

Conditional Use and Variance Hearing  
Janet and Ken Johnston (Wakeley Associates)  
November 20, 2013

*To consider a conditional use application by Janet and Ken Johnston (Wakeley Associates) to rebuild a portion of their camp within the Caspian Lake buffer zone at 202 Edgewood Lane. A variance request to alter the footprint of the camp and to move a shed will also be considered*

The conditional use permit requires a review under the following sections of the Greensboro Zoning By-Law, 2.5 Lakeshore District; 3.8 Non-conforming Structures; 3.9 Protection of Water Resources; 5.4 Conditional Uses and 5.5 Variances.

**Warnings** were posted on October 30, 2013 at the Town Hall, the Greensboro Post Office and the Greensboro Bend Post Office, and sent to Janet and Ken Johnston, applicants; and the following abutters: Bascom Family Poplars trust, Anders & Judy Dales, and Margaret Daniels & Sara Potter. It was published in the Hardwick Gazette on Wednesday, November 6, 2013.

**Development Review Board members present:** Bud Harvey, Linda Romans, Nat Smith, Sean Thomson, Janet Travers, and Wayne Young

**Others present:** Janet and Ken Johnston, applicants; and Kristen Leahy, zoning administrator

**Correspondence from interested persons:** email from abutter Michael Hoffman.

During the course of the hearing the following exhibits were submitted to the Development Review Board:

- A) an email from abutter Michael Hoffman stating that the proposed changes to the Johnston camp seemed reasonable.
- B) before and after plans of the interior of the camp noting the square footage of the first floor

These exhibits are available at the Greensboro Town Clerk's office.

### **Summary of Discussion**

Mr. Smith, vice chair, began the hearing at 7:03 PM. He noted that 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. Mr. Johnston then explained the proposed plan for rebuilding a portion of their camp. He summarized by saying they were asking for seven things in this application. They want to:

1. Reconstruct a portion of the camp
2. Construct a new roof line over the reconstructed kitchen/bedroom ell
3. Install an appropriate foundation
4. Build a possible step to the reconstructed area, depending on the ground level after completion
5. Repair and/or reconstruct the fireplace and chimney, depending on their condition
6. Alter the shape of the camp footprint
7. Move an accessory structure (shed) further away from lake, rotate it, and add a new roofline.

Mr. Johnston then talked about the changes they want to make in greater detail. The main (and oldest) area of the camp wouldn't change. It is a 14 x 28 foot rectangle. They would like to reconstruct the series of shed-type additions which were added to the northwestern side of the main camp area. The bedroom at the western end of the addition is so low they have to go down a step and bend their heads down to get into the 6 x 8 foot room. Their goal is to make that ground floor bedroom big enough for two people. The bedroom will have French doors which may need a step added outside, depending on the grade of the land upon completion of the project.

They propose taking 3 feet from the northern side of the kitchen/bedroom area, leaving a small 3 x 4 foot area for a porch. The area of the footprint that they would remove is 42 square feet. They would then put that 42 sq. ft. on the northwest side of the remaining area, making it a 24 x 15 foot rectangle which

would be large enough for a kitchen and bedroom. While they are doing this construction, the builders will check the foundation of the camp. They will add new piers or put in a frost wall as they deem necessary. The roofline of the area would also be changed. It is presently a descending line of shed-type roofs which would be replaced by a pitched roof with a ridgeline going in an east/west direction. During this construction, the aging fireplace and chimney in the main camp area will be repaired or rebuilt, depending on its condition. The chimney is now about 21 feet high and its height would not be increased. The chimney which is presently in the kitchen area would be removed and not be replaced.

Mr. Johnston went on to explain that they would like to move the near-by equipment shed about two and a half feet further away from the lake, replace the shed-type roof with a pitched roof, add a solar collector to the roof and rotate the building to gain solar advantage.

The board went into deliberative session at 7:34 and came back into public session to announce their decision at 8:32.

## **Findings:**

### **2.5 Lakeshore District**

The size of the lot and the side and back setbacks of the present camp conform to the criteria in the Lakeshore District but it is located within the Caspian Lake buffer zone. However, the camp is an existing, non-conforming structure.

### **3.8 Non-conforming Structures**

- A)1. The proposed plan does not alter the existing structure in a manner that will increase its degree of non-conformance.
2. Rebuilding a portion of the existing footprint will not increase the degree of non-conformance.
3.
  - a) The footprint will not be enlarged
  - b) The height of the structure will not be increased.
  - c) None of the porches will be enclosed.
  - d) Parking is not a problem.
4.
  - a) The proposed plan alters the footprint but retains the same area in square feet.
  - b) The proposed structure meets the conditional use requirements.
5. Not applicable. This is not normal maintenance or repair of a building.
6. Not applicable. This is not an expansion of the original structure.

