

Conditional Use Hearing  
Marian Wright & Greg Boester  
January 29, 2018  
Continuation of deliberative session February 8, 2018  
The session began at 6:00 PM and ended at 7:25 PM

*To consider a conditional use request by Marian Wright and Greg Boester to renovate an accessory structure within the setback on their property at 151 Birch Lane.*

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.7 Shoreland Protection District; and 5.4 Conditional Uses, 8.8 New Uses and Encroachments within the Shoreland Buffer Resource Zone, 8.9 Nonconforming Uses and Structures within the Shoreland Resource Zone and 8.10 New Uses and Encroachments within the Shoreland Protection District.

**Warnings** were posted on January 8, 2018 at the Greensboro Town Hall, the Greensboro Post Office, the Greensboro Bend Post Office, and Willey's and Smith's Stores. The warning was sent to the applicant and landowner and the following abutters and neighboring property owners: Phil Patterson; Day Patterson; and Gwen Mann on January 8, 2018. It was published in the Hardwick Gazette on Wednesday, January 10, 2018.

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

**Development Review Board Members present at continued deliberative session:** : MacNeil, Linda Romans, Nat Smith, Jane Woodruff, Wayne Young, BJ Gray, and Janet Travers (alternate).

**Development Review Board members absent from hearing:** none

**Development Review Board Members absent from continued deliberative session:** Lee Wright

**Others present at hearing:** Marian Wright, applicant; Milford Cushman, architect; and Audrey DeProspero, Zoning Administrator.

**Correspondence from interested persons:**

Email from Day Patterson and Janet Showers

Email from Gwen and Tod Mann

Email from Philip Patterson

**During the course of the hearing the following exhibits were submitted:**

#1 email letter from Day and Janet Patterson

#2 email letter from Gwen and Tod Mann

#3 email letter from Philip Patterson

#4 progress photographs of the present and proposed structure in the landscape

### **Findings of Fact:**

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

#### **2.7 Shoreland Protection District**

**(C-2)** An accessory dwelling is a permitted use in this district.

**(D-1)** A boathouse is a conditional use in this district

**(E)** Dimensional Standards

This proposed structure will be built on the pre-existing, nonconforming footprint of the present boathouse.

The proposed structure does not meet the present bylaw requirements in the Lakeshore District. It is 1 foot 6 inches from the right side line instead of the required 20 feet and is 1 foot 6 inches from the lakeshore on that side instead of the required 150 feet. It is 101 feet from the lakeshore on the left side;

still less than the required 150 feet. It is 102 feet from the center of the road. The required distance is 50 feet. The height requirement is 30 feet and the proposed structure will be 29 feet 5 inches high.

The lot of .4 acres does not meet the Bylaw requirement of 1 acre in the Shoreland Protection District. However, it is a pre-existing, nonconforming lot.

## 5.4 Conditional Uses

### *B) General standards*

*The proposed conditional use will not have an adverse effect on:*

- 1. the capacity of existing or planned community facilities.*

The proposed structure will not have an adverse effect on community facilities.

- 2. the character of the area.*

After due consideration, the DRB decided the 29.5 feet height would have an undue adverse effect on the character of the area.

- 3. traffic in the vicinity.*

The proposed structure would not have an adverse effect on the traffic in the vicinity.

- 4. by-laws and ordinances presently in effect.*

The proposed structure would not have an adverse effect on the bylaws and ordinances presently in effect.

- 5. the utilization of renewable energy resources.*

The proposed structure would not have an adverse effect on renewable energy resources.

### *C) Specific Standards:*

- 1. The lot must meet the minimum size required for the district unless other standards are given for conditional use lot size in the district.*

This is a pre-existing, nonconforming lot and therefore is exempt from this standard.

- 2 Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district.*

The proposed building will be built on a pre-existing, nonconforming footprint. Therefore, the setback standards for this district do not have to be met.

- 3. Fencing/ landscaping may be required for commercial and industrial uses to provide screening if the Board deems it necessary to protect the character of the area.*

No fencing or landscaping is necessary.

- 4. Exterior signs shall not be internally lit and must be compatible in size, materials and workmanship to the area in which they are located.*

There will be no exterior signs.

- 5. The proposed structure is compatible with other structures in the area.*

The height of the proposed building is not compatible with other structures in the area.

- 6. The proposed structure adheres to the uses allowed in the relevant district.*

The proposed structure adheres to the uses allowed in this district.

- 7. The proposed structure will not affect the noise or air pollution in the area.*

The DRB considered this and decided that the proposed structure would not increase the noise or air pollution in the area.

