

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

June 15, 2021

Official Minutes as of 7/20/21

Members Present: Bonnie Winona MacKinnon, Chair; Teresa Bascom, Vice-chair; Terry Bonser; Raelene Shippee-Rice; Romeo Danaïs; Kevin Bassett, Alternate

Members Absent:

Others Present: JoAnna Arendarczyk, Land Use Clerk; Tami Defrancesco & James George, Applicants; Brett Allard, Attorney; Scott Frankiewicz, Surveyor; Steve Reynolds; Ian MacKinnon; Anthony Jones; Mitch Hale, Applicant;

Abutters / Residents Present: Kathy Morris; AJ Bachhuber; Mary Colvard; Grace LaPointe; Michael St. Laurent; Kristin Stern; Cameron Terry; Lee Weldy; Jennifer Gonzalez Menard; Andrea Jackson; Billy Rachel; Angela Valencorp; Linda Elliott;

Call to order: 7:00pm

Roll Call: To account for members present

In anticipation of the extension of Executive Order 2021-04, the Nottingham Zoning Board will be holding a virtual hearing. Access to the meeting is given through Zoom. All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in the meeting.

Mr. Danaïs was sworn in by Ms. Winona MacKinnon.

Ms. Winona MacKinnon proposed that the review and amendment of the rules be postponed until the next meeting as everything has been pushed due to Covid and the election was less than a week from the date of this meeting. The Board agreed.

Ms. Winona MacKinnon read the Conduct of Public Hearings.

Public Hearings

Case 21-008-VA Application from Tami Defrancesco and James George, requesting a Variance from Article 2 Section C of the Zoning Ordinance to permit Watercross events with incidental camping (ie. commercial use) three weekends per year. The property is located at 214 Raymond Rd. in Nottingham, NH, and is identified as Tax Map 69 Lots 8 & 10.

Brett Allard from Bernstein Shur represented the applicants, joined by surveyor Scott Frankiewicz of New Hampshire Land Consultants and Steve Reynolds, the event producer for Northeast Watercross.

Mr. Danaïs asked if the applicants would rather he abstain as he is newly elected and was not present for the last meeting. The applicants stated that they were okay with him voting. Ms.

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35 Winona MacKinnon asked for a very brief summarization of the applicant's previous presentation
36 for Mr. Danais.

37 Mr. Allard summarized his presentation and the applicants' two applications from the May 18th
38 meeting. He noted that the applicants had approval from NH Fish and Game to run these machines
39 on the lake during the events as well as an NHDOT approval for access off Raymond Rd. during the
40 events. There were also Determination of Regional Impact notices sent to the towns of Raymond
41 and Epping when the applicants went to the Planning Board. Mr. Allard stated that Epping
42 indicated that they did not believe there would be any impact except for possibly a little noise on
43 Blake Rd. and Raymond indicated that they did not believe there would be any impact to their
44 town. In response to previous comments concerning an aquifer underneath the lake, Mr. Allard
45 noted a letter from the Lamprey River Advisory Committee that indicated that this event has no
46 pollution impact to the river. He screen-shared a map of a nearby lake with an aquifer as an
47 example to show where the aquifer is located. He noted that development or human activity over
48 an aquifer is not per-say detrimental to the aquifer or anyone's health or safety, using the example
49 of the lake as there are many boats and other human activity allowed on that lake.

50 Ms. Winona MacKinnon asked Mr. Allard if he or the applicants had any expert information on
51 whether or not a spillage of gas or oil would have any impact on the aquifer. Mr. Allard stated that
52 they do not because the situation is so similar to that of the nearby lake that they did not see it
53 rising to the level of needing to engage an expert.

54 Ms. Winona MacKinnon asked, as she has never been to a Watercross event, if it is not true that
55 these machines are a lot more likely to sink and leak fluid than an ordinary boat because of the
56 position they take in the water. Mr. Allard noted that the event would be taking place on a
57 completely contained, man-made pond that is not connected to the greater watershed and does
58 not flow into the Lamprey River or Pawtuckaway. Ms. Winona MacKinnon noted that it could not be
59 self-contained unless it has a liner and asked if the water comes from a spring. Mr. Allard clarified
60 that by self-contained, he meant that the pond is not flowing out into another water body. Ms.
61 Winona MacKinnon asked if it was a sand and gravel aquifer. Mr. Allard did not have an answer.

62 Ms. Shippee-Rice noted that she believed the applicants were saying that this issue was not
63 important and that because there were concerns about the aquifer she assumed that these
64 concerns would be addressed. Mr. Allard responded by stating that these concerns are important,
65 but that most of the concerns from the last meeting were related to noise and that is where he and
66 the applicants focused most of their efforts. Ms. Shippee-Rice asked if there are any attempts to
67 determine what effects the event may have on the aquifer. Mr. Allard responded by stating that his
68 team has discussed it, that they have approval from NH Fish and Game to operate these events,

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69 and that the applicants still have to go to the Planning Board for site planning. He stated that he
70 thinks the issue of impacts to an aquifer is more of a Planning decision than a Zoning decision.

71 Mr. Danaïs noted that he understands gasoline and oil to be lighter than water, so if a machine
72 sunk into the water and had oil or gasoline seeping out of it, those pollutants would float. The oil
73 could then be removed and the gasoline would just evaporate.

74 Mr. Bonser commented that it is a sand aquifer and that sand is a very good filter for pollutants if
75 there were any.

76 Mr. Allard responded to concerns voiced in the last meeting about the surrounding property values
77 by reading an appraisal letter from Jack Lavoie, SRA AI-RRS. In the letter, it was noted that the
78 current obsolescence from the gravel pit and the nearby busy road would mitigate any noise,
79 traffic, or any other temporary nuisances due to Watercross. It was also noted in the letter that with
80 the information provided and his research, Mr. Lavoie does not believe that the events will have any
81 negative or adverse effects on surrounding property values.

82 Mr. Allard responded to concerns voiced in the last meeting about sound levels as the landowner
83 and Steve Reynolds, the event producer for Northeast Watercross, ran five (5) machines on the
84 water and took decibel readings from various locations on June 4, 2021. The first location was 212
85 Raymond Rd. and the second was on Indian Run Rd. Both of which residents of those roads came
86 forward with complaints about the sound during the May 18th meeting. Mr. Allard read off the
87 readings for Raymond Rd. which was 65 to 75 decibels on average, spiking to 80 to 85 at times.

88 Ms. Winona MacKinnon asked what the EPA recommends and at what point do the decibels
89 damage human hearing. Mr. Allard responded by stating that he does not know at what decibel
90 human hearing would be damaged, but during the event, everyone has the option to wear
91 earplugs or headphones.

92 Mr. Allard shared a video of the decibel readings from Indian Run. Members of the Board stated
93 that they could not hear the sound in the video.

94 Ms. Shippee-Rice asked for a description of where the person in the video was in relation to the
95 properties nearby, those that are further, and the concerns of the people on Pawtuckaway. Mr.
96 Allard responded by saying they were standing half a mile away from the applicants' property on
97 Indian Run while the five (5) machines were racing around the pond. He also noted that the
98 decibels from the ambient earth, like birds chirping and walking around in the woods, were reading
99 in the 40s and 50s and when Steve would talk, it jumped up into the 70s. He stated that the
100 readings from half a mile away were not catching anything from the Watercross machines. Ms.

