

Variance Hearing
Miriam Lanata
August 3, 2015

To consider a variance request by Miriam Lanata to divide her lot at 127 Aspenhurst Road.

The application requires a review under the following sections of the Greensboro Zoning By-Law 2.7 Shoreland Protection District and 5.5 Variances.

Warnings were posted on July 13, 2015 at the Greensboro Town Hall, the Greensboro Post Office and the Greensboro Bend Post Office, and Willey's and Smith's Stores. The warning was sent to Miriam Lanata, applicant; Lisa Ginett, architect; and the following abutters and neighboring property owners on July 13, 2015: Alan & Susan Lukens; Peter, John & Keith Irwin Trust; Louisa Mattson & John Hasen; Katherine, Chandler, and Macallister Smith; Mary Ciaschini Rev. Trust; and Timothy & Nancy Howes. It was published in the Hardwick Gazette on Wednesday, July 15, 2015.

Development Review Board members present: MacNeil, Linda Romans, Nat Smith, Sean Thomson, Janet Travers, Jane Woodruff, Wayne Young and Lee Wright, alternate.

Others present: Lisa Ginett, surveyor; Kristen Leahy, Zoning Administrator.

Correspondence from interested persons:

- #1 Email from Christine Armstrong opposed to the proposal
- #2 email from Jennifer Ranz opposed to the proposal
- #3 email from Gwen & Tod Mann opposed to the proposal
- #4 email from Brad Irwin in support of the proposal.
- #5 email from David & Vangie Kelly opposed to the proposal
- #6 survey map of the Lanata property on Aspenhurst

Summary of Discussion

Ms. Woodruff, chair, began the hearing at 7:02 PM. She noted the hearing was semi-judicial, explained the procedure for the hearing, and asked the clerk to swear in all those who wished to speak at the hearing. Ms. Woodruff then asked Ms. Ginett to explain the proposed boundary line adjustment to the Lanata property. Since there was no site visit, Ms. Woodruff asked Ms. Ginett to be very specific in her explanation. Ms. Ginett stated that this parcel was quite unique in that one leg of it goes north to the lake and another goes east to the lake. The east side has 90.9 feet of lake-frontage and the north has 96 feet. It is proposed that the piece of land starting from the eastern road right of way and going to the north would be conveyed to the Howes (0.45 acres). The remaining 1.04 acres which includes the present house would be kept by Ms. Lanata. However, that property would retain an easement on the upper end of the parcel conveyed to Mr. Howes for a replacement septic system if needed. All the blue markings on the survey map (exhibit #6) were made by Ms. Woodruff as Ms. Ginett gave her testimony. Mr. Howes' lot has over 100 feet of shore frontage but with only .75 acres it is non-conforming. The proposed boundary line adjustment would give him an additional .45 acres and make the lot compliant with the regulations. Mr. Smith stated that, as he sees it, there are two issues. One is conveying the 0.45 acres to Mr. Howes which makes his lot conforming, but does not give Mr. Howes enough land under the current by-laws to build another structure on the property. Mr. Smith sees no problem with that proposal. The other issue is the 1.04 acre Lanata property which is a conforming size but does not have 100 feet of shore line. This property is also is not large enough to enable another structure to be built. It is the 90.9 foot, non-conforming shore line of this 1.04 acre parcel that requires a variance to enable the boundary line adjustment.

Ms. Woodruff then opened the hearing for questions or comments from the audience adding that her family owns one seventh of an Aspenhurst property but feels it will not affect her decision. Mr. Howes spoke first in support of the boundary line adjustment. He added that, according to the by-laws, they would not have the ability to put another structure on the property, nor was that ever their intention.

The Lanata property is quite unusual in that the shoreline is not contiguous. Mr. Peter Irwin then stated that he and his family strongly support this application. He feels the Aspenhurst neighbors do not want the area developed and thinks this boundary line adjustment will keep the area as it is. Neither property will be large enough for the owners to build another structure, according to the present by-laws. Mr. John Hasen also stated that he supports this application. It does not create any new lakeshore access which is important to many around the lake. Mr. Larry Hewes, who has a camp near the Lanata property on Aspenhurst, stated that he and his family are in full support of this application. He feels that this boundary line adjustment would not change anything. In fact, he thinks it would preserve the property as it is for the future. Mr. Hewes feels that Ms. Armstrong didn't read the application carefully and didn't understand what was being proposed. Ms. Linda Shatney stated that she supports the application. Mr. Tim Howes stated that if the boundary line adjustment is approved, neither lot will be buildable. Adding the acreage to Mr. Howes' property would make it compliant.

