing was opened on July 13, 2021. The Board had started discussions and deliberations on the variances, with variances being granted to Article V, Section E, Article XIV, Section C.1.b and Article XXI, Section G.2.b. The Board was deliberating Article V, Section D, Article XXI, G.2.e and had determined granting the variance would not be contrary to the public interest and were discussing whether granting the variance would or would not do substantial justice.

***Continued Discussion of Article V, Section D and Article XXI, Section G.2.e***

*Granting the variance would/would not do substantial justice because:* Chair Jarvis stated she doesn't feel the applicant is going to gain more than any potential harm. She stated it is on a private road and there is no general public aspect; the movement of the septic tank further from the lake is a benefit to everyone. Ms. Callaway stated the overall size of the building is not changing and there are outside factors which move the septic into the 15 ft setback, which she feels is a benefit for moving the septic away from the abutters. Vice Chair Anderson stated she is concerned about the encroachments, doesn't think it will harm the general public, but may affect the abutting property, as that lot is no bigger. Mr. Bickford stated he is opposed to going over the setback; they need a building that fits on the building envelope. Ms. Callaway agreed all lots are small, but asked why this lot should lose on both sides. Vice Chair Anderson stated she is concerned about where the encroachments stop and how it will play out down the road with other lots. Ms. Callaway stated this house is sized for the lot; it is an outside influence which forces it to shift in one direction. Chair Jarvis stated the house has to be slightly into the setback to configure the septic.

*For the following reasons the values of surrounding properties would/would not be diminished:* Vice Chair Anderson stated she is concerned about the impact on property values if they allow this property to encroach on another and keep pushing things along. She stated she doesn't think the house needs to be smaller, but it needs to be reconfigured to not encroach as much on the setback. She asked what happens to the next lot when they want to build. Ms. Callaway stated there is less encroachment on the setback of the abutting property by the septic. She stated this is

the case in front of them, they have been encroached upon, and it's not fair to be encroached upon on two sides. Chair Jarvis noted this would only be 3 ft into the setback as opposed to 7 ft. Vice Chair Anderson stated there was no effort to reconfigure the home with the same square footage and not encroach and thinks it will affect the values of the abutting properties. Mr. Bickford stated he doesn't believe they should allow encroachment into side setbacks.

*Unnecessary Hardship:* Chair Jarvis stated this is the second smallest lot on Owls Head. Mr. Bickford stated he doesn't believe there is anything special to this property that makes it a hardship. He stated the house doesn't need to be this big; these small lots were intended for small buildings. Ms. Callaway agreed it's a small lot, but there are constraints other than the size of the house; there are many abutter constraints other than being taken into account and she agrees there is some possible reconfiguring but when looking at the insides, a good job was done here. She stated 15% of the property coverage is allowed, and all the constraints seem to fall on this property, which create the hardship. Chair Jarvis stated it's a hardship to not allow a residence which is less than 15% coverage; they have tried to address the concerns of abutters and moved the septic away from abutters. It was confirmed test pits and perc tests were done; this is a buildable lot. Vice Chair Anderson stated she sees room for improvement and is concerned about pushing problems to the next property, although the next lot is slightly bigger. She stated she understands the hardship, but she doesn't think they need to encroach that much and doesn't know if it would fit in the building envelope anyways. Chair Jarvis noted the property is also steep and short in depth. Vice Chair Anderson stated she is concerned there is not a fair and substantial relationship with the public purpose of the ordinance and the specific application. She stated this property is not significantly smaller than those in the area.

**Chair Jarvis made a motion based on plans dated July 21, 2021, and the application signed on June 21, 2021, and information presented at the public hearings of July 13, 2021 and July 15, 2021, to grant the request for variances to the following:**

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

**Article XXI Section G.2.e:** Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Buildings: No new building shall be less than fifteen (15) ft from the property line of an abutter or less than thirty (30) ft from an abutter's building.

**With the following conditions:**

- A New Hampshire Department of Environmental Services Shoreline permit must be obtained.
- A New Hampshire Department of Environmental Services septic system approval must be obtained.
- A Conditional Use Permit must be obtained from the New Durham Planning Board.
- A variance to Article V, Section E shall be obtained from the New Durham Zoning Board of Adjustment.