101 Shippee-Rice asked about the properties that were closer. Mr. Allard responded with the decibel
102 readings he presented from Raymond Rd,

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103 Mr. Allard commented that he would like to make sure the Board was able to hear the sound from
104 the video he shared. Ms. Arendarczyk noted that she was getting messages that other people in the
105 meeting were able to hear the person talking in the video.

106 Ms. Winona MacKinnon asked if the applicants had recordings from more than one location. Mr.
107 Allard responded that they only had the recording he shared and reiterated that it was half a mile
108 away and that the decibel meters did not pick up any sound from the machines. Ms. Winona
109 MacKinnon commented that the residents that spoke against the events in the last meeting were
110 not complaining about birds chirping and squirrels running around in the woods and noted a
111 discrepancy as if there was nothing to hear, why would people complain. Mr. Allard responded that
112 he does not know why there is a discrepancy, just that when they went to measure, the decibel
113 meters did not pick up anything.

114 Mr. Reynolds clarified that the video Mr. Allard played was taken at 12 and 14 Indian Run Rd. He
115 also noted that he has a video recording from Raymond Rd as well if the Board would like that at a
116 later date, but that Mr. Allard had summarized those readings in the decibel report. He also noted
117 that decibel readers automatically pick up sounds from the Earth which range from 30 to 50
118 decibels. Mr. Reynolds addressed the concerns Ms. Winona MacKinnon had about the discrepancy
119 of what they were saying and what residents had said by restating what Mrs. Bascom had said in
120 the last meeting that she was on Pawtuckaway during the events and the noise level was not a
121 nuisance. He asked why Ms. Winona MacKinnon was asking such a question when one of the Board
122 members had said this. Ms. Winona MacKinnon clarified that Pawtuckaway is not as close as the
123 people who live in the nearby condos and that she was asking for a contrast between the close-up
124 hearing and those that were farther away because it does not make sense that people complained
125 if there was little to no noise. Mr. Reynolds noted that the point of the video was to bring some
126 factuality to the claims that people were making on both sides. Ms. Winona MacKinnon noted that
127 it is assumed that everyone is telling the truth and that everyone has come to this with good in
128 their hearts, and commented that if he is to measure something, measure fairly, and from multiple
129 positions, as he is representing the applicant and is not a third party doing this testing.

130 Ms. Shippee-Rice commented that she believes having both videos and both sets of data would be
131 useful to the Board.

132 Mr. Reynolds stated that 90% of Nottingham residents will not suffer from any imminent,
133 uncontrollable, or intolerable nuisance due to the event as a summarization of his point.

134 Mr. Bonser noted that 50 to 65 decibels is normal conversation and 120 can cause hearing loss. He
135 also commented that he believes some of the testimony on this case has been greatly exaggerated.

136 Ms. Winona MacKinnon commented that she believes it is exaggerated on both sides and that she
137 is hoping to find a middle of the road meeting to help make a decision about the application.

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138 Mr. Danais asked, as he is unfamiliar with Watercross events, if it would be a timed event where
139 someone is given a route to pass and they are timed from the start to finish or is it a bunch of
140 people racing on a course and the first one to the finish is the winner, how many of those would be
141 during a typical event, and how long does each last. Mr. Reynolds responded that four (4) to five (5)
142 snowmobiles race at a time and for four (4) to five (5) laps with roughly a minute and thirty seconds
143 per heat. The amount per day is dependable, but the designated time of operation for the events is
144 10am to 5pm. He stated that they have taken the nearby residents into account when it comes to
145 the event times.

146 Ms. Winona MacKinnon noted that she received an email with recordings of the noise from last
147 year's events taken by someone in the condo nearby. She noted that this recording had no
148 measurement equipment in it, but it was not particularly quiet, which is in contrast to what Mr.
149 Reynolds and Mr. Allard have presented. Mr. Reynolds responded saying that his video does in fact
150 have audio, but because of technical difficulties, the audio did not share during the meeting, but
151 the members of the Board should have access to it later on. He suggested that they all take a few
152 moments to watch his video and listen to the audio. Ms. Winona MacKinnon noted that she
153 believes it would be the most fair for the Board to listen to his video and right afterward listen to
154 the audio recording sent in by the abutter.

155 Ms. Winona MacKinnon noted that she believed the Board had been sent a letter with decibel
156 reading information that conflicted with the applicants'. Mr. Allard commented that he
157 remembered this letter had no specific site information and was just numbers pulled off the
158 internet somewhere. Mr. Reynolds also commented that there was comment of other decibel
159 numbers and recordings done, and both of which are absolutely false. He noted that there has not
160 been an official decibel testing until just recently when he and the applicants took the readings. Mr.
161 Reynolds stated that if the credibility of the tests he presented is what is getting in the way, that he
162 would happily hire any sound professional the Board chooses to do the testing. He also noted that
163 if his readings were maybe 10 to 15 decibels off, adding that to his readings, it is still a tolerable
164 amount. Mr. Reynolds stated that all the video shows is that Michael St. Laurent and the other
165 residents' testimony on Indian Run Rd. as well as Peter White's testimony that the noise is
166 absolutely unbearable are false.

167 Ms. Winona MacKinnon responded that she is not saying their information is not factual, but that
168 he is not an objective third party and neither is the person who sent the other audio. She noted
169 that those two pieces of evidence do not equate.

170 Mr. Reynolds reiterated that during the last meeting a Board member, Mrs. Bascom, stated that
171 there was no nuisance and no extreme levels of noise on the actual pond. Ms. Winona MacKinnon
172 commented that although Mrs. Bascom is a very valued member of the board, she is one of five,

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173 and her testimony will be taken into account along with everyone else's. Mr. Reynolds continued by
174 saying that although one Board member said there was no nuisance, another said the noise was
175 unbearable. He noted that the video the Board had been sent from the abutter had not been taken
176 on the water, but somewhere extremely close to this location. Mr. Reynolds stated that in his and
177 the applicants' first recording, sound can absolutely be heard and spiked to 85 decibels. He also
178 stated that he and the applicants are not saying the events are not loud, because there is noise, the
179 second video was just to delegate if there was any nuisance on the water. Ms. Winona MacKinnon
180 clarified that the Board's concern is not only with the people on the water, but the entire
181 neighborhood. Mr. Reynolds agreed.

182 Ms. Shippee-Rice commented that this discussion is a little confusing and asked if Mr. Reynolds
183 had collected data similar to the data the Chairperson is discussing and that the Board received
184 from residents in terms of location. Mr. Reynolds answered yes, that he took two decibel readings.
185 Ms. Shippee-Rice clarified that she was asking if they were taken at the same locations that Peter
186 White and the person who sent the audio data described. Mr. Reynolds clarified that one of his
187 videos was taken on Indian Run Rd. to satisfy the testimonies of residents there. The second
188 location was taken at the closest someone could be to the pond without being on the property and
189 those are the decibels Mr. Allard described. Mr. Reynolds stated that his two reports were the most
190 extreme and the least extreme, both showing that the noise emitted from the Watercross is not
191 intolerable or harmful. Ms. Shippee-Rice commented that she believes the term intolerable is
192 subjective.

