

Conditional Use Hearing
Charles & Bethany (Lily) McAteer
July 15, 2015

To consider a conditional use application by Charles & Bethany (Lily) McAteer for the construction of a second single family home on the property at 156 Breezy Ave.

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.3 Greensboro Village District; 2.7 Shoreland Protection District; 3.10 Structures and Uses per lot; and 5.4 Conditional Uses.

Warnings were posted on June 29, 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 applicants, Charles & Bethany (Lily) McAteer; and the following abutters and neighboring property owners on June 29, 2015: Sabra Jones, landowner; Lisa, Alan, Michael and Sidney Gulick; Kenneth (Tod) & Gwen Mann; and the Lee Dabney Revoc. Trust. It was published in the Hardwick Gazette on Wednesday, July 1, 2015.

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

Others present: Charlie and Bethany (Lily) McAteer, applicants; Sabra Jones, land owner; Kristen Leahy, Zoning Administrator; Patrick Larson, septic engineer; see the sign-in sheets for the other people present.

Correspondence from interested persons:

- #1 An email from Lisa and Alan Gulick stating 12 questions and concerns about the proposal.
- #2 An email from Fiona and Alain McMutrie stating 4 concerns about the proposed house and access to it by vehicles and utilities.
- #3 A letter from Lisa, Sidney, Michael and Alan Gulick which adds information to the email exhibit #1.
- #4 A letter from Michael and Sidney Gulick adding more information to their letter exhibit #3.
- #5 A letter from Martha and Bill Niemi with 7 concerns about the access road/driveway to the house and building in the wet field.
- #6 A letter from K.D. (Tod) and Gwen Mann stating their concerns about the proposed house and driveway access.
- #7 A letter from Lee Dabney stating her concerns about the proposal.
- #8 A letter from Lynn Stegner in defense of the field and concerns about its development.
- #9 A septic survey map of the McAteer-Jones land and placement of the mound.
- #10 A letter from David and Evangeline Kelly stating their concerns about building in the wet field.

Summary of Discussion

Ms. Woodruff, chair, began the hearing at 7:03 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 Mr. McAteer to explain what they want to do on the property at 156 Breezy Ave. Mr. McAteer began by giving a history of his time in Greensboro. He said he has lived in the house on Breezy Ave. for five years and felt that house was home. Several years ago he began looking into building an accessory dwelling on the property at 156 Breezy Ave. sometime in the future. Since then he has married and would like to build the house now and, looking forward to a child, he is now asking for a two bedroom house. If the two bedroom house (160 sq. ft. more than the 800 sq. ft. accessory dwelling) doesn't get approved, Mr. McAteer will then ask for the 800 square foot, one bedroom, accessory structure as he originally planned.

Questions from the board brought out these facts:

The property has 1.67 acres in all. There is about one half acre in the Village District and slightly more than one acre in the Shoreland Protection District where Mr. McAteer wants to site the proposed house. Ms. Leahy reiterated that the question before the board is whether there is enough land for an additional structure to be built, or would an additional structure located in the Shoreland Protection District require 2 acres in addition to the half-acre and present house in the Village District? The pre-existing, 81 foot shoreline of the property is not in compliance with 100 foot minimum the present zoning bylaw requires. The driveway to the proposed house would begin at the curb cut for the present drive at 156 Breezy Ave, branch off to the left, and go between the Mann's house and Ms. Jones' present house around the leach field of Ms. Jones' house and skirt the septic mound by 10 feet on the Gulick side, and then back to the proposed house. It would go over the water line at

one point. Looking at the septic survey map, Mr. Larson estimated there is about 15 feet between the Mann's house and Ms. Jones' garage. Mr. Smith brought out the fact that in order to connect to the water line, a person must fill out an application and be granted permission to connect and it costs about \$1000. Ms. Woodruff then opened the hearing to those present.

Mr. Mike Gulick, abutter to the North, said Ms. Jones sent him a letter two years ago saying she was thinking about building an accessory dwelling on the land. He heard nothing further, so he thought Ms. Jones had decided against it, was surprised when he received the notice of this hearing, and saddened that the proposal was not presented to him in person by Ms. Jones or Mr. McAteer. Mr. Gulick then read a letter from his family with questions and concerns about the proposed house. They are concerned about the lack of coordination between the application and the septic system survey, the lack of plans for a driveway or utilities, the effect of the proposed septic system on their land and the impact the house will have on the aesthetics and character of the area. (see exhibits #1, 3, & 4)

Mr. Sidney Gulick talked about the waste water system, saying they talked to a DEC engineer who said that any waste water system must be 10 feet from any water lines and 25 feet from a road. Mr. Gulick said "it feels like we are being asked to approve something before the plans have been submitted." Furthermore, he feels this project will affect the value of their property, spoil the view, and change the character of the open field behind the Breezy Av. houses. (see exhibit #4)

Mr. Brian Niemi, representing his parents, Bill and Martha Niemi, who have a camp on the lake near the Jones/McAteer property, stated that their main concern was the water line to their camp which is a summer water line and not buried very deep. After some new driveways were put in, this water line is now frozen well into June. The water line goes through the construction site for the proposed structure and the proposed driveway would go right over it which, they are afraid, would cause more freezing. Mr. Niemi said they are also concerned about the runoff into the lake caused by the construction process and the waste water system. He added that this property's berm seems to have been disturbed (disappeared) and wondered how that affects the runoff. He went on to state that they would hate to see the beginning of another row of houses in what is now an open meadow. (see exhibit # 5)

Mr. Tod (Kenneth) Mann, abutter to the South, said there are twelve properties that will be affected by the proposed house. He feels that placing a house in the middle of what is now an open field would change the character of the area. He went on to state that neither side of the house at 156 Breezy Ave. has appropriate conditions for a driveway which by his calculations would be 750 feet long. Mr. Mann said it is a poor location for a house. The house would be exposed to the elements and located in a field that is constantly wet. In fact, it was his feeling that there had always been an unwritten understanding that no one would build in that field. The proposed driveway is very close to their house and he can't imagine construction vehicles being able to squeeze through that space. Furthermore, their septic system and leach field are located on their land just beyond the opening between the two houses. It would be a tight squeeze to avoid going over them. (see exhibit #9)

Mr. Nat Smith asked how many feet are required from a road (or driveway) to a septic system. He was answered with, "25 feet."

