

Conditional Use Hearing  
Dionicia Hernandez  
May 12, 2016  
Continued: May 17, 2016

*To consider a conditional use request by Dionicia Hernandez to replace an existing accessory structure within the 150 foot setback from Caspian Lake on her property at 62 Randolph Road.*

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.7 Shoreland Protection District; 5.4 Conditional Uses and 8.9 (3 – 6) Non-conforming Uses and Structures

**Warnings** were posted on April 21, 2016 at the Greensboro Town Hall, the Greensboro Post Office, the Greensboro Bend Post Office, and Willey's and Smith's Stores. The warning was sent to the following abutters and neighboring property owners: MacNeil Hunt; Theodate Hernandez; Stella and Joseph Allen; and Charles and Martha Haynes on April 21, 2016. It was published in the Hardwick Gazette on Wednesday, April 27, 2016.

**Development Review Board members present:**

**Thursday, May 12, 2016** - Linda Romans, Sean Thomson, Janet Travers, Jane Woodruff, Wayne Young, Lee Wright (alternate).

**Tuesday, May 17, 2016** - Linda Romans, Nat Smith, Janet Travers, Jane Woodruff, Wayne Young, Lee Wright (alternate).

**Development Review Board members absent:**

**Thursday, May 12, 2016** - B. J. Gray (recused, friend of the Hernandez family), MacNeil (recused, his family owns abutting land), Nat Smith

**Tuesday, May 17, 2016** - B. J. Gray (recused, see above); MacNeil (recused, see above), Sean Thomson

**Others present:**

**Thursday, May 12, 2016** Jay Allen, abutter and Kristen Leahy, Zoning Administrator

**Tuesday, May 17, 2016** Patrick Kane, architect and applicant's representative; Jay Allen, abutter and Kristen Leahy, Zoning Administrator

**Correspondence from interested persons:** none

**During the course of the hearing the following exhibits were submitted:**

- #1 Photograph of the present shed from the Allen house
- #2 Photograph of the present shed from the lake
- #3 Photograph of the shed from the small camp, NW of the shed.
- #4 Drawings of the North, South, East, & West elevations of the planned shed.

**Summary of Discussion**

**Thursday, May 12, 2016**

Ms. Woodruff, chair, began the hearing at 7:15 PM. Since Mr. Kane, architect and applicant's representative, was not in attendance, the hearing was commenced and continued to Tuesday, May 17<sup>th</sup>.

**Tuesday, May 17, 2016**

Ms. Woodruff, chair, began the hearing at 7:00 PM. After all were sworn in, she asked Mr. Kane to explain what Ms. Hernandez wants to do. Ms. Hernandez would like to tear down an existing, nonconforming accessory structure and replace it with a new accessory structure in the same location. Like the present structure, it would be used for storage and as a play space for her children. The proposed shed will be shingled like the house. The existing structure is on piers so the floor level is about 2 feet above the ground on the lake side and is approximately 12 feet high. The proposed shed would be built on a concrete slab and be 17 feet high. It will have an offset roofline. There will be no plumbing in the building but it will have electricity. The proposed shed would have a loft for storage. The footprint of the proposed shed will be a bit further from the lake (6in.) and the total footprint

(12 ft. x 18ft.) will be slightly smaller than that of the present structure.

Upon questioning from Mr. Allen, an abutter, it was stated that the orientation of the building would not be changed so there would still be a view of the lake from his camp. Mr. Kane told him that construction would begin as soon as possible and they hope to finish by the beginning of July. Mr. Kane thought that if the builders were not finished by that time, construction would probably be suspended until fall so people in the area would not be bothered by the noise.

Mr. Young asked if the shed could be rotated a little toward the north so Mr. Allen's view would be enhanced. Mr. Kane agreed that they could rotate the shed about a foot without getting much closer to the lake.

The Board went into deliberative session at 7:34. They came back into public session at 7:57 to announce their decision.