193 Mr. Allard re-shared his screen to the video in hopes of sharing the sound with everyone in the
194 meeting. Mr. Reynolds restated that the machines can be heard very faintly in the video and that
195 this evidence is to refute some of the testimony from last meeting.

196 Mr. Bonser noted that he works on Pawtuckaway occasionally and the motorboats going by are
197 very noisy and he lives a couple miles from the Lee racetrack and he listens to the noise from that
198 every week and it is not too bad.

199 Mr. Allard noted emails, letters, and signatures included in the application (file). He read excerpts
200 from abutter Arthur Jenk's letter and explained he is one of the closest abutters who uses the
201 property for access. Mr. Allard summarized his presentation including that this event would take
202 place for three weekends a year 2pm to 4pm on Friday and 10am to 6pm on Saturday and Sunday
203 and that the applicants still need to go to the Planning Board for a Site Plan Review. He also asked
204 that if the Board is to grant a Variance that the Board condition that the events will not occur on
205 Memorial Day, 4th of July, or Labor Day weekends and that the Board restrict the use of these
206 machines on the pond to the three weekends a year for the events.

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207 Mr. Danais asked Mr. Allard if he had any videos of an event like this taking place in the past. Mr.
208 Allard responded that he does not personally have any videos, but that he believes there are videos
209 on the Northeast Watercross Facebook page.

210 Ms. Shippee-Rice asked for the anticipated number of machines that would be engaged on the
211 pond each day of the events. Ms. Defrancesco answered that it depends on how many people sign
212 up. Ms. Shippee-Rice asked if the applicants had set a maximum or a minimum for the events. Mr.
213 Reynolds responded by saying there are heats all day long from 6am to 10pm.

214 **Public Comment:** 8:16pm

215 Ms. Winona MacKinnon asked that anyone who speaks please give the Board new information that
216 would be relevant to the decision as opposed to many people saying they love Watercross sports.
217 Kathy Morris, abutter (212 Raymond Rd.) stated in response to a comment made by Mr. Danais, as
218 someone who has worked on oil spills, that oil does not float, it goes to the bottom and collects
219 there. She noted that because gravel and sand is a permeable surface, the oil can transfer into the
220 aquifer as well as the river due to its proximity. She also noted that there are painted turtles in that
221 river, which are a protected species, as well as many other animals in the area that could be
222 disturbed by the sound. Ms. Morris stated that she had taken decibel readings as well at 75 and
223 sometimes up to 85 while the machines were racing. She was told in another meeting that because
224 she was not a professional, her readings were not acceptable. She also noted that Mr. Reynolds
225 came to her property without asking to take his readings. Ms. Morris commented that when Mr.
226 Reynolds was testing, it sounded like there were only three (3) machines out there and invited the
227 Board members to her property to witness the sound level themselves. She also noted that the
228 OSHA website says that 75 decibels can cause hearing loss within 15 minutes, and that the noise
229 from these events is more than a nuisance. She noted that she believes a lot of issues are being
230 glossed over by the applicants.

231 Mr. Danais commented that oil does float on water, but crude oil may sink. Ms. Morris responded
232 and stated that the oil coming from these machines has been subjected to heavy stresses which
233 changes the solubility and flotation quality of it, and it does sink. She noted that she worked for the
234 US Fish and Wildlife Service for over eight (8) years and has been trained in spills.

235 Mary Colvard, resident (14 Indian Run Rd.) asked why the residents of Indian Run would be
236 complaining about the sound during the event if all they heard was the sounds of birds chirping.
237 She pointed out that there very well could have been three (3) to five (5) machines on the water
238 when Mr. Reynolds took his readings, but wondered if they were accelerating as they would during
239 an event. She noted that according to OSHA, a machine moving placidly across the water is at
240 about 90 decibels, but when it accelerates, it exceeds 115. Ms. Colvard also noted that the decibel
241 meters in the video Mr. Reynolds and Mr. Allard shared did not agree and were sometimes off from

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242 each other 10 to 15 to 20 decibels. She agreed with Ms. Morris that it seems as if the applicants are
243 glossing over issues and presenting them in the best light possible. Ms. Colvard noted that
244 Nottingham does not have a water purification system and the residents are all on wells, so if the
245 oil was to enter the aquifer, everyone's water would be affected. She stated that this event is
246 obviously fun and many people enjoy it, but it should not come at the expense of people's water or
247 hearing, or the nearby wildlife.

248 Ms. Morris (212 Raymond Rd.) noted that the town has recently voted on new conservation rules,
249 which include the Pawtuckaway River. She stated that these events would then be taking place in a
250 conservation area.

251 Grace LaPointe, abutter (212 Raymond Rd.) agreed with Ms. Morris and Ms. Colvard. She stated
252 that she has lived there since before the events last year and has described just how loud the noise
253 was during other meetings. She also noted that she was not notified before the applicants did their
254 testing and that the amount of sound during the testing was not close to the amount of sound she
255 experienced during the events last year. Ms. LaPointe noted that Mr. Reynolds had offered to get
256 an objective third party to do the testing, but she is doubtful that they would be able to correctly
257 test for the amount of sound the actual events give off.

258 Mr. Bonser asked if there was only one event last year. Ms. LaPointe responded that there were
259 three events. She noted that Mr. Allard stated this at the beginning of the meeting even though in
260 the last meeting it was said there was only one.

261 Michael St. Laurent, resident (12 Indian Run Rd.) noted that two major boat manufacturers, Yamaha
262 and Mercury, no longer make two-cycle engines because they pollute too much. He also noted that
263 the lake is 200 times bigger than this pond so it cannot be said that the pollution from these
264 machines is relative to the pollution of boats on Pawtuckaway. He stated that if there were 100
265 machines on the pond, it would be equivalent to 20,000 boats on the lake, and there are maybe 20
266 to 50 boats out at a time. Mr. St Laurant also noted that the machines rev their engines on the sand
267 and gravel before going into the water so all of the gas and oil leaking out there is going into a
268 very porous surface. He noted that in the video Mr. Reynolds shared, he was standing at the back
269 of Mr. St Laurent's driveway which has many trees and things that block out sound, but his house
270 itself is right on the water where it is much louder. He also noted that his wife was home and the
271 noise level during the tests did not seem as loud as during the actual events. Mr. St Laurent noted
272 that hearing is subjective and what one person may consider a nuisance might be completely fine
273 to another. He also stated that he does not believe the readings to be totally accurate because
274 these events take place over eight (8) hours and within those times the wind could make the noise
275 louder or quieter depending on where it is blowing.

