

Exhibit #1
Admitted
Rec'd 4pm 1-29-18
via email

Day L. Patterson
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January 29, 2018

To: Development Review Board (DRB)
Town of Greensboro, VT

We are writing to express our views on the Greg Boester/Marian Wright application to the DRB for a variance to reconstruct an existing accessory structure (the bunkhouse/boathouse) at 151 Birch Lane. We own the property at 146 Birch Lane, which property abuts and surrounds the 151 Birch Lane property in its entirety (other than its lakefront).

It is difficult for us to evaluate the Boester/Wright ("B/W") application from afar. We reside in Florida. (Our 87 and 146 Birch Lane cottages are not winterized and do not have access to town water during the winter, so our cottages are closed until mid-May at the earliest.) We first received notice of the B/W application only in mid-January when we received the DRB's notification letter, and we find that – without being in Greensboro and having access to the 146 and 151 Birch Lane properties - we are simply unable to fully evaluate certain aspects of that application and its potential impact on our lakefront and our use and enjoyment of our property. Even if we could be there, we believe that the snow cover and winter conditions would make it difficult for us to evaluate the B/W application.

1. We believe the current condition of the bunkhouse/boathouse is such that reconstruction in some form is warranted. However, the minimum setback of the existing bunkhouse/boathouse from our property line is virtually zero. The B/W application incorrectly indicates a setback of 1'6". The site plans submitted with the B/W application show the joint property line ending at a rebar located 14' from the lake and 1'5" from the concrete foundation of the structure. However, our 2011 warranty deed (the relevant page of which is attached as Exhibit A) states that the property line extends from the rebar to the low water line of the lake at the same bearing as the adjacent property line segment. The property line extension is shown on the W.Mutrux 2011 survey for our property, which is on file with the Town (and the relevant portion of which is attached as Exhibit B), shows the intersection of the property line with the existing bunkhouse/boathouse. It appears to us that, at the southeast corner of the structure, the roof and perhaps the siding of the proposed bunkhouse/ boathouse will extend over our property line, which we believe would violate applicable Vermont law. We also have concerns that the proposed reconstruction, undertaken so close to our property line, could result in significant disturbance of our property and the vegetation thereon.

2. A substantial portion of the areas that are marked "driveway" and "parking area" in the B/W application's existing and proposed site plans are in fact not that, but rather a part of Birch Lane. We note that Birch Lane is a one-lane dirt road which provides access to five separate residential parcels on Black's Point, and it terminates in a teardrop-shaped turnaround which is almost entirely on our 146 Birch Lane parcel except for the tip of the turnaround which is on the B/W property. This turnaround is critical to the homes on Birch Lane because it provides the only viable place for large vehicles to turn around and head back up Birch Lane. The turnaround cannot be used as a parking area for the B/W property as it must be kept clear for use by emergency responders, Fedex and UPS delivery trucks, garbage trucks, etc. The Mutrux survey map of our property (Exhibit B) shows this turnaround, as does the attached aerial view from Google Maps (Exhibit C).

Unfortunately, there is very limited space for parking at 151 Birch Lane. In our experience, the available parking space has been insufficient, as visitors to the B/W property frequently park and leave their vehicles in the Birch Lane turnaround, effectively blocking our use and our visitors' use thereof. In part, this is the case today because, when the main B/W home was reconstructed in 2012, the lawn at 151 was expanded toward the turnaround to create a larger play area for the B/W's three sons, which expansion significantly reduced the available parking area. We expect the parking will soon get even tighter because their eldest son Cole is now of driving age and the two younger boys will soon follow. We recently discussed this problem with the B/W's architect Milford Cushman, who has been very cooperative and responsive. Yesterday, after visiting the site, he sent a drawing to us showing five proposed tightly-packed parking spaces where there has heretofore been space for only three parked vehicles. But because Mr. Cushman is not proposing to allocate more space for parking than has heretofore been available, but is simply proposing to pack more cars into the existing two separate parking spaces there, we cannot - without our being on site - determine whether his plan is practical. We are therefore concerned that the tighter parking proposed by Mr. Cushman will not be sufficient to provide viable, readily-accessible parking spaces out of the way of the many larger vehicles that use the Birch Lane turnaround.

