

Variance Hearing
David Day
September 19, 2016

To consider a variance request by David Day to construct a shed on his nonconforming lot at 246 Black's Point 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 August 30, 2016 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 also sent to the following abutters and neighboring property owners: Robert & Sarah Kastan; the Norris-Baker Trust; Arthur Day; Jerome and Christianne King; Gwenn Patterson Mann; and A. Lorraine PLC for New England Estates, on August 30, 2016. It was also published in the Hardwick Gazette on Wednesday, August 31, 2016.

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

Development Review Board members absent: Lee Wright, B.J. Gray

Others present: David Day, applicant; and Audrey DeProspero, Zoning Administrator

Correspondence from interested persons: none

Summary of Discussion

Ms. Woodruff, chair, began the hearing at 7:05 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 then asked Mr. Day to explain what he wants to do on his property at 246 Black's Point Rd. Mr. Day stated that he wants to build a two story, 22 x 28 foot shed for storage and maintenance of equipment. He anticipates the height will be 23 feet with 6-7 foot walls upstairs which will be used for dry storage of family furniture and other items. The foundation will be gravel, or, if necessary, concrete. Mr. Day thinks the site is approximately 10 – 12 feet below road level so visibility from the road will be minimal when the trees are in leaf and most Black's Point residents are around. There is a gap in the tree cover through which the shed would be visible from the road, but Mr. Day plans to plant evergreens and other bushes to fill in that gap. The shed meets all setbacks. Mr. Day has spoken to the neighbors and they don't have a problem with it. He feels that nobody will really see the shed and it's wooden, barn-style construction will be in keeping with the character of the area.

The hearing ended at 7:35. The Board went into deliberative session at 7:38 and came back into public session to announce their decision at 7:52.

Findings of Fact:

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

2.7 Shoreland Protection District

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

The proposed structure will be 50 feet from the center of the road, 20 feet from both the right and left side lines, 150 feet from the lakeshore, and it will be 23 feet high. The structure meets the setback and height standards in the Shoreland Protection District.

The lot (.84 acre) does not meet the 1 acre standard in the Shoreland Protection District, but it is a pre-existing, non-conforming lot.

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.*

This is a pre-existing, non-conforming lot.

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

The lot size cannot be changed.

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

The lot size was not created by the applicant.

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

- a) *alter the character of the neighborhood or district* No
- b) *impair the use or development of adjacent property* No
- c) *reduce access to renewable energy resources* No
- d) *be detrimental to the public welfare* No

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

The pre-existing, nonconforming lot size cannot be changed and the proposed shed meets all other requirements in the Shoreland Protection District. The shed will not be readily visible from the road or from either neighbor's property. Mr. Day will put in plantings to hide the building as much as possible. The construction and design will be compatible with the area.

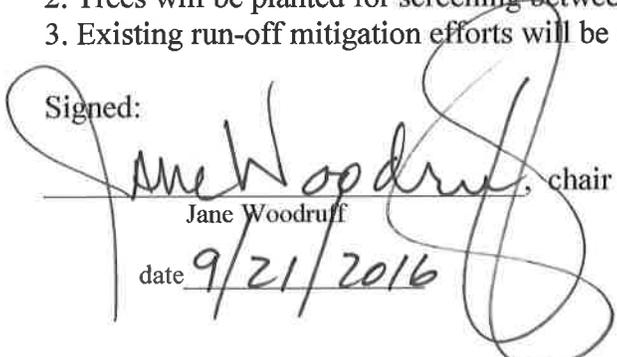
Decision and Conditions

Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the variance for the construction of a shed on the land at 246 Black's Point Road.

Conditions:

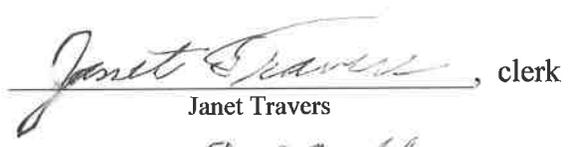
1. Any and all necessary state and federal permits must be in place before construction can begin.
2. Trees will be planted for screening between the shed and the road.
3. Existing run-off mitigation efforts will be continued.

Signed:


Jane Woodruff, chair

date

9/21/2016


Janet Travers, clerk

date

9-20-16

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.