

February 8, 2023

Planning Board
Town of Durham, NH.
8 Newmarket Rd.
Durham, NH. 03824

RE: Conditional Use Permit Application
14 Riverview Road
Tax Map 214- Lot 9
Durham, NH.

Dear Members of the Planning Board,

Property owners Keith Carney and Adrian R. Shulman ("Applicant"), respectfully request your review and determination regarding the following Conditional Use permit application and documentation submitted in support of a proposed pressure treated wood stairway that's needed to safely access our existing dock. The referenced property is an existing and developed single-family residential site located in the Shoreland Protection Overlay District (SPOD) abutting the Oyster River ("Property"). The proposed scope of work will be located within the 125-foot shoreland buffer area and the 100-foot State of New Hampshire Tidal Buffer portion of the Property. The stairway structure is considered a Conditional Use as required in the Town of Durham SPOD regulations.

The Property is approximately 1-acre, or 43,560 square feet and contains an existing primary structure (house), attached accessory tool shed, associated impervious paver walkways, paver deck area, retaining walls, paved driveway and crushed stone walkways. In addition, there are three (3) existing marine structures permitted in 2006 that are currently being utilized to access the Oyster River; a 6 x 24-foot permanent wood dock pier that accommodates a seasonally installed 3 x 40-foot aluminum ramp and 10 x 20-foot wood float. The waterway access is located at the southeastern corner of the Property. The Property's land cover primarily consists of forested oak, pine, maple and hickory trees and associated saplings, along with varying shrubs, and lawn grass around ornamental planting beds of bark mulch. The Property's shoreline frontage measures approximately 290 feet and generally consists of marsh grass, rock rip rap, and forested shrubs and trees. The Property's topography is primarily sloped downward from Riverview Road to the Oyster River shoreline.

The primary reason we have requested this Conditional Use permit is due to the extremely dangerous terrain that we have to traverse up and down to and from our dock. The current "pathway" used is a steep, rocky, upland hillside. It is extremely dangerous for us, our family, and friends, to have to hike up and down the loose rocky hillside. We continually fear that family, friends, or whomever is visiting will be severely injured simply trying to get to and from the dock. To alleviate this severe fall risk, we propose to construct a stairway to get up and down to and from the dock. The scope of work includes digging holes

to accommodate footings for the stairway structural support posts, building and connecting stair stringers, treads, handrails, and balusters ("Project"). Please refer to the plan sheet exhibits labeled "Existing Conditions Plan" and "Proposed Conditions Plan" prepared by TF Moran, Inc., to view the site and Project footprint.

As indicated on the Proposed Conditions Plan, the new impervious area proposed is an approximately .16% increase (15.32% to 15.48%). This includes 95 square feet sf of total impact, where 63 sf is permanent, and 95 sf is temporary impact. The Project area's grade slope percentage is approximately 34% to the existing dock and the ground cover is primarily comprised of both small and medium size loose rock material. Temporary impacts limited to the construction area will be to install footings for the stairway, move and relocate the loose rocks and two (2) pine saplings that are in line with the Project. The stairway dimensions will measure approximately 38" wide x 20' length and will comprise of 6x6 pressure treated wood support posts, installed on 14" pier footing forms, buried at a minimum of 36" to compensate for the frostline depth. The 6x6 posts and associated footing forms will be back filled and compacted with the same soil and small loose rock material in the Project area. The stair stringers will be attached to the 6x6 posts and to the top and bottom landings. The stairway is proposed to have a slight curved angle to avoid any impact to the large oak tree in the immediate vicinity as is shown on the Proposed Conditions Plan.

The following narrative demonstrates fulfillment of both the Specific and General Criteria for consideration of a Conditional Use Permit:

Four (4) Specific Criteria

1. *There is no alternative location on the parcel that is outside of the SPOD that is reasonably practical for the proposed use;*

Response: The primary purpose of the proposed stairway is to provide safe and direct access to the existing dock. Any alternative location would not align with the existing dock structure. It would be entirely impractical to situate the staircase to access the dock from the side or in a perpendicular manner. That would create an immense negative impact to the natural environment and shoreland area.