3. Because of our concerns about the parking, we also have an overall concern about the incremental nature of the on-going expansion of the interior floor space of the structures on the B/W property and the potential that this creates for the use of a small property by increasing numbers of people. Use by more people obviously implies more traffic on Birch Lane, more noise, more parking problems, and more stress to septic systems. The B/W property is a small parcel of 4/10's of an acre (all within 130' of the lake) and has three structures on it. The main house was originally 1565 SF and was increased to 2337 SF (height increased to 28') per the 2012 reconstruction thereof. While that reconstruction left the number of bedrooms unchanged, it added a large "rumpus" room - with bath - in a new second story built over the kitchen. It seems likely that someday this will be used as a bedroom - whether converted by the B/W family or a future owner. The B/W application now proposes to double the floor space in the bunkhouse/boathouse (height increased to 29.5') and expand the plumbing to a full bath -- potentially increasing its capacity.

4. The structure to be reconstructed is both a boathouse and an accessory building. Which zoning restrictions apply to this hybrid structure which has no setback from the lake? The Town's zoning bylaws restrict boathouses to a height of 15' and structures to a height of 30'. Viewed from the lake, the proposed reconstruction of the bunkhouse/boathouse will be three stories high. Moreover, the proposed structure takes maximum advantage of the 30' maximum allowable height for structures in the lakeshore district by incorporating a flat slanted roof in lieu of a gable roof. When viewed from the lake, does this flat-roofed "triplex tower" create the "look and feel" that the Town envisioned for the development of lakefront structures in the lakeshore district when the Town adopted the foregoing 30' height restrictions? And if so, has the Town determined how many other lakefront structures will now qualify for similar three-story reconstructions? Being right on the lakeshore, the bunkhouse/boathouse will be highly visible from the lake, as there is no vegetation to the south and west of the structure that could conceal the structure when viewed from the lake. Our primary boat dock and swimming area for our 146 Birch Lane property is very close to the B/W bunkhouse/boathouse.

5. We also ask the DRB to consider whether the proposed 150 SF of shoreline garden is sufficient mitigation for the enlargement of habitable space by 300 SF in a structure located directly on the shoreline on a non-conforming parcel with 266' of total shoreline and a sizable grassy area. By comparison, in 2014 we applied for a variance to increase the habitable floor space in our 87 Birch Lane cottage by 58 SF. That cottage was 100' from the lakeshore at its closest point and the enlargement was solely on the cottage's north side, and thus not at all visible from the lake. In approving our application for a variance, the DRB required us to replace 600 SF of existing lawn with 600 SF of non-invasive, preferable native vegetation. We enclose as Exhibit D the report of the hearing and decision in that case.

If the DRB believes that the proposed reconstruction of the B/W boathouse/bunkhouse is one that otherwise meets the DRB's requirements for nonconforming lakeshore structures, we respectfully request that the DRB defer action upon the B/W application until mid-July 2018. That will give us the opportunity to meet with Greg Boester and Marian Wright and their architect Mr. Cushman at the 151 Birch Lane property to review with them and hopefully reach an agreement upon a solution to the existing parking problem there. If we are able to reach agreement thereon, we would not interpose any legal objections to the B/W reconstruction (if the DRB were to confirm that it was prepared to approve same) notwithstanding such reconstruction's close proximity to and apparent intrusion upon and possibly over our property line and we would in fact agree to make our immediately adjoining property available to the B/W's for their contractors' use during the reconstruction process, provided of course that the B/W's undertake to have that property restored to its natural state upon the completion of the reconstruction.

We also believe that such delay would provide a more meaningful opportunity for Greensboro's many seasonal residents to review and comment upon the proposed bunkhouse/boathouse design, a subject of great interest to most everyone who values Caspian Lake and the design of its shoreline architecture.

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Town of Greensboro, VT
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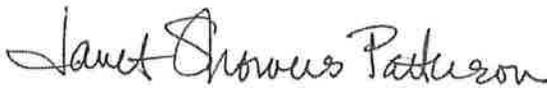
We note that Marian Wright and Milford Cushman have both confirmed to us that they do not plan to commence the proposed reconstruction (if it is approved by the DRB) prior to December 2018, so we do not believe that the DRB's deferring action upon this matter to mid-July 2018 would create undue hardship for any party.

We value Greg and Marian as friends and good neighbors, and we wish to continue as friends and good neighbors in turn. We are confident that, with some additional time, we can arrive at a mutually satisfactory resolution here.

In the event that the DRB is not able to postpone this matter to mid-July 2018, however, then – for all the reasons noted herein – we respectfully request that the DRB record our formal position as being opposed to the grant of the requested variance.

We thank you for your consideration of our views as expressed herein.