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276 Mr. Bonser first asked for clarification that Mr. St Laurent stated 100 machines was equivalent to
277 20,000 boats on Pawtuckaway. Mr. St Laurent confirmed. Mr. Bonser then asked if boats are only
278 allowed to run on Pawtuckaway for three (3) nights a year or all year round. Mr. St Laurent
279 responded by saying, not all year round, but for three (3) to four (4) months and that it would
280 20,000 boats in one weekend. Mr. Bonser asked if water runs out of the lake into the Pawtuckaway
281 River and down into other dams, while the pond is self-contained. Mr. St Laurent confirmed and
282 noted that there is constant water testing done to make sure the water quality in Pawtuckaway is
283 good. He also stated that he is concerned that the machines start out on the sand and if these
284 events are really a risk to the environment.

285 Kristin Stern, abutter (220 Raymond Rd.) witnessed all three events last year and noted that she is
286 confused by other's comments that they were not notified as she received registered letters
287 informing her of the events, a personal visit, and an offer for tickets. Ms. Winona MacKinnon
288 commented that she believes that the comments about not being notified were about the testing
289 and not the actual events. Ms. Stern also noted that she believes everyone involved with these
290 events has done their due diligence. She commented that she had her property surveyed because
291 she was nervous people were going to cross onto her property during these events, but that was
292 never an issue. She stated that there is noise involved with these events and that since she has
293 advanced notice, she can choose to make other plans or go see the event. Ms. Stern noted that at
294 the event last year there were two barges out and within 30 seconds of a machine sinking, it was
295 hooked out of the water and hauled off to the side. She also noted that oil race fuel is formulated
296 differently than normal boat fuel, as she has experience with motorcycle racing. She firmly believes
297 that this event and events like it could be advantageous for the town in terms of advertising and
298 does not feel that her property value has decreased by this event. She believes that this event is a
299 very reasonable balance, though she would not ask for any more of these events to be held in one
300 year.

301 Michael St Laurent, resident (12 Indian Run Rd.) commented on the unnecessary hardship part of
302 the application (file) and that he does not see any hardship at all. He noted that there is a very nice
303 home on the property, a thriving gravel business, and an apartment over the garage. He also noted
304 that the applicants mentioned having a pond on the property and he believes that the pond has a
305 high intrinsic value without having to make money. Mr. St Laurent also noted that the applicants
306 bought the property with the pond already there so they did not have to use resources to create it.
307 He noted that the application states this is a commercial use request, and stated a commercial
308 event does not qualify as a home business, and this use is not incidental to the gravel pit business,
309 which cannot be expanded anyway. He stated that this is a case of new usage on a non-conforming
310 lot, which there cannot be any new usages on such a lot, or on any non-conforming business that

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311 has been grandfathered in, or on any non-conforming lots in the aquifer zone. Mr. St Laurent noted
312 that this property is not that unique as there are lots of other properties with ponds. He
313 summarized by stating that this new use request is prohibited by multiple places in the zoning and
314 their application fails the hardship test.

315 Cameron Terry, resident (12 Dwight Rd.) responded to a comment that OSHA says 70 to 75
316 decibels can cause hearing loss, as a machinist foreman at the Portsmouth Naval Shipyard who
317 works with loud noises everyday, though he is not an expert, he stated he has to pay attention to
318 when noise levels reach over 85 decibels for single ear hearing protection. He also stated, in
319 response to comments that gas and oil leaks out onto the sand, that no gas or oil leaks out of the
320 exhaust pipes when you start snowmobiles. He stated that the sound from boats is muffled
321 because the oil and gas comes right from the propeller into the water, so the two are not
322 comparable when it comes to pollution.

323 AJ Bachhuber, resident (116 Lakeview Dr.) stated that he cannot find a source that backs up the
324 statement that by OSHA 85 decibels over 15 minutes can cause hearing damage, but he stated per
325 Niosh the time to reach 100% noise dose is eight (8) hours at 85 decibels. He stated that he has
326 worked in industrial automation for 25 years. He suggested that the Board look into decibel levels
327 and get a better understanding of them. He also noted, in response to comments that the
328 machines were not accelerating during the tests, that snowmobiles don't float so the only way that
329 they can go on the water is by being at full throttle. He stated, in response to Mr. St Laurent's
330 comment that two-stroke engines are no longer manufactured by two major companies, that two-
331 stroke engines are still manufactured by all the major manufacturers. He also noted that two-stroke
332 engines on boats, in his experience, do release a little bit of oil and gas into the water, but he has
333 only seen it float on top of the water and dissipate quickly. Mr. Bachhuber stated that he thinks the
334 area is very beautiful and that three (3) times a year is not too much to invite those outside of the
335 community to share that beauty.

336 Lee Weldy, abutter (110 Nottingham Rd., Raymond) stated that Nottingham, Epping, Lee, and
337 Raymond do not have Noise Ordinances. He noted that the noise should not be a debatable issue
338 if there is no ordinance. He noted that he went to the Dragway with a decibel meter which topped
339 out at 128 decibels and noted that those cars expel one gallon of gas into the air per each six (6)
340 seconds they are racing. Mr. Weldy also stated that he took a decibel reading from his front steps
341 the day Mr. Reynolds ran his test, and the machines topped off at 58 decibels, and his AC makes
342 more noise than that. He noted that his house is above the tree line so there is no buffer for sound
343 coming off the pond. Mr. Weldy stated that most of these snowmobiles are a sealed system so they
344 are made to keep fuel inside. He also noted that exhaust from these machines is no different than a
345 tractor trailer or the boats on the lake and that the pond is over 75 feet away from the river which

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346 is how far a well is from the septic system. He stated that he believes a lot of people are bringing
347 up issues that are not relevant to the events happening on the pond.

348 Jennifer Gonzalez Menard, abutter (166 Raymond Rd) responded to a comment made by Mr. St
349 Laurent that there is no hardship, that this sport is a dying sport. She also asked out of all the
350 abutters, how many are against it and how many are for it. She stated that according to her
351 research, there are only two (2) out of seven (7) direct abutters that are against the events. Ms.
352 Winona MacKinnon stated that it does not work that way and that it is not a popularity contest,
353 that the Board has to look at the Zoning Ordinance, hardship, the health and safety of the general
354 public, etc.. Ms. Gonzalez Menard asked for clarification on what the Board's decision is made on.
355 Ms. Winona MacKinnon responded that it is made on the information that is brought to them and
356 information that is helpful to the Board's process. Ms. Gonzalez Menard stated that she was there
357 the day of the testing and they had five (5) sleds going and stated the machines went around five
358 (5) or six (6) times to make sure that the noise level was up to where it would be during a race. Mrs.
359 Bascom asked if Ms. Gonzalez Menard was wearing hearing protection during the testing. Ms.
360 Gonzalez Menard stated she was not. Mrs. Bascom asked if Ms. Gonzalez Menard was close to
361 where the machines were running on the pond. Ms. Gonzalez Menard confirmed that she was near
362 the pond. Mr. Bassett asked if she felt she needed hearing protection during the testing. Ms.
363 Gonzalez Menard responded no, not at all.