**Vice Chair Anderson seconded the motion. Roll Call Vote: Vice Chair Anderson – aye; Ms. Callaway – aye; Mr. Bickford – no; Chair Jarvis – aye. Motion passed, 3-0-1.**

***Discussion of Article VI, Section C.3.a.ii***

*Granting the variance would/would not be contrary to the public interest:* Chair Jarvis stated that given the lot, location of the wells and keeping the septic back as far as possible, it is in the public interest. Vice Chair Anderson stated it would not be contrary due to the lot's constraints, the soils, the other structures and wells on other lots, and it's difficult to put it anywhere else. She stated the best design was put forth for this particular septic system. Ms. Callaway agreed. Mr. Bickford stated it is in the most convenient location even though he'd like to see it somewhere else.

*The spirit of the ordinance would/would not be observed because:* Ms. Callaway stated they have moved it as far as possible within the numerous constraints. Chair Jarvis and Vice Chair Anderson agreed. Mr. Bickford stated it is not observed and suggested a different system could be put in. Mr. Bickford stated there are other options for the leach field. Vice Chair Anderson noted this variance has to do with the wells and other buildings; she stated in this case, to meet the 75 ft setbacks is difficult with all the constraints on the property. Mr. Bickford stated it could be pushed back. Chair Jarvis noted all the wells and the difficulty with meeting all the setbacks.

*Granting the variance would/would not do substantial justice because:* Ms. Callaway stated she thinks it would do substantial justice. Vice Chair Anderson stated with the constraints, lake setbacks, soils, this is the best configuration to get a septic without any more harm than necessary. Chair Jarvis stated it would do substantial justice.

*For the following reasons the values of surrounding properties would/would not be diminished:* Chair Jarvis stated she doesn't see that values would be diminished. Ms. Callaway agreed, noting getting a good leach field is important and getting as far as possible from the closest neighbor is also important. She stated it's unknown what would happen on the other side of the property, but a realtor presented an opinion that the values would not be affected negatively. Vice Chair Anderson stated the septic has been rearranged in a manner that still allows them to build; they have done the best with the new system and won't affect the values of other properties. Mr. Bickford stated he doesn't think surrounding properties' values will be diminished.

*Unnecessary Hardship:* Chair Jarvis stated in this case she doesn't think there is a fair and substantial relationship; strict application of the ordinances in regards to the ordinances would create a hardship. Ms. Callaway and Vice Chair Anderson agreed. Mr. Bickford stated he thinks the house should be smaller and fit on the lot so there would be no violations of the ordinance.

**Chair Jarvis made a motion based on plans dated July 21, 2021, the application signed on June 21, 2021, and information presented at the public hearings of July 13, 2021 and July 15, 2021, to grant the request for variance to the following:**

**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) ft from any well, or from a dwelling other than to which it is appurtenant.

**With the following conditions:**

- **A New Hampshire Department of Environmental Services Shoreline permit must be obtained.**
- **A New Hampshire Department of Environmental Services septic system approval must be obtained.**
- **A Conditional Use Permit must be obtained from the New Durham Planning Board.**
- **A variance to Article V, Section E shall be obtained from the New Durham Zoning Board of Adjustment.**

**Vice Chair Anderson seconded the motion. Roll Call Vote: Vice Chair Anderson – aye; Ms. Callaway – aye; Mr. Bickford – no; Chair Jarvis – aye. Motion passed, 3-1-0.**

Chair Jarvis noted the time is 9:56PM and suggested continuing the deliberations. The Board agreed to complete the deliberations.

***Discussion of Article XXI, Section C.1 and Article XXI, Section C.2***

*Granting the variance would/would not be contrary to the public interest:* Chair Jarvis stated it would not be contrary, as they have done their best to do what is necessary to protect the water quality and provide for a septic system that takes into concerns of abutters. Ms. Callaway stated most of the concerns from the public have been dealt with and the couple minor infractions which apply to variances are not a detriment to the public. Mr. Bickford stated it would be contrary, as it is making a variance for a large house on a small lot. Vice Chair Anderson agreed. Chair Jarvis noted the building size is below the building size maximum, which is 15% of the lot and doesn't feel it is appropriate to call it a large house.

*The spirit of the ordinance would/would not be observed because:* Ms. Callaway stated overall the spirit will be observed. She stated the variances were not egregious to her and were minimal. Vice Chair Anderson stated she believes the same percentage of house could be done in a different way; the spirit is to avoid crowding houses, and she doesn't think the best plan as far as the house configuration goes, is the one put forward. She stated side setbacks are to keep structures from being crowded and makes the lot more nonconforming. Mr. Bickford stated the side setbacks are also there for fire safety reasons.