Ms. Lee Dabney said her main concern was the wetness of the field. If a house were to be built there, the whole field must be drained properly. Otherwise the water would go down under and near her boathouse and the other houses near the lake. (see exhibit #7)

Ms. Lynn Stegner began by saying she was not speaking for any one individual, but for the field itself. This field has historically been open and undeveloped. Construction of this house would, perhaps, open the way for further development of the field and would certainly diminish the enormous aesthetic and biological value of the field in its present, natural state. The field provides a natural storm water buffering and erosion/sedimentation filter for the lake. The proposed location of the house would obstruct the views from at least six different homes and its driveway would bisect the field. Because of this, Ms. Stegner thinks it would lessen the assessed value of those six properties and adversely affect the tax rolls. (see exhibit #8)

Ms. Sally Lonegren agreed that the field is always wet and thinks the whole thing is a bad idea for that reason. Ms. Emily Stuart stated it is true the field has been open for a good many years, but things change. Other buildings have been put in down near the lake. She would consider the proposal.

Ms. Evangeline (Vangie) Kelly said that she and her husband are disturbed about the construction of a building

in what is a consistently wet field. (exhibit #10)

Ms. Palma Bickford had two questions. One is about the wet land which she was not going to comment on since many others had already done that. The second question concerned the height of the house. The application is for a single story house which is normally about 20 feet high. The plans for the proposed house indicate the height would be 26 – 28 feet. This opens the possibility of adding rooms on a second story. The height is also a concern because it would impede the view from their house.

Ms. T.C. Mallon lives down the lake a bit. She agrees the field is very wet and it is a great concern to them that there may be a house built there.

Ms. Helen Twiss was bothered by the attitude towards this young couple trying to have a house. She doesn't see how Breezy Ave. would be ruined by this proposed house. She heard someone refer to the house as a monstrosity and feels that was an unfair and inconsiderate statement.

Mr. Steve Meyer said they put in a drainage system to the left of Pleasant's Road as you face the lake about 30 years ago, and it hasn't ever worked. The field is very wet and always has been. He questioned how the other side of Pleasants Road could be drained and have it work.

Mr. Galen Fisher has access to the lake through the Gulick's land. He said he, along with many others, is concerned about the wetness of the field and the aesthetics of building in this field. He thinks it is a bad plan.

Mr. Brian Niemi said there are ways to drain the field, but it is expensive and where would the water go?

Mr. Sidney Gulick said it sounds like the DRB is being asked to tell Mr. McAteer what he can do, not to approve what he has applied for.

Ms. Gwen Mann added that there was a lot of information given in both the letters and the evenings' testimony and she feels confused. The septic system was approved for a one bedroom house and the application is for a two bedroom house. There is no plan for the driveway in the application and it is an important issue. How would construction vehicles or oil trucks get to the house? The drive is more than 600 feet long and must be crowned and built up or it will sink.

Ms. Leahy responded by saying she felt this was her fault. Mr. McAteer's house is the first one to go to the Development. Review Board under the new regulations for pre-development submission plans in the Shoreland Protection District. She felt the issue at this hearing was if the amount of acreage in the property would allow the construction of a house.

Ms. Lynn Stegner questioned if the Board ever considers the quality of the land not just the quantity. (Ms. Woodruff said, yes. It is part of the conditions the Board considers.)

Ms. Anne Harbison said she has an article about this proposal in the paper that people can read. She thinks the critical issue is how the proposed house will affect the Breezy Ave. neighborhood. She feels it would open it up for other houses to be built in that meadow.

Mr. Nat Smith said that what the Board takes into account is the by-law. The bylaws don't say "if it's wet, don't let them build there" or "if it's in someone's view, don't let them build there." He asked Patrick Larson if he thought the septic system for a two bedroom house would be able to be implemented on this land. Mr. Larson said the land needs to be tested by the State before that decision is made so he couldn't answer that.

The public session ended at 8:36. The Board went into deliberative session at 8:43. At 9:44 the Board decided to continue the deliberative session on Tuesday, July 21, at 6:00 pm. On Friday, July 17, 2015 Mr. McAteer withdrew his application out of respect for his neighbors.

Vermont League of Cities & Towns Legal Opinion on Multiple Zoning District Properties and Lot Sizes

Before the application was withdrawn, Ms. Leahy, zoning administrator, asked a lawyer from the Vermont League of Cities and Towns (Sarah Jarvis, Esq.) for an opinion on how much land was needed for a second house to be built on the land at 156 Breezy Ave. Here is her considered opinion: ". . . what is required here is that each house on this lot meets the density requirements in the zoning district within which that house is located. Therefore as long as there is at least an acre in the (as yet) undeveloped portion of the property, that second house would meet your zoning requirement 3.10. This is, of course also the common sense conclusion since the applicant could accomplish his intended result by subdividing his property -- which he should not have to do.

Decision and Conditions

Because the applicant, Mr. McAteer, withdrew his application, the Development Review Board did not render a decision.

Signed:

Nat Smith, vice chair
Nat Smith

date July 22, 2015

Janet Travers, clerk
Janet Travers

date 7-22-15

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.