2. *The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;*

Response: There is no grading proposed; however, minor excavation is required to pour footings for the posts and landing specification requirements. All soil disturbance will be limited to the holes for the 6x6 posts, pier footing forms and landings needed for the stringer attachments. All construction activities will adhere to the best management practices to mitigate any detrimental impact to the area.

3. *The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the adjacent shoreland and waterbody as well as downstream waterbodies, and mitigation activities will be undertaken to counterbalance any adverse impacts; and*

Response: The Project will not adversely impact the SPOD. The location of the Project is well upland from the Oyster River and is approximately 4 feet above the mean highwater line. The pressure treated wood

stairway design will have a negligible impact to the shoreland as there will be a minimal amount of soil disruption to the sloped hillside. There will be zero impact to the waterbody or downstream waterbodies. To offset the minor increase in impervious area within the SPOD, we would be open to planting additional native vegetation in the project area's grid segment for mitigation and help armor the steep grade. The grid segment is delineated on the Proposed Conditions Plan sheet.

4. *Restoration activities will leave the site, as nearly as possible, in its existing condition and grade at the time of application for the Conditional Use Permit.*

Response: Restorative activities will be limited to those required to achieve the objectives of the Project. All temporary disturbed areas required to achieve those objectives will be stabilized with the same soil material in the immediate Project area and by additional native plantings as recommended by either the Conservation Commission, Planning and Zoning Board or the Town Planner. All restorative activities will be monitored and evaluated by TF Moran's Certified Wetland Scientist.

Eight (8) General Criteria.

1. *Site suitability: The site is suitable for the proposed use. This includes:*

- a. *Adequate vehicular and pedestrian access for the intended use.*
- b. *The availability of adequate public services to serve the intended use including emergency services, pedestrian facilities, schools, and other municipal services.*
- c. *The absence of environmental constraints (floodplain, steep slope, etc.)*
- d. *The availability of appropriate utilities to serve the intended use including water, sewage disposal, stormwater disposal, electricity, and similar utilities.*

Response: The proposal improves pedestrian access to the existing dock. The proposal does not include any change to existing public services. The Project does not include any change to the Project area existing topography and the stairway structure will be constructed above Federal Emergency Management Agency's base flood elevation as depicted on the Site Plans. To offset the additional impervious area, additional native vegetation enhancement can be planted as recommended by the Planning Board and the Town Planner. The proposal does not include any proposed changes to existing water, sewage disposal, stormwater disposal, electricity, and other similar utilities.

2. *External impacts: The external impacts of the proposed use on abutting properties and the neighborhood shall be no greater than the impacts of adjacent existing uses or other uses permitted in the zone. This shall include, but not be limited to, traffic, noise, odors, vibrations, dust, fumes, hours of operation, and exterior lighting and glare. In addition, the location, nature, design, and height of the structure and its appurtenances, its scale with reference to its surroundings, and the nature and intensity of the use, shall not have an adverse effect on the surrounding environment nor discourage the appropriate and orderly development and use of land and buildings in the neighborhood.*

Response: The Project will pose no external impact to the neighbors as the stairway will be setback approximately 20 feet from the closest neighboring property to the east. The stairway will not impede

the view to the Oyster River as the stairs will be situated on the out of view downslope away from the neighbor's home. All other abutters will experience no change of privacy and screening as is currently experienced.

3. *Character of the site development: The proposed layout and design of the site shall not be incompatible with the established character of the neighborhood and shall mitigate any external impacts of the use on the neighborhood. This shall include, but not be limited to, the relationship of the building to the street, the amount, location, and screening of off-street parking, the treatment of yards and setbacks, the buffering of adjacent properties, and provisions for vehicular and pedestrian access to and within the site.*

Response: The Project's site layout is certainly compatible with the surrounding residential neighborhood. There will be no detrimental impacts to the neighborhood and other similarly situated waterfront properties. The stairway will be setback from the neighboring property line by at least 20 feet and will be virtually out of view on the downward slope of the shoreline terrain. From the waterway, the pressure treated wood stairway will blend in with the existing dock structure, as well as with other similar neighborhood waterway access structures do in the immediate neighborhood and other residential properties along the Oyster River.