*Granting the variance would/would not do substantial justice because:* Ms. Callaway stated she doesn't know if it would do justice but believes it would be an injustice to deny the variance. She stated what they are gaining doesn't outweigh what the public may be losing. Chair Jarvis stated the justice to the public should not be outweighed but the applicant may get more benefit than

the harm the public may get. Mr. Bickford stated the public voted for these ordinances and setbacks, and there are fire safety reasons for the ordinances, so he doesn't believe it will do justice. Vice Chair Anderson stated the lots are so small, it increases the potential for harm to the public and abutters. She stated there is greater fire risk with houses crowded and it's not necessary in this case.

*For the following reasons the values of surrounding properties would/would not be diminished:*

Mr. Bickford stated values would not be diminished. Vice Chair Anderson stated she is concerned about the values of surrounding properties with houses being crowded on the lots and thinks it's certainly possible for values to be affected. Ms. Callaway stated she doesn't think values would be diminished.

*Unnecessary Hardship:* Ms. Callaway stated the literal enforcement of the ordinance would cause a hardship. She stated she understands the reason for the ordinances, but a lot has been done, and it would be a hardship to deny the variance. Chair Jarvis stated good efforts have been made between the two cases and agreed a denial would be a hardship. Vice Chair Anderson stated she disagrees, and these ordinances were made specifically for these kinds of lots; setbacks were altered to take care of these lots, and she sees something that could be better. She stated it's not a hardship when they could do better; she stated it's making the lot more nonconforming and doesn't agree it's a hardship; the ordinances already make exceptions for nonconforming lots such as these. Mr. Bickford agreed and stated the house doesn't need to be this big on this lot.

**Chair Jarvis made a motion based on plans dated July 21, 2021 and the application signed on June 21, 2021 and information presented at the public hearings of July 13, 2021 and July 15, 2021 to grant the request for variances to the following:**

**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; and,

**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.

**With the following conditions:**

- A New Hampshire Department of Environmental Services Shoreline permit must be obtained.

- A New Hampshire Department of Environmental Services septic system approval must be obtained.
- A Conditional Use Permit must be obtained from the New Durham Planning Board.
- A variance to Article V, Section E shall be obtained from the New Durham Zoning Board of Adjustment.

**Ms. Callaway seconded the motion. Roll Call Vote: Vice Chair Anderson – no; Ms. Callaway – aye; Mr. Bickford – no; Chair Jarvis – aye. Motion passed, 2-2-0.**

Chair Jarvis stated the law requires 3 affirmative votes for a variance to pass.

### **Hybrid Meetings**

Chair Jarvis stated an email was sent from the Town Administrator in regards to hybrid meetings. She stated the Board has to vote whether they will allow them; she explained there still has to be a quorum of Board members present at the meeting in-person. Chair Jarvis stated she thinks there would be great benefit, as members could attend via zoom as well as more members of the public, noting there has been more public input over the last year than in the past. Ms. Callaway stated she would be in favor as long as all the technologies could be integrated; she wants to avoid any disconnect between the in-person meeting and those attending via Zoom. Chair Jarvis stated there would be a designee as the Zoom meeting host; all members in person would be visible to Zoom and Zoom attendees would be visible to the Board, as well on the new screen synced with a laptop at Town Hall. Ms. McClain stated someone would be watching the chat. Vice Chair Anderson suggested the Land Use Assistant send emails prior to the meeting to ensure a quorum will be present. The Board agreed there needs to be clarification on procedures at the Town Hall goes down when a public meeting was posted as being available via Zoom. Ms. McClain stated the public still has the option to access the meeting by coming to Town Hall. She stated there is also the option to call in via telephone. Ms. McClain will get clarification on internet accessibility with Town Administrator Zoltko.

### **APPROVAL OF MINUTES**

Meeting of April 22, 2021- Postponed.

Site walk April 29, 2021- Postponed.

Meeting of May 11, 2021- Postponed.

Meeting of June 8, 2021- Postponed.

Meeting of June 17, 2021- Postponed.

### **FUTURE MEETINGS**

August 5, 2021, 2:00PM – Workshop Meeting

August 10, 2021, 7:00PM – Regular Meeting

### **ADJOURN**

**Mr. Bickford made a motion to adjourn. Ms. Callaway seconded the motion. Roll Call Vote: Vice Chair Anderson – aye; Ms. Callaway – aye; Mr. Bickford – aye; Chair Jarvis – aye. Motion passed, 4-0-0.**

Town of New Durham Zoning Board of Adjustment Meeting

July 15, 2021

Approved September 14, 2022

The meeting was adjourned at 10:43PM.

Respectfully Submitted,

*Jennifer L. Riel*

Jennifer Riel, Recording Secretary