

Variance Hearing  
Connie Peterson  
September 29, 2015

*To consider a variance request by Connie Peterson to build an accessory structure within the setback on her property at 393 Breezy Ave.*

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.3 Greensboro Village District; and 5.5 Variances.

**Warnings** were posted on September 9, 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 the following abutters and neighboring property owners: Circus Barn, Inc; John & Jill O'Brien; and Susan, Sarah & Rachel Williams on September 9, 2015. It was also published in the Hardwick Gazette on Wednesday, September 9, 2015.

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

**Development Review Board members absent:** none

**Others present:** Connie Peterson, applicant; John Hunt, contractor; and Kristen Leahy, Zoning Administrator

**Correspondence from interested persons:**

1. Email from Ed LeClair, executive director of Circus Smirkus, abutter
2. a sound map of the circus camp and the Peterson property
3. an email that accompanied the sound map

### **Summary of Discussion**

Ms. Woodruff, chair, began the hearing at 7:02 PM. She noted the hearing was quasi-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 read the letter from Ed LeClair, executive director of Circus Smirkus which abutts this property, stating that he had no objections to the placement of the shed in that spot (exhibit #1). Ms. Woodruff then asked Ms. Peterson to explain what she wants to do on her property at 393 Breezy Ave. Ms. Peterson said that there was a shed on that spot on the property for 80 years. Years ago when it began to fall down, she tore it down, hoping to replace it someday. Ms. Peterson had always thought the property line was where the waterline hook-up was, and placement of the shed at the end of the driveway in its traditional spot would be about 20 feet from it. When she actually looked into it, she found the property line was much closer to her house and the proposed shed than she had originally thought. Her long time renters said they would not come back this past summer because of the anticipated noise from the circus camp. She thought placing the shed at the end of the driveway, as it had traditionally been before being torn down, would absorb much of the sound from the circus camp and visually would give them a sense of place, since the shed would also block the sight of the circus camp.

Mr. Hunt then read the email from Ms. Peterson's son, Alan, (exhibit #3) explaining the sound maps from the Circus' Noise Impact Assessment (exhibit #2) which were also included in the email. He noted that the sound isobar that comes closest to their property is 55 decibels at the location of the proposed shed and the only significant sound mitigation shown on the maps is from structures on the circus property. However, there is a direct line, unhindered by a barrier, on which the sound can travel directly to Ms. Peterson's camp from the circus camp. There is also a second uninterrupted line of sight from parts of the circus to Ms. Peterson's kitchen window. The proposed shed would block both the sight and sound path.

When asked if Ms. Peterson knew if the sound engineers had made another sound map which took the fence into consideration, Ms. Peterson said she didn't know but added that the fence would probably help minimize the sound. However, she felt that a structure, with its greater mass, would absorb sound better than the relatively thin wood construction of the fence. She said that in negotiating with the Circus they asked them to measure the sound at their cottage after the fence was built, but the circus was not willing to do that.

The proposed shed would be 8 – 10 feet from the house. The house itself is about 20 – 25 feet from the back property line, but there is a hill that begins about 10 feet from the back of the house. Ms. Peterson felt that that hill that goes along the back and West side of the property is a formidable obstruction. It shows signs of being cut out for the original shed. The proposed shed would be about 8 feet from the side property line. Mr. Hunt said the proposed shed would be small, set on blocks, and would require no digging for a foundation.

The hearing ended at 7:36. The Board went into executive session at 7:39 and came back into public session to announce their decision at 8:02.

### Findings of Fact:

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

#### 2.3 Greensboro Village District

The accessory structure would be sited approximately 8 and 10 feet from the back and side lot lines. The lot line setback in the Village District is 15 feet.

#### 5.5 Variances

##### A) Variance Criteria

1. *There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the property, and that unnecessary hardship is due to these conditions and not to the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located.*

The board found that there were no physical circumstances or conditions peculiar to this property that would necessitate building the proposed shed in that particular spot.

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

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

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

a) *alter the essential character of the neighborhood or district in which the property is located*

b) *impair the use or development of adjacent property*

c) *reduce access to renewable energy resources*

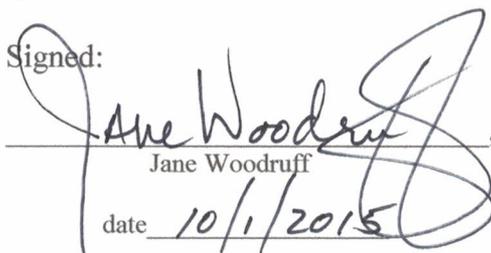
d) *be detrimental to the public welfare*

5. *The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the town plan.*

#### Decision and Conditions

Since a variance may be approved only if *all* of the criteria are met and the placement of the accessory structure did not meet the first of the five criteria, none of the rest of the criteria were considered. There are no physical conditions peculiar to this property that would make it necessary to build a shed in this place. However, the Board realizes that construction of an accessory structure is a permitted use in this district and understands there are other spots on this lot where a shed could be built. Based upon these findings, the Development Review Board voted unanimously (7 – 0) to deny the requested variance to build an accessory structure in that particular spot. (alternates do not vote)

Signed:

  
\_\_\_\_\_  
Jane Woodruff, chair  
date 10/1/2015

  
\_\_\_\_\_  
Janet Travers, clerk  
date 9-30-15

#### 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.