## 8.8 New Uses and Encroachments within the Shoreland Protection Buffer Resource Zone

### B Conditional Uses

#### 3, Boathouses

*a) A new boathouse shall be constructed behind the natural berm, if it exists. Where there is no natural berm, the following applies:*

- i The boathouse shall be built behind the high water mark*
- ii Stumps of any trees cut during the construction shall be left in the ground.*
- iii Provisions for adequate control of stormwater runoff shall be made.*

*b) A boathouse shall not have plumbing*

*c) The maximum size of a boathouse's footprint shall be 400 square feet.*

*d) The maximum height of a boathouse shall be 15 feet*

*e) There is a limit of one boathouse per lot.*

*f) No decks, porches or other appendages will be allowed on boathouses*

*g) A new or reconstructed boathouse shall require a Conditional Use permit.*

*h) A new or reconstructed boathouse shall be used only for the storage of boats.*

The proposed structure is a reconstruction of a boathouse on a pre-existing, nonconforming footprint so (a) through (f) are not applicable. The DRB considered (h) and decided that the existing structure is not only a boathouse, but a boathouse with a room and  $\frac{3}{4}$  bath above it. The Board recognizes this reality and will allow the reconstructed building to continue to be used as a boathouse with a room and  $\frac{3}{4}$  bath above.

### **8.9 Nonconforming Uses and Structures within the Shoreland Resource Zone**

The rebuilt structure will be built on the existing nonconforming footprint and will not increase the degree of nonconformity.

### **8.10 New Uses and Encroachments within the Shoreland Protections District**

Stormwater runoff will be managed through best management practices.

## **Decision and Conditions**

The DRB discussed in great detail the applicant's assertion that the structure in question is a two-story "bunkhouse," and therefore could be rebuilt on its footprint to a height of 29.5 feet. The applicant proposes a three story building, admitting that the bottom floor is, still, for the storage of boats. The issue is clearly the classification of the structure. Is it a bunkhouse or a boathouse or something else? If it is classified as a boathouse, then it may be rebuilt (on its footprint) only to its present height or 15 feet, whichever is larger (per the present zoning by-law) But if it is classified as an accessory structure, then it may be rebuilt (on its footprint) up to a maximum height of 30 feet.

All other issues brought up at the hearing are moot. Since any rebuilding must be on the present footprint, the present by-law setbacks do not apply. The by-law says nothing about parking or the style of the new building. The DRB notes the applicant's willingness to do some nice mitigation, but such is not required for the rebuilding of the structure.

The DRB recognizes that this structure is NOT solely a bunkhouse, not just a camp and not solely a boathouse. It is a hybrid and may have been from its original building, probably over 100 years ago. There is no disagreement on what is there now. It is a small 16'x18' ground floor room with toilet, sink and shower AND a small 16'x18' boat storage space below, at water level, with sliding doors opening up on a permanent dock area on Caspian Lake. The staircase from ground level to water level is outside the structure on the western side.

In its research, the DRB read the same Lister Cards that the applicant reported on and searched the deeds for this property going back 120 years. In all those deeds there is only one time that the

structure in question is classified as anything other than “building.” In a 1950 deed (Book U, Page 144) the building is called “a boat house.”

There are only five Lister Cards on record for this property. One does not call the structure by any name; three call it a “boathouse” and one calls it a “bunkhouse.” Any person passing by on the lake would almost certainly call this structure a boathouse.

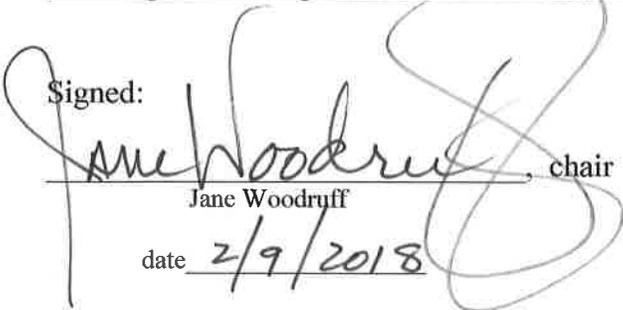
Hence, the DRB determines that, based on the preponderance of the evidence, this structure is a boathouse and may be rebuilt only as a two-story structure and only up to its existing height (19ft. 8 in.)

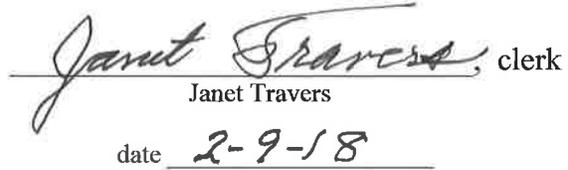
**Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the application with conditions. (Ms. Travers, alternate, voted in Mr. Wright's absence.)**

**Conditions:**

1. Any and all necessary state and federal permits must be in place before construction can begin.
2. The proposed building may be no higher than the existing structure.
3. The proposed building may include a toilet, sink and shower as in the existing building.
4. Water runoff shall be managed through best management practices as recommended in the Vermont Low Impact Development Guide for Residential and Small Sites.

Signed:

  
Jane Woodruff, chair  
date 2/9/2018

  
Janet Travers, clerk  
date 2-9-18

**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.