364 Andrea Jackson, resident (129 Island Ave) noted that her property is about less than a mile from the
365 race site. She restated that there is no Noise Ordinance, and suggested that those concerned about
366 the noise try to have a law passed in town that would respect their wishes. Ms. Jackson noted that
367 she has to deal with fireworks between 2 and 4 am and that a lake is a recreational area. She stated
368 that this is a family friendly event, there are no issues regarding traffic, and plenty of EMTs and
369 police officers. She suggested that those concerned with the environment take it up with NH Fish
370 and Game as they have already endorsed this event. She also stated that she has worked in
371 Occupational Health since 1984, though she is not an expert, there is no such thing as long-
372 standing hearing loss after a five (5) minute exposure. Ms. Jackson stated she would willingly find
373 an expert who would be able to speak on it if the Board desires.

374 Mrs. Bascom asked if a written testimony by William Weldy was going to be read as he asked
375 during public comment. Ms. Winona MacKinnon responded that she had chosen not to because it
376 would not be fair to read his comment and no one else's, if he wanted to testify, he should be
377 present.

378 Ms. Winona MacKinnon reminded everyone that the reason why the Board is being asked is
379 because the applicants are requesting a use in a residential zone that is not currently in effect,
380 though they do have a grandfathered gravel pit, this use is not incidental to the gravel pit. It is

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therefore a separate non-conforming use in a residential area. She asked to hear from all members of the Board regarding their comments whether they think they should seek more information about the possibility of polluting the aquifer and its effect on people's wells and whether or not they think they should seek information about the noise level.

Mr. Allard asked if he and the applicant may have a few minutes to rebut statements made about hardship during the public comment and to reiterate for Mr. Danaïs as he was not present at the last meeting. Ms. Winona MacKinnon allowed it and stated that proving hardship is a necessary part of a Variance application. Mr. Allard stated that the hardship does have to do with the gravel pit, in the applicants' opinion because the active gravel pit and man-made pond is what makes the property distinguishable from other properties in the area and it is what makes these events possible. He also noted that this property is much larger than other properties in the area and restated information included in the application (file). Mr. Allard stated that there is no fair and substantial relationship between the purpose of the Zoning Ordinance prohibition against Watercross events and the application here. He also reiterated other points he made earlier in the meeting regarding noise. He stated that he and the applicants believe that all the criteria for a Variance within their application (file) have been satisfied.

Ms. Arendarczyk stated that she received a comment from someone stating they tried to speak several times during public comment, but could not, and Ms. Arendarczyk asked if she could read the comment. Ms. Winona MacKinnon allowed it.

Angela Valencorp (73 Stevens Hill Rd) stated that she drives by this property in order to get home and there was no traffic during the events last year and that even though she had her windows down, she could not hear anything from the road. She stated that her family enjoys going and that she would be happy to have something like this so close to home.

Public Comment Closed: 9:17pm

Mrs. Bascom asked the applicant to describe plans for recovery of sleds that end up in the pond.

Mr. Allard deferred to Mr. Reynolds to answer. Mr. Reynolds stated that this sport has been going on for a long time, and the sport has a recovery system. He explained that there is a pontoon boat with a crane on the front of it and if a snowmobile was to sink, the recovery boat immediately leaves the shore and races to the snowmobile to make sure that the driver is okay and to get the snowmobile out as quickly as possible. He also noted that these snowmobiles are designed to be sealed so much that any ingestion of water would destroy the machine and any discharge of fluids would do the same. He stated that the most time a machine would spend underwater would be three (3) minutes at the most and that each machine is equipped with a buoy that pops out of the water if it happens to sink, but by that time the boat is already there pulling the machine out. Ms. Winona MacKinnon asked that since he has testified that these machines have sealed fuel systems

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416 that are designed not to leak, what happens if they do leak, and are they equipped to deal with oil
417 and gas. Mr. Reynolds responded that when the snowmobiles leave the line, they are only holding
418 one (1) gallon of gasoline. He offered to show the Board how the system works as he has a
419 snowmobile in the garage. He stated that if a snowmobile was to leak, it would be less than a two-
420 stroke boat on Pawtuckaway. Ms. Winona MacKinnon asked again if they are equipped to deal with
421 gas and oil if they were to leak into the pond. Mr. Reynolds stated that if there was a massive oil
422 spill, they have EMTs and paramedics on site and they would also call the fire department. He
423 restated that each snowmobile only contains one (1) gallon of gasoline in a sealed system, so there
424 is no way a massive oil spill or fuel spill could ever happen. He also restated that this event has
425 been approved by NH Fish and Game and the Wildlife department and asked if Ms. Winona
426 MacKinnon believed that they would approve it if there was any danger to wildlife or humans. Ms.
427 Winona MacKinnon responded that she is not sure that the question she is asking is of much
428 importance to NH Fish and Game, but that she is asking about possible pollution of the aquifer and
429 people's drinking water. She stated that she is not sure that a gallon of gasoline would do anything,
430 but because someone suggested that it might, she would like her question answered. Mr. Reynolds
431 responded that yes they are equipped to deal with a spill if one were to happen. He stated that the
432 little bit that would leak would rise to the surface and they would absorb it with oil absorbent mats.
433 Ms. Winona MacKinnon asked if they have those mats on site. Mr. Reynolds confirmed. Mr. Allard
434 noted that that would be something they would discuss with the Planning Board for site plan
435 review. He also noted that there will be EMTs, paramedics, and a police detail on site as well so if
436 something really went wrong all of those people would be able to help as well and could call DES if
437 needed.

438 Mr. Danaïs read an excerpt from a website that the density of water in liquid form at room
439 temperature is about 980 kilograms per cubic meter and the density of gas is about 720 kilograms
440 per cubic meter, so gas is lighter and less dense than water and gasoline will float on top of the
441 water.

442
443 Ms. Winona MacKinnon left the meeting due to an internet issue. Mr. Danaïs called for a five-
444 minute recess while Ms. Winona MacKinnon attended to her internet connection. Mrs. Bascom
445 approved the call at 9:35pm. The Board reconvened at 9:40pm.

446
447 Mr. Danaïs added to his earlier comment that MTBE had been an additive in gasoline and that was
448 polluting water in the past from motorboats. He noted that MTBE is no longer added and that it
449 was replaced by alcohol. Ms. Winona MacKinnon noted that a lot of the water up at the crossroads

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450 in Northwood was polluted with MTBE. Mrs. Bascom agreed and said she has a filter at her
451 farmhouse because of it, and that it is not an uncommon thing.

452 Mr. Danais suggested that Mr. Reynolds have five (5) machines running on the pond the next
453 weekend so that members of the Zoning Board could attend and hear how much noise there is and
454 speak with the experts at the site, so that the Board would have first hand knowledge of the
455 situation. Ms. Winona MacKinnon asked for it not to be the coming Saturday and Mrs. Bascom
456 added that Sunday is Father's Day. Ms. Winona MacKinnon suggested it be two weekends from this
457 meeting. Ms. Shippee-Rice noted that if there is to be another noise test done, that it should be
458 ensured that it is as close to the real event as possible, as several people were concerned that the
459 last test was not commensurate with the actual event. Mrs. Bascom noted a document from NH
460 Fish and Game that stated there was to be an event June 25th through the 27th and first suggested
461 that the Board go to that event instead of doing another test, but then asked the applicants to
462 speak on it as it looked like it was scheduled to take place on their property.