### **Findings of Fact:**

Based on the application and testimony, the Development Review Board makes the following findings:

#### **2.7 Shoreland Protection District**

The accessory structure would be sited approximately 36'4" feet from the Northern lot lines, 48'7" from the Southern property line, 63'10" from the lake and 15'6" feet from the centerline of the right-of-way. The lot is about .26 acres. The lot size and setbacks from the lake and road are nonconforming. However, the proposed nonconforming structure would be built in the same location as the existing nonconforming structure and will not increase the degree of nonconformance.

An accessory structure is allowable in the Shoreland Protection District with a conditional use permit.

#### **5.4 Conditional Uses**

##### *B) General standards*

*The proposed conditional use will not have an adverse effect on:*

- 1. the capacity of existing or planned community facilities.*
- 2. the character of the area.*
- 3. traffic in the vicinity.*
- 4. by-laws and ordinances presently in effect.*
- 5. the utilization of renewable energy resources.*

The rebuilt shed will not have an adverse effect on any of the above standards.

##### *C) Specific Standards:*

- 1. The lot must meet the minimum size required for the district unless other standards are given for conditional use lot size in the district.*

This is a pre-existing, nonconforming lot.

- 2. Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district.*

The proposed structure will not increase the degree of non-conformance of the existing nonconforming structure.

- 3. Fencing/ landscaping may be required for commercial and industrial uses to provide screening if the Board deems it necessary to protect the character of the area.*

This is not applicable.

- 4. Exterior signs shall not be internally lit and must be compatible in size, materials and workmanship to the area in which they are located.*

This is not applicable.

- 5. The proposed structure is compatible with other structures in the area.*

The proposed structure is compatible with the other structures in the area.

- 6. The proposed structure adheres to the uses allowed in the relevant district.*

An accessory structure is a conditional use in the Shoreland Protection District.

- 7. The proposed structure will not affect the noise or air pollution in the area.*

The Board considered this and determined that it will not increase the noise or air pollution in the area.

### 8.9 (3 – 6) Non-conforming Uses and Structures

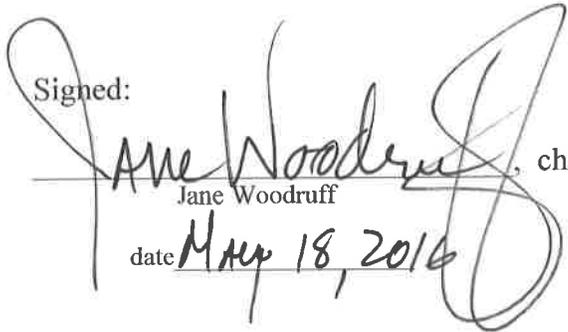
3. The Board determined that the proposed reconstruction of the existing, nonconforming structure will not increase the degree of its nonconformity so mitigation measures are not necessary.

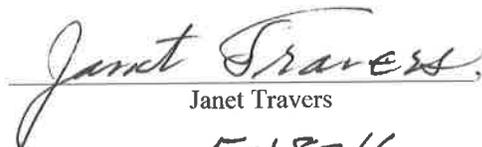
#### Decision and Conditions

Based upon these findings, the Development Review Board voted unanimously (6 – 0) to approve this application with the following conditions: (Alternate Lee Wright voted in the absence of Sean Thompson.)

#### Conditions:

1. Any and all necessary state and federal permits must be in place before construction can begin.
2. The plan for the structure will be altered slightly, whereby the structure will be rotated slightly counter-clockwise about its northern corner (near the tree) so that the opposite corner of the structure moves about a foot to widen the view from the Allen camp, as discussed at the hearing.
3. No part of the proposed shed will be used as a bedroom.
4. The proposed shed may have no plumbing although it may have electricity.

Signed:  chair  
Jane Woodruff  
date May 18, 2016

 clerk  
Janet Travers  
date 5-18-16

#### NOTICE:

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.