

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

*DRAFT: These minutes are strictly a draft copy and are awaiting amendment or approval at a subsequent, duly noticed public meeting. Amendments to these minutes will be noted in the minutes of said meeting. The draft will be posted on the website as a draft copy for public informational use only.*

*<https://us02web.zoom.us/j/88402256779?pwd=WkJDbk9YRVhFblNhejRtMXFTQkVxdz09>  
Meeting ID: 88402256779 Password: 832436 Or via telephone number: 1-646-558-8656;  
Meeting ID: 88402256779 Password: 832436*

*Technical difficulties contact Land Use Administrative Assistant Robin McClain at [ndlanduse@newdurhamnh.us](mailto:ndlanduse@newdurhamnh.us). Assistance with Zoom application please contact Robin McClain at [ndlanduse@newdurhamnh.us](mailto:ndlanduse@newdurhamnh.us) or contact Zoning Board. Disclaimer: If technology fails, the meeting physically occurring will continue at the location above.*

*Town of New Durham offers no security assurances to those connecting via PC to a thirdparty software and hardware not configured or controlled by our IT Service provider.*

**PRESENT**

Terry Jarvis, Chair  
Wendy Anderson, Vice Chair – excused absence  
Linda Callaway, member  
David Bickford, member

**ALSO PRESENT**

Robin McClain, Land Use Administrative Assistant  
Tom Varney, Varney Engineering, LLC  
Joshua Thibault, Varney Engineering, LLC  
Mary Patry, applicant  
Gevry Fontaine, applicant  
Ann Richard, resident  
Ken Lance, applicant  
Stephanie Richard, Changing Seasons PPLC

**CALL TO ORDER**

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

Chair Jarvis read into the record a letter of resignation from Board member Stephanie Richard. She stated that will leave four members of the Board and there are no alternate members.

**Review and Acceptance of Case #2022-001**

An application submitted by Varney Engineering LLC, on behalf for Kenneth Lance of 213 Middleton Road, Map 246 Lot 3.

The applicant is requesting a Special Exception to:

- Article VII Section A.1: Special Exceptions. Dimensional Requirements for Town of New Durham. Uses Permitted by Special Exception. He wishes to increase the hours of operation at the Brewery and Restaurant.

Chair Jarvis asked the applicant if he wants to continue with having the case heard with only three members of the Board present. Mr. Lance stated he wants to go forward.

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

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

Chair Jarvis stated when this property was previously heard in another case, the Board agreed there would not be regional impact; she stated with the hours of operating going from 13 hours per week to 63 hours per week, do they need to consider whether there is regional impact. Ms. Callaway stated no; Mr. Bickford stated he doesn't know but it was previously noted traffic comes from Middleton. Chair Jarvis stated previously, Strafford Regional Planning Commission did have concerns, but they couldn't be addressed by the local municipality. She noted no comments were received from the towns of Wolfeboro or Middleton. Ms. Callaway asked if the proposed number of hours is the maximum. It was confirmed that is correct, but they are not necessarily going to be open the maximum number of hours allowed. The Board agreed there would be no regional impact.

The Board reviewed the application for completeness.

**Chair Jarvis made a motion that the application for Case #2022-001 is complete. Ms. Callaway seconded the motion.** There was question whether all abutters were properly notified; Ms. McClain reviewed the certified mail receipts. Ms. Callaway noted the list of abutters is the same as the case previously reviewed and accepted. It was determined there are different addresses listed among different data systems and files.

**Chair Jarvis withdrew her motion and made a motion to continue the review for Case #2022-001 until April 12, 2022; the Town of New Durham shall be responsible for sending out an additional notice to the current mailing address of Mr. Ellis. Mr. Bickford seconded the motion. Motion passed, 3-0-0.**

#### **Review and Acceptance of Case #2022-002**

Application submitted by Changing Seasons Engineering PLLC, on behalf of Joseph & Mary Patry and Robert & Gevry Fontaine of 224 Kings Highway, Map 209 Lot 2.

They are requesting Variances to:

- 81 • Article V Section B.1: Dimensional Requirements for Town of New Durham. The  
82 following dimensional requirements shall apply to land within the Town of New Durham.  
83 Except as noted below, all lots shall have frontage on a Class V or better road meeting the  
84 requirements for road frontage of this ordinance. Any subdivision approval of such a lot  
85 or lots must pass a percolation test and have state approval for a septic facility prior to a  
86 building permit to be issued.
- 87 • Article V Section C: Dimensional Requirements for Town of New Durham. Road  
88 Frontage. The minimum road frontage on a road built to Town Standards and approved  
89 by the Planning Board shall be based on lot size and specified in Table 2.
- 90 • Article V Section D: Setbacks. No new building shall be less than twenty (20) feet from  
91 the road frontage property line of any road or fifteen (15) feet from the property line of an  
92 abutter.
- 93 • Article VI Section C.3.a.i: General Provisions/Use Regulations for Town of New  
94 Durham. General Requirements. Sewage Disposal and Leach field Setbacks a. No privy,  
95 cesspool, septic tank, or sewage disposal area shall be constructed or reconstructed: less  
96 than one hundred twentyfive (125) feet from the edge of a public water body.
- 97 • Article VI Section C.3.a.ii: General Provisions/Use Regulations for Town of New  
98 Durham. General Requirements. No privy, cesspool, septic tank, or sewage disposal area  
99 shall be constructed or reconstructed less than seventy-five (75) feet from any well, or  
100 from a dwelling other than to which it is appurtenant.
- 101 • Article XIV Section C.1.e: Shorefront Conservation Overlay District. Dimensional  
102 Requirements 1. Development with Waterfront Access: All development with water  
103 frontage or with rights of access to water frontage shall meet the following requirements.  
104 Lot Coverage: Buildings shall not cover more than 15% of the area of a lot. No more than  
105 a total of 20% of the lot area, including buildings, shall be covered by impervious  
106 surfaces.
- 107 • Article XXI Section C.1: Non-Conforming Buildings, Land or Uses. New Buildings and  
108 Structures; Alteration and Expansion of Existing Non-Conforming Uses All non-  
109 conforming property may be used for new construction of buildings and/or structures  
110 (including septic and leach fields) and any non-conforming building may be altered and  
111 expanded provided: 1. They conform to Non-Conforming Setback and height  
112 requirements below; and,
- 113 • Article XXI Section C.2: Non-Conforming Buildings, Land or Uses. New Buildings and  
114 Structures; Alteration and Expansion of Existing Non-Conforming Uses All non-  
115 conforming property may be used for new construction of buildings and/or structures  
116 (including septic and leach fields) and any non-conforming building may be altered and  
117 expanded provided. Such expansion does not make any existing lot, structure, or use  
118 more non-conforming within the terms of this Ordinance.
- 119 • Article XXI Section G.1.b: Non-Conforming Buildings, Land or Uses. Non-Conforming  
120 Setbacks. The following setbacks are required for non-Conforming buildings, land and  
121 uses addressed by this Article. 1. Leach fields: Not less than seventy-five (75) feet from  
122 open surface water or hydric A wetlands or fifty (50) feet from hydric B wetlands.

- Article XXI Section G.2.d: Non-Conforming Buildings, Land or Uses. Non-Conforming Setbacks. Buildings: The total square footage of all buildings shall not exceed more than fifteen (15) percent of the area of a lot.

Chair Jarvis asked the applicant if they want to continue with having the case heard with only three members of the Board present. They indicated they want to continue.

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

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

The Board reviewed the application for completeness. Chair Jarvis stated they need to determine who owns the right-of-way; the deed is not clear whether there is right-of-passage over the ROW. Ms. Richard stated it is her understanding that the ROW is owned by the Town. Chair Jarvis stated if it is owned by the Town, they may need to require the applicants to upgrade the road to Class V standards. The applicant explained there has been one deed from the original owner to them but there is nothing in the deed; she also explained there are Town signs on the road. A copy of the deed was presented for review. The applicant stated that currently the Town maintains the road/ROW to the camp road, the point where their driveway would begin. Chair Jarvis stated if the Town is maintaining it, they need to determine to what standards.

Ms. Richard asked if the Board would look at the waiver requests. Chair Jarvis stated she doesn't feel she has enough information to make a decision on the waivers as she concentrated her research on the right-of-way issue.

**Chair Jarvis made a motion to continue the review of application for Case #2022-002 to the next meeting, April 12, 2022. Mr. Bickford seconded the motion. Motion passed, 3-0-0.**

***Review of ZBA procedures, application and check list for compliance with the Zoning Ordinance amendments***

Chair Jarvis presented draft procedures in anticipation of the passage of the Planning Board proposed zoning amendments for review by the Board. She stated any applications which come in after Tuesday, would have to meet the revised criteria of the Shoreline Conservation Overlay District ordinance.

**Ms. Callaway made a motion to approve the New Durham Zoning Board of Adjustment Rules and Procedures as amended at the March 10, 2022 meeting. Mr. Bickford seconded the motion. Motion passed, 3-0-0.**

The Board reviewed the application checklist. Edits were made.

**Ms. Callaway made a motion to approve the New Durham Zoning Board of Adjustment Special Exception in the Shorefront Conservation Overlay District application check list as amended at the March 10, 2022 meeting. Mr. Bickford seconded the motion. Motion passed, 3-0-0.**

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162 **APPROVAL OF MINUTES**

163 Meeting of December 14, 2021– Postponed.

164 **Next Meeting:** April 12, 2022

165

166 **ADJOURN**

167 **Chair Jarvis made a motion to adjourn. Ms. Callaway seconded the motion. Motion passed,**  
168 **3-0-0.**

169 The meeting was adjourned at 8:57PM.

170 Respectfully Submitted,

171 *Jennifer Riel*

172 Jennifer Riel, Recording Secretary