463 Ms. Defrancesco suggested that the Board allow them to hold the event on June 25th and 27th and
464 all of the Board attend. She noted that they could ask Chris Sterndale for a special permit for the
465 one time and the Board can decide on whether they can hold events like that in the future
466 afterwards. Ms. Winona MacKinnon stated that she does not think the Zoning Board has the power
467 to authorize that, and that they only have the power to act on the request for the Variance.

468 Ms. Defrancesco stated that she believes they have to have the event and have people witness it to
469 have a fair trial. Ms. Winona MacKinnon suggested that they have sound experts that are not
470 affiliated on either side come out. Ms. Defrancesco reiterated that people were concerned that
471 there were not the same amount of machines on the water as there would be during an actual
472 event, so by testing during the actual event, those concerns would be alleviated. Ms. Shippee-Rice
473 asked how many vehicles would be running during an actual race. Ms. Defrancesco responded that
474 it depends and that it is based on a lot of factors. She stated that until the Board actually witnesses
475 the event, it will be hard for them to understand. Mr. Bassett asked how many snowmobiles race at
476 one time in a drag. Ms. Defrancesco responded five (5). Mr. Bassett asked how many in a round
477 circle. Ms. Defrancesco responded five (5) at the most. Mr. Bassett asked if there are any other race
478 types that have more than five (5) snowmobiles running at the same time. Ms. Defrancesco
479 responded no, that five (5) is the maximum.

480 Mr. Bassett asked if the Board could do an approval for just one race. Ms. Winona MacKinnon
481 answered no, because that is not what the application is for. Mr. Bassett suggested that the Board
482 review the five criteria and other important information regarding the application (file) and asked
483 what else the Board would be voting on. Ms. Winona MacKinnon answered that they might vote on
484 conditions for the Variance. She noted that she would like more information about the sound

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485 because even though there is no sound ordinance, there are people who live right near there who
486 do not like it as well as people farther away who are testifying about the noise. Mr. Bassett asked if
487 the applicant had already come up with certain conditions that they would like the Board to vote
488 on. Ms. Winona MacKinnon confirmed that they did not want to be able to hold the event during
489 certain holidays and they are willing to stop practicing on weekends that are not race weekends.
490 Mr. Bonser commented that if the Board grants this Variance now, it still has to go to the Planning
491 Board which also will go through the noise and all of these issues. He stated he would like the
492 Board to grant it so that it can move into their hands because they have more expertise and more
493 assets that they can use to grant this or deny it.

494 Ms. Winona MacKinnon commented that in her view, this application is asking to expand a non-
495 confirming use which is not allowed in the Zoning Ordinance. She noted that a lot of people enjoy
496 this event and that it is great for families, but there are also people who are really put off by it and
497 she would like more information about the sound. She commented that it would help her vote. She
498 noted that the Board has had conflicting information presented to them and she would like a third
499 party to do some testing. Mrs. Bascom asked how Ms. Winona MacKinnon plans to get an unbiased
500 opinion if the Board is not going to allow a race to happen. Ms. Winona MacKinnon stated that the
501 applicants can still have practices without the Board's permission. Mrs. Bascom asked if anyone
502 who owns property is supposed to check with their neighbors before they do things that cause
503 noise, she noted that her neighbors had complained to her about setting fireworks off but that it is
504 her land, and it is a similar situation with the applicants. Ms. Winona MacKinnon responded that
505 there is a Zoning Ordinance that was adopted by vote of the town. Mrs. Bascom asked for
506 clarification that the Zoning Ordinance prevents someone from doing what they want on their
507 property. Ms. Shippee-Rice commented that she believes Mrs. Bascom's comment is stepping a
508 little too far because she believes that it is a two way street and saying that anyone can do
509 anything they want on their property is a big statement, using the example that someone cannot
510 burn on their property whenever they want to. Mrs. Bascom responded that she understands that
511 there are limitations when it is going to harm the neighbors. Ms. Shippee-Rice commented that
512 there is the possibility that this event has the potential to harm other people in the area. Mrs.
513 Bascom commented that then all races need to be stopped because the noise levels from them are
514 harming people's hearing, that all snowmobiles need to be stopped even in the wintertime, that
515 boats need to go, that drag racing needs to stop. Ms. Winona MacKinnon commented that those
516 are not questions before the Board and Ms. Shippee-Rice stated that Mrs. Bascom is taking things a
517 little too far. Ms. Winona MacKinnon stated that there are people who are very affected by noise
518 levels, using the example of her housemate who is a Vietnam Veteran and is very noise sensitive.

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She noted that he has to leave home anytime there is a lot of noise around and she does not feel he should have to do that. She noted that it is a tough question.

Motion Made by: Mr. Danais to approve the request for **Case 21-008-VA** Application from Tami Defrancesco and James George, requesting a Variance from Article 2 Section C of the Zoning Ordinance to permit Watercross events with incidental camping (ie. commercial use) three weekends per year. The property is located at 214 Raymond Rd. in Nottingham, NH, and is identified as Tax Map 69 Lots 8 & 10.

Seconded by: Mrs. Bascom

Ms. Winona MacKinnon reminded the Board that the applicants suggested two conditions that may be important to the neighbors and asked Mr. Danais to incorporate those into his motion if he so wishes to.

Motion Made by: Mr. Danais to approve the request for **Case 21-008-VA** Application from Tami Defrancesco and James George, requesting a Variance from Article 2 Section C of the Zoning Ordinance to permit Watercross events with incidental camping (ie. commercial use) three weekends per year. With the conditions that there be no racing on Memorial Day, Fourth of July, or Labor Day weekends and that they will not allow any snowmobiles on the pond other than on these nine (9) days. The property is located at 214 Raymond Rd. in Nottingham, NH, and is identified as Tax Map 69 Lots 8 & 10.

Seconded by: Mrs. Bascom

Roll Call Vote: 3-2-0 **Motion Passed**

Winona MacKinnon- N	Shippee-Rice- N	Bascom- Y
Bonser- Y	Danais- Y	

Ms. Winona MacKinnon advised the applicant of the 30-day appeal window.

Case Closed: 10:06pm

Case 21-009-VA Application from Mitch & Carol Hale, represented by Barry Gier, Jones & Beach Engineers, Inc. requesting a Variance from Article 3 Section C (3) of the Nottingham Zoning Ordinance to permit construction of a septic system within 20' of property line. Proposed septic system to be located 6' from north property line. The property is located at 59 Shore Drive in Nottingham, NH and is identified as Tax Map 68 Lots 37.