The hearing ended at 7:35 and the Board went into deliberative session. The Board came back into public session at 8:00 to announce their decision.

Findings of Fact:

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

5.5 Variances

A variance is needed for the proposed 1.04 acre lot because it would have less than 100 feet of lake-frontage. (The .45 acre lot would be merged with Mr. Howes abutting property, making it a conforming lot.)

A) Variance Criteria

1. *There are unique physical circumstances of lot size or shape or other physical conditions peculiar to the property that make a variance necessary.*

This property is very unusual as it is one of only two lots that have two dis-contiguous sections of shoreline on Caspian Lake due to their locations on a peninsula.

2. *Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and the authorization of a variance is necessary to enable the reasonable development of the property.*

The looks and uses of this property will remain the same since under the current by-laws neither of the proposed properties formed by the boundary line adjustment may be developed further. The shoreline cannot be changed so the 1.04 acre property cannot have 100 feet of contiguous shoreline.

3. *The unnecessary hardship has not been created by the applicant.*

The non-contiguous shoreline of this property makes it very unusual and was not created by the applicant.

4. *If authorized, the variance will not:*

a) *alter the character of the neighborhood or district*

The boundary line adjustment does not create an opportunity for either lot to be developed any further under the current by-laws. Therefore it preserves the integrity and community of this area of Caspian Lake.

b) impair the use or development of adjacent property

The proposed boundary line adjustment will not affect the looks, use, or development of the surrounding properties. The existing lot is very unusual as it is one of only two lots on Caspian Lake that have two dis-contiguous sections of shoreline due to their locations on a peninsula.

c) reduce access to renewable energy resources

This is not applicable.

d) be detrimental to the public welfare

This is not applicable.

5. The variance represents the minimum that will afford relief and the least deviation possible from the bylaws and town plan.

The 90.9 foot lake frontage of the 1.04 acre lot is very close to the required 100 feet. The division of the property will not affect the looks, access, or use of the shoreline. Mr. Howes' non-conforming, abutting property, which has .75 acres, would become a conforming lot with the addition of the .45 acres from the Lanata property. This could be considered a mitigating factor.

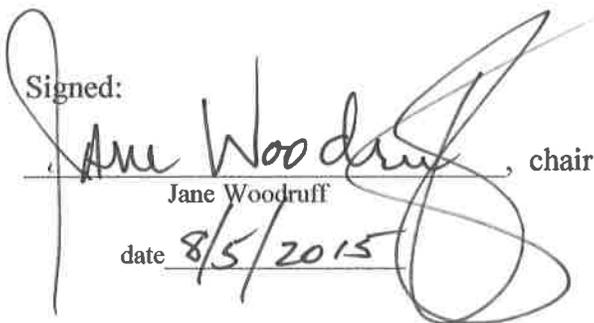
Decision and Conditions

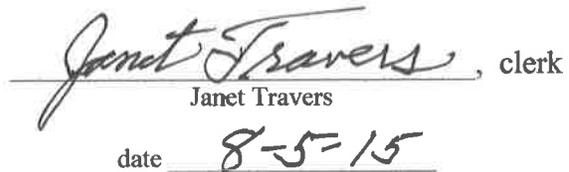
Based upon these findings, exhibits, and testimony, the Development Review Board voted unanimously (8 – 0) to approve the variance for the shoreline of the 1.04 acre lot formed from a boundary line adjustment.

Conditions:

1. The boundary line adjustment is contingent on Mr. Howes merging the 0.45 acres into his property, thus making his lot conforming.
2. The boundary line Adjustment/Subdivision Application must be completed and approved by the Zoning Administrator.
3. The wastewater/potable water permit must be received by the Zoning Administrator.

Signed:


Jane Woodruff, chair
date 8/5/2015


Janet Travers, clerk
date 8-5-15

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.