4. *Character of the buildings and structures: The design of any new buildings or structures and the modification of existing buildings or structures on the site shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure, the roof line, the architectural treatment of the front or street elevation, the location of the principal entrance, and the material and colors proposed to be used.*

Response: The design of the proposed stairway structure is entirely compatible with the surrounding character of the residential neighborhood. The scale, height and massing are the minimum necessary to create a reasonable direct stairway access to the existing dock. The stairs will be practically out of view from much of the neighborhood and will be built on the downward slope away from the closest neighbor's property.

5. *Preservation of natural, cultural, historic, and scenic resources: The proposed use of the site, including all related development activities, shall preserve identified natural, cultural, historic, and scenic resources on the site and shall not degrade such identified resources on abutting properties. This shall include, but not be limited to, identified wetlands, floodplains, significant wildlife habitat, stonewalls, mature tree lines, cemeteries, graveyards, designated historic buildings or sites, scenic views, and viewsheds.*

Response: As part of the State of New Hampshire Shoreland Permit review process, the New Hampshire Natural Heritage Bureau (NHB) determined that, although there was a NHB record (e.g., rare wildlife, plant, and/or natural community) present in the vicinity, the NHB did not expect that it will be impacted by the proposed project. This determination was made based on the project information submitted via the NHB Datacheck Tool on 11/7/2022.

6. *Impact on property values: The proposed use will not cause or contribute to a significant decline in property values of adjacent properties.*

Response: The proposed project will have no negative impact on surrounding property values.

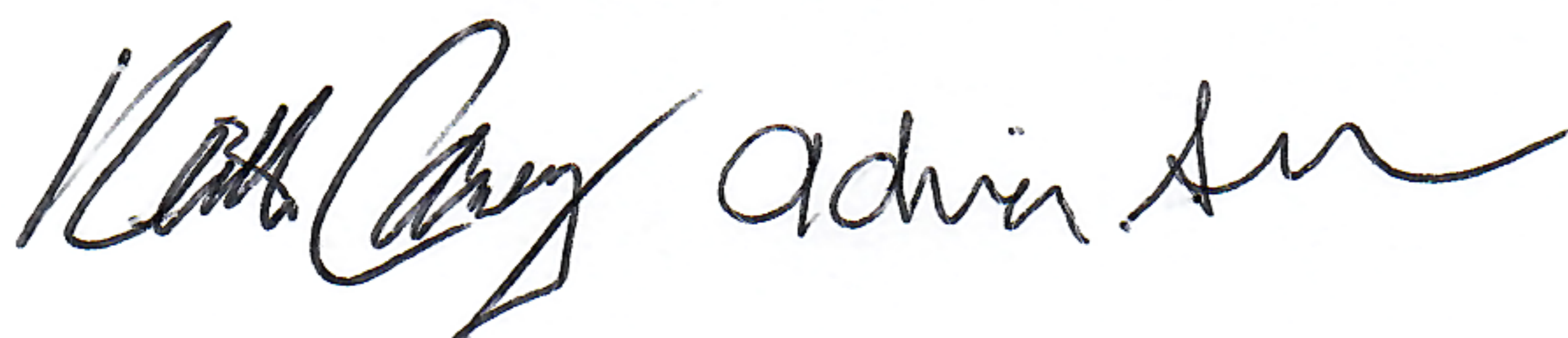
7. *Availability of Public Services & Facilities: Adequate and lawful facilities or arrangements for sewage disposal, solid waste disposal, water supply, utilities, drainage, and other necessary public or private services, are approved or assured, to the end that the use will be capable of proper operation. In addition, it must be determined that these services will not cause excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police protection, fire protection, and schools.*

Response: The addition of the stairway to this residential property will have no impact on any public works or private services and facilities.

8. *Fiscal impacts: The proposed use will not have a negative fiscal impact on the Town unless the Planning Board determines that there are other positive community impacts that offset the negative fiscal aspects of the proposed use. The Planning Board's decision shall be based upon an analysis of the fiscal impact of the project on the town. The Planning Board may commission, at the applicant's expense, an independent analysis of the fiscal impact of the project on the town.*

Response: The Project will pose no fiscal impact to the Town of Durham.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Keith Carney and Adrian Shulman". The signature is fluid and cursive, with the names written in a single line.

Keith Carney and Adrian Shulman

c: Jay Aube, Certified Wetland Scientist, TF Moran Engineering