Mr. Danais commented that it is difficult for him to make a decision on this case either way without knowing how the adjacent property may be affected. Ms. Winona MacKinnon noted that that information may come out during the hearing. Mr. Danais noted that he had not been present for

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550 the hearing. Ms. Winona MacKinnon clarified that this is the first time the Board has heard this case
551 and the applicant may answer his question during their presentation. Mr. Danaïs further
552 commented that the applicant provided site maps, but did not provide a map of the adjacent
553 property. Ms. Winona MacKinnon explained that these are questions to ask the applicant.
554 Ian MacKinnon from Jones & Beach Engineers, Inc. represented the applicants, as Barry Gier could
555 not be present, joined with Anthony Jones who completed the physical design of the proposed
556 septic system. Mr. MacKinnon shared his screen with a map of the property and summarized some
557 points included in the application (file). He noted that there was an error in the application as the
558 septic system is planned north and not against the northerly property line. He stated that the
559 current tank would actually be considered a cesspool which is no longer permitted. He also noted
560 that the applicant will submit an application to the state after being granted local approval from
561 the Board.

562 Mr. Danaïs asked what is happening to the abutter on Lot 36 and how close might the septic
563 system be to structures, leach lines, or wells. He also noted that on the map, between the well and
564 the septic tank, the 75 protective radius cuts through the leech field. Mr. MacKinnon confirmed that
565 it does cut through the leech field. He also responded to the question about the abutter that all
566 disturbance from the construction will stay on the applicant's property and that he and Anthony
567 took a site walk with the landowner of Lot 36 and could not find the well, which he stated is not
568 uncommon with older lake lots. He noted where the well is on Lot 38 on the map. Mr. MacKinnon
569 stated that issues regarding well setbacks will have to be dealt with at the state level with the
570 landowners as the state will require them to include that in their responses to the state. He stated
571 that the current tank is non-confirming and is seeping, so they are attempting to construct a fully
572 conforming system that would improve water quality. Mr. Jones noted that the well on the
573 applicant's lot is currently only 33 feet from the existing cesspool.

574 Mr. Bonser asked for the map to be zoomed in to the corner of Lot 36. He stated that he visited the
575 Lot the day of this meeting and he believes the well to be in that corner and that it may be 35 to 40
576 feet from the end of the proposed septic system.

577 Ms. Shippee-Rice asked what the standard distance between a well and a septic system is. Ms.
578 Winona MacKinnon responded 75 feet.

579 Mr. Jones stated that if they adhered to every single well setback on the site, there would be
580 nowhere to site a septic system, especially due to the proximity to the lake. Mr. MacKinnon stated
581 that they believe that they have chosen the best location that meets the state criteria.

582 Ms. Shippee-Rice asked what the potential impact of the septic system location on the well of the
583 abutter. Mr. Jones noted that he has an allegiance to the environmental impacts of where he is to

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584 place a system and he stated that the tubes of the system are covered in a treatment fabric so that
585 anything that was to end up in the ground is pretty well treated.

586 Mr. Bonser noted that he did not see any data that indicated a test being done. Mr. MacKinnon
587 noted the test pits on the map, but they have a full septic design plan, they just did not submit it
588 with their Zoning Board application.

589 Ms. Shippee-Rice asked for clarification that Mr. Jones is saying that this location is the best for this
590 lot owner as well as the lake. Mr. Jones confirmed. Mr. MacKinnon noted that that is based on the
591 soil samples they were able to gather on the site. Ms. Shippee-Rice asked if they had considered if
592 this was the best place in terms of the safety of the abutter's well. Mr. Jones confirmed. Ms.

593 Shippee-Rice asked if they can say that the abutter's well is safe given their current location of this
594 type of new septic system. Mr. Jones responded that they believe it is as safe as they could design
595 given the circumstances. Ms. Shippee-Rice noted that saying it is as safe as they could design it is
596 not the same as saying it is safe for the abutter's well. Mr. MacKinnon stated that they have to be
597 careful to provide a guarantee, which gets into more of a scientific water quality analysis, and is
598 something the state would be looking at.

599 Ms. Winona MacKinnon asked for clarification that Mr. Bonser stated where the well was on Lot 36,
600 but Mr. MacKinnon stated the lot owner could not find or did not know where the well was. Mr.
601 MacKinnon responded that the landowner did not know where it was.

602 Linda Elliott, abutter and landowner of Lot 36 (61 Shore Dr) stated that she was not 100% where
603 the well was because the cover stated poisonous gas do not open, so she did not open it, but
604 someone had reused a cover from something else to cover the well. She stated that she took
605 measuring tape between the two points of her well and the proposed septic tank and that it is
606 between 30 and 40 feet, which does concern her a little bit as she does not want to worry about
607 her drinking water. She stated that as long as they can make the system as efficient as possible, she
608 does not have a problem with the septic being that close, as long as everything is done to make it
609 as safe as possible for her.

610 Mr. Jones stated that it is statistically unlikely that an effluent discharge through the leach field
611 would infiltrate into the well because it is hydraulically down gradient from it. He also stated in
612 response to a question from Mr. Bonser that they found evidence of the seasonal high water table
613 at 40 inches bellow the ground and that the first test bit was 58 inches.

614 Mr. Bonser commented that if the well had not been polluted from the current cesspool, it is
615 unlikely that it will ever be polluted. He also asked how far is the proposed system from the other
616 neighbor's well. Mr. MacKinnon stated an estimate in the 50 to 55 foot range and Mr. Jones stated
617 58 to 60 feet.

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618 Mr. Bonser suggested that they move the septic system closer to test pit two (2). Mr. Jones
619 responded that it definitely makes sense to put it closer to the applicant's well than to anyone
620 else's, however that well is directly down gradient of the leech field. Mr. Bonser asked about the
621 current cesspool. Mr. Jones responded that it is at about the same elevation, so it would be going
622 toward the lake if anything.

623 Ms. Winona MacKinnon asked if Ms. Elliott's well will be on the plans that get sent to the state. Mr.
624 Jones confirmed that they can definitely add it to the plans. Ms. Winona MacKinnon asked if it is
625 required. Mr. MacKinnon responded that if they know about it and they can find it, generally the
626 state is going to ask for it to be shown. Mr. Jones commented that ethically they should show it,
627 whether it is required or not. Ms. Winona MacKinnon asked if the state would go over this pretty
628 well as it is a lakefront lot and if they would take Ms. Elliott's safety into account when they look
629 over their application. Mr. Jones stated that he believes that they would take her safety into
630 account the same way that they would take any abutter's safety into account. Mr. MacKinnon
631 stated that yes, the state does have to take into account abutting properties, impacts, existing
632 setbacks, existing infrastructure, but they do not have a hard cutoff at the property line. Ms.
633 Winona MacKinnon commented that if she was Ms. Elliott, she would feel better if someone else
634 looked at this and said that it was okay, and that she hopes that the state will be looking at that.
635 Mr. MacKinnon stated that the state absolutely will take that into account.

636 Ms. Winona MacKinnon commented that it is her understanding that the state has to approve
637 every septic tank and because they are close to a lake there are a lot more rules and regulations.
638 Mr. Bonser stated that yes they enforce the rules and Mr. Jones stated that he does not believe
639 there are any special rules that are applied to lakes. Mr. Bonser commented that the lots are so
640 tight that they may make exceptions.

641 Ms. Shippee-Rice commented that she sees competing interest between the lake, the homeowner
642 who is building the septic system, and the abutter's well. Mr. MacKinnon confirmed and stated that
643 all of that was balanced with site features, topography, soil information, and existing structures.

