

MINUTES
NEW DURHAM ZONING BOARD OF ADJUSTMENT
13 AUGUST 2013

Chairperson Larry Prelli called the meeting to order at 7:03 pm.

Roll Call: Larry Prelli (Chair), Wendy Anderson (Vice-Chair), Joan Swenson, Dave Shagoury (Alternate), Cecil Williams (Alternate); recording secretary Amy Smith.

Others Present: Randy Orvis, LLS

Public Hearing - CASE: 2013-05 - Application submitted by Norman & Richelle MaGuire. The applicant is seeking Variances to Article IX Section D-3 and Article III Section A-3 of the New Durham Zoning Ordinance in order to permit a replacement individual sewage disposal system within 125' of Merrymeeting Lake and within 75' of the existing well on the lot. The property in question is located at 168 South Shore Road (Tax Map 121, Lot 36).

Chair Prelli introduced Board members and designated Mr. Shagoury and Mr. Williams to sit in as voting members. Chair Prelli explained the public hearing process and asked Mr. Orvis if he felt there were any Board members who should not sit in on the case due to a conflict of interest. Mr. Orvis stated there was no issue with a conflict of interest.

Mr. Orvis stepped forward and stated he is representing the MaGuires. Chair Prelli reviewed the letter of authorization. Mr. Orvis stated the lot in question is an existing non-conforming lot of record and stated due to the lot's small size and topography the proposal presented has the least impact on the lot. Mr. Orvis noted if he moved the system to the other side of the lot he would need to request a variance from the steep slope ordinance. Mr. Orvis stated the current system is functioning very poorly and beginning to fail. Board members reviewed the application and plan. Chair Prelli closed the public comment portion of the meeting.

Ms. Swenson noted the plan is an all around improvement as the septic system itself is being improved, as well as, an increased distance from Merrymeeting Lake and the well.

Chair Prelli noted the proposal has increased the distance of the EDA (Effluent Disposal Area) from the Lake from approximately 65 feet to approximately 90 feet and the distance from the well from approximately 40 feet to approximately 65 feet. Chair Prelli stated he believes the application was well presented and the facts supporting the request for a variance well stated in the application. Board members agreed.

Chair Prelli made a motion to approve the application of Norman & Richelle MaGuire for Variances to Article IX Section D-3 and Article III Section A-3 of the New Durham Zoning Ordinance in order to permit a replacement individual sewage disposal system within 125' of Merrymeeting Lake and within 75' of the existing well on the lot. The property in question is located at 168 South Shore Road (Tax Map 121, Lot 36). Ms. Swenson seconded the motion. The motion was unanimously approved.

Public Hearing - CASE: 2013-06 - Application submitted by The Lake Irrevocable Realty Trust, Rosanne McHugh, Kathleen Kafel, Christina Eaton, Trustees. The applicant is seeking a Variance to Article IX Section D-3 of the New Durham Zoning Ordinance in order to permit a replacement individual sewage disposal system within 125' of Merrymeeting Lake. The property in question is located at 25 Cedergren Road (Tax Map 105, Lot 7).

Mr. Orvis stepped forward and stated he is also representing the Lake Irrevocable Trust. Mr. Orvis continued to state the application in question is very similar to the application he just presented. Mr. Orvis noted he has already received the State septic approval. Mr. Orvis stated the new septic tank will be in pretty much the same location as the old tank but due to the small size and topography of the lot, that would be the least disturbance to the lot. Mr. Orvis noted the distance of the EDA (Effluent Disposal Area) from Merrymeeting Lake has increased from approximately 75 feet to approximately 103 feet. Board members reviewed the plan and application.

Ms. Swenson noted she knows one of the abutters. Chair Prelli asked Ms. Swenson if she believed this would be a conflict of interest. Ms. Swenson stated she did not. Mr. Orvis stated he did not have a problem with Ms. Swenson voting on the application.

Chair Prelli closed the public comment portion of the meeting. Chair Prelli stated the application was well done and very thorough and believes the facts supporting the variance request were well stated in the application. Chair Prelli noted the location of the tank itself does not really change but a new system would be an improvement and there is an increase in distance of the EDA from approximately 75 feet to approximately 103 feet. Mr. Shagoury asked Mr. Orvis if he received an encroachment waiver for the abutting well. Mr. Orvis stated he did and the document has been recorded at the Strafford County Registry of Deeds.

Chair Prelli made a motion to approve the Application submitted by The Lake Irrevocable Realty Trust, Rosanne McHugh, Kathleen Kafel, Christina Eaton, Trustees for a Variance to Article IX Section D-3 of the New Durham Zoning Ordinance in order to permit a replacement individual sewage disposal system within 125' of Merrymeeting Lake. The property in question is located at 25 Cedergren Road (Tax Map 105, Lot 7). Mr. Williams seconded the motion.

Ms. Anderson questioned if the applicant would also need a variance from Article III Section A-3, as the previous application did, for the well issue. Mr. Orvis stated he did not believe so. Discussion followed. Ms. Smith noted the application was submitted, and notice given, for a variance to Article IX Section D-3 only. Ms. Smith noted that if it was determined an additional variance was needed it would need to be applied for and heard on a different night as the variance would need to be noticed in the newspaper and to abutters.

The motion to approve the application was unanimously approved. Mr. Orvis thanked the Board.

Review of Minutes

Board members reviewed the minutes of 11 June 2013. Chair Prelli asked Ms. Smith to add 'Bar Scales' to the next meeting's agenda. **Mr. Shagoury made a motion to approve the minutes of 11 June 2013 as printed. Mr. Williams seconded the motion. The motion was approved**

with three affirmative votes (Shagoury, Prelli, Williams) and two abstentions (Anderson, Swenson).

Review of Mail

Board members reviewed the mail.

Budget

Board members reviewed their budget as of 9 July 2013. Ms. Smith noted the Board of Selectmen held a Public Hearing in July and increased the fee to applicants for advertising costs from \$50.00 to \$75.00. Mr. Shagoury questioned if \$75.00 would cover the cost of putting notices in the newspaper. Ms. Smith stated \$75.00 should cover most notices and noted the cost for the newspaper notices for the cases that were just heard were \$72.35 (for each one). Chair Prelli stated he received a forwarded e-mail from Ms. Smith, which originated with the Town Administrator, regarding the 2014 Budget. The e-mail asked whether Ms. Smith or the Chairs of the Land Use Boards would be presenting the 2014 Budget. Chair Prelli stated he could present the budget. Ms. Smith stated she did not have a problem presenting the budget but needed guidance as to what the Board thought their budget should be. Ms. Swenson suggested reviewing the budgets from the previous 2 – 3 years. Board members felt this was a good idea. Ms. Smith stated she would ask the Financial Officer for the previous year's budgets.

Straight Letter

Chair Prelli stated, as discussed at the 8 May 2013 and 11 June 2013 meetings, he had sent a letter to the Board of Selectmen regarding the Straight case. Chair Prelli continued to state he had not heard anything back yet. Ms. Smith stated, as a result of transcribing the Selectmen's minutes, she does know the Selectmen were in receipt of Chair Prelli's letter and it was reviewed. Ms. Smith stated at the 15 July 2013 Selectmen's meeting when the letter was reviewed, Chair Jarvis stated she did not want to ignore Chair Prelli's letter, but was not sure how to proceed. The Board of Selectmen asked the Town Administrator to look into the matter.

At 7:55 pm Ms. Swenson made a motion to adjourn. Mr. Shagoury seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Amy Smith
Recording Secretary