Very truly yours,



Janet Showers Patterson



Day L. Patterson

Exhibit A: Page from 2011 Warranty Deed
for 146 Birch Lane

Thence southerly and southeasterly along the approximate low water line of said Caspian Lake a distance of 211 feet, more or less, to a point which is S 63° 54' 15" W a distance of 14 feet, more or less, of a 1" iron pipe found in concrete in a 4" ceramic tile;

Thence N 63° 54' 15" E a distance of 14 feet, more or less, to said 1" iron pipe found in concrete in a 4" ceramic tile which iron pipe is S 10° 50' 42" E a distance of 172.62 feet from the last mentioned 5/8" rebar driven in the ground;

Thence continuing N 63° 54' 15" E a distance of 114.11 feet to a 1" iron pipe found in concrete in a 4" ceramic tile;

Thence S 23° 58' 01" E a distance of 112.00 feet to a 5/8" rebar driven in the ground, which 5/8" rebar is S 81° 25' 44" W a distance of 59.47 feet from a 5/8" rebar driven in the ground marking the point and place of beginning;

Thence continuing S 23° 58' 01" E a distance of 14 feet, more or less, to a point in the approximate low water line of said Caspian Lake;

Thence northeasterly along the approximate low water line of said Caspian Lake a distance of 58 feet, more or less, to a point which is S 02° 45' 28" E a distance of 4 feet, more or less, from the 5/8" rebar marking the point and place of beginning.

Thence N 02° 45' 28" W a distance of 4 feet, more or less, to the 5/8" rebar driven in the ground marking the point and place of beginning.

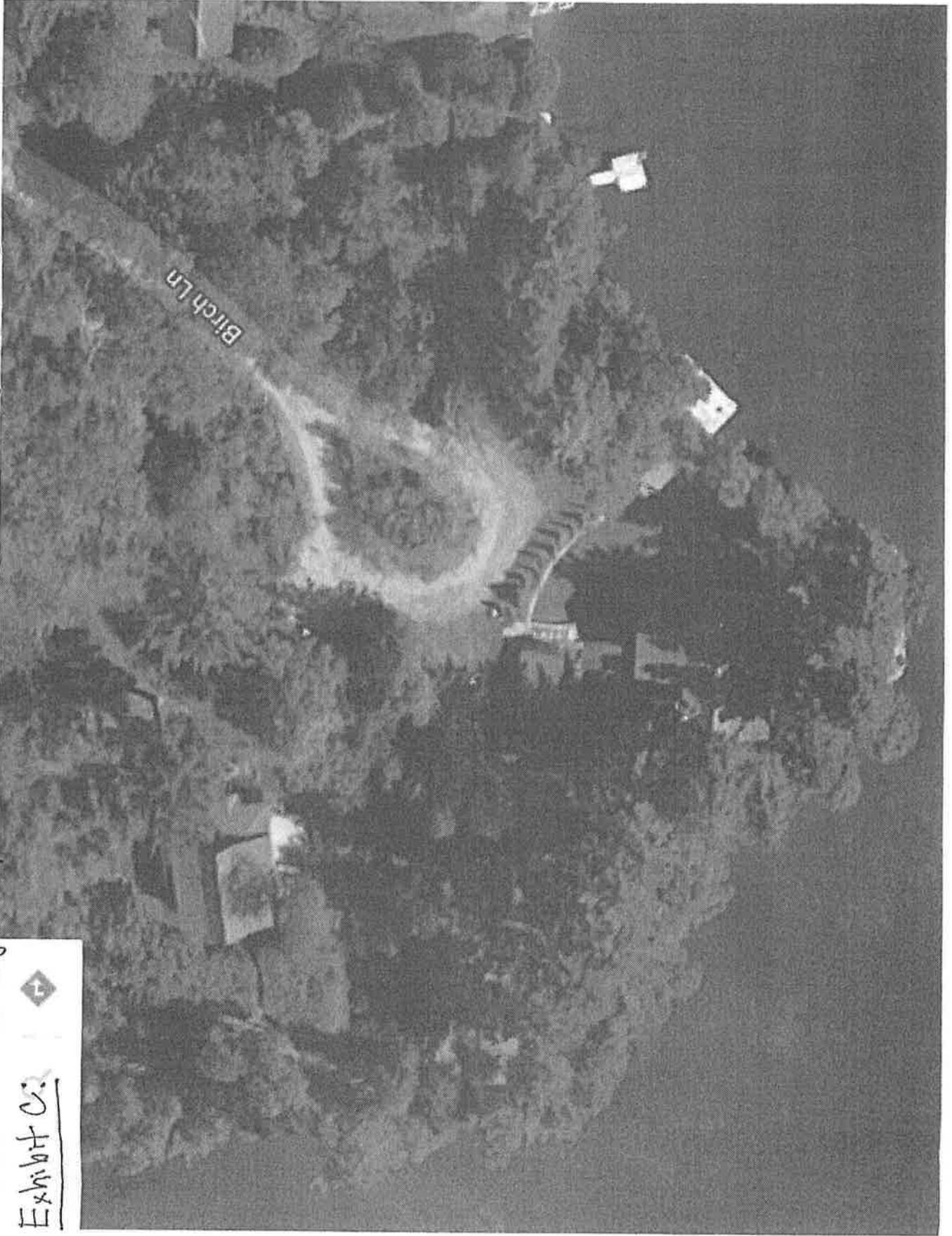
Said land and premises are shown as Lot 2 consisting of 1.08 +/- on a plan entitled "Greensboro Tax Map 22, Parcel 34, Subdivision Plat - Land of Day & Janet Patterson and Kenneth Mann, Jr. and Gwen Patterson Mann of Record in Book 28 Page 79 in the Township of Greensboro, Orleans County, Vermont" dated July 16, 2011 and prepared by Mutrux Surveys Incorporated (the "Mutrux Survey").