644 Ms. Winona MacKinnon commented that these lake lots, which all predate zoning, are the reason
645 why the town needs zoning, because it is hard to meet all the requirements of wells and septic
646 and setbacks for houses and other structures on a quarter acre lot.

647 Ms. Shippee-Rice stated that she is concerned with everyone involved, and is hearing that the
648 designers have balanced all of that to come to this, and not only is this Board going to look at it,
649 but the state as well. Mr. MacKinnon confirmed and stated that the local court may not dive that far
650 in, that the state would do that, and that ethically they are inclined to do everything they can or it
651 would reflect negatively on them.

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652 Mr. Danais asked if there is a rule that says a well cannot be within 75 feet of the lake. Mr. Jones
653 responded that there is no explicit separation requirement for a well to the lake. Mr. Danais also
654 asked if it was a dug or drilled well. Mr. Jones answered it is a drilled artesian well. Mr. Danais
655 stated that the new septic system falls within the 75 foot radius for the leech line of the existing
656 well and he was under the understanding that no portion of the leech line could be within the 75
657 feet. Mr. Jones stated that he is correct and that that is one of the reliefs that they will be
658 requesting from the state. Mr. Danais asked why they would want to allow within 75 feet of the
659 existing well on the neighbor's abutting land. Mr. Jones responded that there is no place to put a
660 leech field that offers effective treatment that is not within 75 feet of a well. Mr. Danais asked if
661 they do not mind polluting the abutters well but not theirs. Mr. Jones responded that they are
662 polluting their well the same if not more than the abutter's well, because the system is down
663 gradient from the abutter's well and their well is down gradient from the system.

664 Mr. Danais suggested they put a new well and bring the leech field closer to the house. Mr. Jones
665 commented that then it would be closer to the lake and it is closer to the abutter's well on Lot 38.
666 Mr. Danais asked how close to the lake a leech field can be. Mr. Jones answered at a minimum, 75
667 feet. Mr. Danais stated they could move it quite a bit closer to the 75 foot line. Mr. Jones
668 responded that the topography becomes a challenge and it would be impossible to install a leech
669 field there that doesn't end up with grading to match the cover required for a leech field that
670 would extend onto the abutter's lot.

671 Mr. Bonser commented that test pit one (1) is way superior to test pit two (2). He stated the water
672 table is like 18 inches deeper. Mr. Jones responded that then they would be 15 feet from their well.
673 Mr. MacKinnon responded to comments made by Mr. Danais is drilling a new well and moving the
674 septic, that they cannot enter the 75 foot setback with a new system and that there really is no
675 solution that would remove any more setbacks. Mr. Jones also noted that the area around test pit
676 one (1) is wooded and it is best to keep any natural ground cover. Mr. MacKinnon noted that in
677 their location, there are only small shrubs and such.

678 Mr. Jones reiterated that they are seeking relief from the 20 foot separation to the property line,
679 though the state minimum is 10. They are seeking 6 because there is no way to get it further.

680 Ms. Shippee-Rice asked if the situation was reversed and they were looking at it from the abutter's
681 perspective and they came to them as a consultant, what would they say. Mr. MacKinnon stated
682 that there are many ways to look at any design and things can be shifted here and there, but the
683 time spent shifting it back and forth would be too much, and that either way the state authority has
684 to consider these things and give feedback. Ms. Shippee-Rice asked if there is any wiggle room.

685 Ms. Winona MacKinnon suggested that they could rip down the existing shed and put it there. Mr.
686 Jones stated that they could also redrill the well in other places, but at what point is it an

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687 unnecessary hardship. Mr. MacKinnon stated that of course there is wiggle room, and there would
688 be for any project, but they have designed a system that meets the minimum requirements of the
689 state's septic design and they believe that they've sited it in their professional opinion, based on
690 the existing soil conditions and weighing different benefits on the site.

691 Mr. Jones asked that pending the Board's consideration, if they could meet with Ms. Elliott and
692 verify what is underneath the cover that is labeled poisonous gas. If it is a septic system, there
693 would be a lot less to be concerned about than what they are discussing and if it is a well, they can
694 discuss how they want to handle that.

695 Ms. Elliott stated that Mr. Bonser came to the lot and lifted the cover and it is the well.

696 Mitch Hale, applicant (59 Shore Drive) described the shed and how it is constructed. Mr. MacKinnon
697 noted that because it has concrete in the ground, it is considered on a foundation. Ms. Winona
698 MacKinnon noted that moving it would be expensive. Mr. MacKinnon stated that the septic system
699 can be installed without disturbing any existing structures.

700 Mr. Danaïs stated that he would like to see this application come back with the location of the
701 abutter's well as well as plans for relocation of their well. Mr. MacKinnon asked if he would like to
702 see a new location for their well with the same location for the septic. Mr. Danaïs explained that
703 with a new well location, the septic could be moved farther away from the abutter's well. Mr.
704 MacKinnon explained that there are other factors on the property that would keep them from
705 putting the septic system closer to the house. He stated that these changes are not minimizing any
706 setbacks that are already present. Ms. Winona MacKinnon stated that she does not think the Board
707 has any authority to ask them to re-site the well. She also noted that she believes a lot of the
708 Board's concern lies with the fact that they are not looking at the slopes, even though Mr.
709 MacKinnon is citing those. Ms. Shippee-Rice agreed. Mr. Jones commented that if they were to
710 move the septic, it would only burden a well on another lot while also taking the burden from the
711 other, so there is no true win situation.

712 Mr. MacKinnon stated that they could redesign it with small tweaks here and there and there will
713 be more impact on some things and less impact on others and that they cannot get outside of any
714 of the setbacks.

715 **Motion Made By:** Mrs. Bascom to reconsider and continue **Case 21-009-VA** *Application from*
716 *Mitch & Carol Hale, represented by Barry Gier, Jones & Beach Engineers, Inc. requesting a Variance*
717 *from Article 3 Section C (3) of the Nottingham Zoning Ordinance to permit construction of a septic*
718 *system within 20' of property line. Proposed septic system to be located 6' from north property line.*
719 *for the Board's meeting in July, July 20th at 7pm. The property is located at 59 Shore Drive in*
720 *Nottingham, NH and is identified as Tax Map 68 Lots 37.*

721 **Seconded By:** Mr. Danaïs

NOTTINGHAM ZONING BOARD OF ADJUSTMENT

June 15, 2021

Official Minutes as of 7/20/21

722 **Roll Call Vote: 3-2-0 Motion Passed**

Winona MacKinnon- N	Shippee-Rice- N	Bascom- Y
Bonser- Y	Danais- Y	

723
724 Mr. MacKinnon asked if the Board has any intent to request a site walk. Ms. Winona MacKinnon
725 stated that the Board recommends it for all cases before the Board, but it is not required. Saturday
726 July 17th at 11am was set as the date for the site walk.

727
728 **Case Closed: 11:22pm**

729
730 For the Nottingham Zoning Board of Adjustment
731 Julia Warren