### **3.9 Protection of Water Resources**

- C) 1. This is a proposed rebuilding of a portion of an existing, non-conforming footprint. The total square footage will remain the same.
2. a - g landscaping will remain the same. No trees will be cut.
- 4, 6, & 7 There will be no construction activity on or near the berm or shoreline. All accesses to the lake are pre-existing and conform to the criteria.

### **5.4 Conditional Uses for the house:**

B) Rebuilding a portion of the present camp including foundation repair, roofline alteration, and chimney repair/rebuilding would 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.

#### 5.4 C) Specific Standards:

1. The lot meets the minimum lot size.
2. The camp meets the setback requirements from the side and back lot lines, but is in the Caspian Lake buffer zone.
3. No fencing or landscaping is required for screening.
4. There will be no exterior signs.
5. The camp is compatible with other structures in the area.
6. The camp does not adhere to the conditional uses allowed in the Lakeshore District, but is a pre-existing, non-conforming structure.
7. The camp will not affect the noise or create air pollution in the area.

Rebuilding the existing non-conforming footprint would not increase the degree of non-conformity of the present structure.

#### 5.5 Variance for changing the footprint of the house

1. Since the present camp is a pre-existing, non-conforming structure, consideration of physical limitations on location does not apply.
2. The variance will enable the reasonable use of the structure.
3. The hardship has not been created by the appellant.
4. The variance will not alter the character of the area, impair the use or development of adjacent property, reduce access to renewable energy or be detrimental to the public welfare.
5. Relocating a portion of the footprint of the non-conforming structure will not increase the degree of non-conformance and maintains the square footage of the footprint. The proposed relocation of the footprint would be in back of the structure, away from the lake. It will not decrease the setbacks from the sides or back of the camp and will not be seen from the lake. It "enables a reasonable use of the property" (5.5 A2) and "represents the least deviation possible from the regulations to afford minimal relief" (5.5 A5)

#### 5.4 Conditional Uses for the shed

B) Changing the roofline of the shed would 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.

C) Specific Standards:

1. The lot meets the minimum lot size.
2. The shed meets the setback requirements from the side and back lot lines, but is in the Caspian Lake buffer zone.
3. No fencing or landscaping is required for screening.
4. There will be no exterior signs.
5. The shed is compatible with other structures in the area.
6. The shed does not adhere to the conditional uses allowed in the Lakeshore District, but is a pre-existing, non-conforming structure.
7. The shed will not affect the noise or create air pollution in the area.

Changing the roofline of the shed to a pitched roof will not affect the character of the area. The roof is presently below the 30 foot height limit and will remain so in the proposed plan. The pitched roof enables Mr. and Mrs. Johnston to add a solar collection panel to the roof.

## 5.5 Variance for moving the shed

1 – 3 Since the present camp is a pre-existing, non-conforming structure, consideration of physical limitations on location does not apply.

4. The variance will not alter the character of the area, impair the use or development of adjacent property, reduce access to renewable energy or be detrimental to the public welfare.

5. Moving the shed away from the lake will make it less non-conforming.

Moving the shed makes it less non-conforming and enables the addition of a solar collection panel.

### Decisions

- Based upon these findings, the Development Review Board voted unanimously (6 – 0) to approve the conditional use application for the camp.

Altering the existing non-conforming footprint of the camp would not increase its degree of non-conformity. The repair and possible rebuilding of the foundation and chimney adheres to 3.8 A) 2. "A non-conforming structure may be restored or reconstructed; such reconstruction shall not increase the degree of non-conformance of the original structure". The new roofline on the kitchen/bedroom ell of the camp will eliminate the transitions between the multiple roofs of the present structure and minimize the possibility of water damage from seepage around the connecting flashing between the roofs.

- Based upon these findings, the Development Review Board voted unanimously (6 – 0) to approve the variance application for the camp.

The proposed relocation of the footprint would be in back of the camp, away from the lake. The square footage of the first floor footprint will remain the same as in the present structure. The relocation of the footprint represents the least deviation possible from the regulations to enable reasonable use of the northwest corner of the camp.

- Based upon these findings, the Development Review Board voted unanimously (6 – 0) to approve the conditional use application for the shed.

Changing the roofline of the shed will not affect the character of the area and will enable a reasonable use of the roof for solar energy. The new roof will be below the 30 foot height limit.

- Based upon these findings, The Development Review Board voted unanimously (6 – 0) to approve the variance for the shed.

Moving the shed away from the lake makes it less non-conforming. It still conforms to the side and back setback requirements. It will retain its compatibility with other structures in the area and will enable a reasonable use of the shed for solar energy.

Signed:

Nat Smith, vice chair  
date 11-22-13

Janet Francis, clerk  
date 11-22-13

### 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.