Also included in this conveyance are the following: i) a right of way, in common with others, and subject to the rights of others, along now or formerly "Birch Lane", so-called, which is a private road as described in Book M, Page 416, of Greensboro Land Records, leading from now or formerly Greensboro State Aid Highway #1, so-called, to the land and premises conveyed herein. Reserving from this conveyance, the rights of others in that part of said "Birch Lane" that crosses the land and premises conveyed herein as shown on the Mutrux Survey; and ii) all buildings, appurtenances and docks, if any, located on the land and premises conveyed herein.

Said land and premises are conveyed subject to the terms and conditions of State of Vermont Wastewater System and Potable Water Supply Permit No. WW-7-3350 dated May 26, 2011 and Town of Greensboro Zoning Permit No. 2011-019 dated October 13, 2011, both of record in Greensboro Land Records.

Google Maps: Birch Lane Turnaround + 151 Birch Lane

Exhibit C.2



To consider a conditional use permit to replace the back deck and slightly enlarge the footprint of the pre-existing, nonconforming camp at 87 Birch Lane. Mitigation measures have been proposed to accommodate this request.

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.7 Shoreland Protection District; 5.4 Conditional Uses; 8.9 (A) 2,3,4 & 6 Non-conforming Uses and Structures within the Shoreland Protection Resource Zone;

Warnings were posted on September 2, 2014 at the Town Hall, the Greensboro Post Office and the Greensboro Bend Post Office, and Smith's and Willey's stores. It was also sent to Day Patterson, applicant; and the following abutters and neighboring property owners: Jerome King Trust; Philip Patterson; and Gwen Mann. It was published in the Hardwick Gazette on Wednesday, September 3, 2014.

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

Others present Day Patterson and Janet Showers, applicants; and Kristen Leahy, Zoning Administrator.

Correspondence from interested persons: none

Summary of Discussion

Ms. Woodruff began the hearing at 7:02 PM. She 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. She then asked Mr. Patterson to describe the proposed plan. Mr. Patterson began by stating they owned a small cottage on Black's Point in the lake district. It has two decks, one on the front that looks out on the lake, and one on the back of the cottage which extends about 2/3 of the length of the cottage. There is a roof over about 1/3 of the back deck with enclosed shelves that are 10 – 12 feet long and about 4 feet wide. The porch roof, supporting posts and deck are in poor condition and in need of repair and the siding and windows need to be replaced. As long as they are doing that extensive repair work, they propose removing the deck and extending the line of the shelving to the end of the bathroom. This would increase the area of the guest bedroom and bathroom and enable entry to the bedroom from a short hall from the living room instead from the kitchen, which was awkward. The deck and porch would be removed except for an entryway into the kitchen. The entryway would have a gable roof instead of the present flat shed roof. They propose planting vegetation in a 10' x 60' strip at the base of the camp's front lawn facing the lake as a mitigation measure.

The hearing ended and the Board went into deliberative session at 7:25 pm. The Board came back into public session to announce their decision at 7:50 pm.

Findings of Fact:

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

2.7 Shoreland Protection District

The camp is a pre-existing, non-conforming structure located behind the lake buffer zone; 100 feet from the lake at its closest point. The proposed addition will not increase the house size beyond 2500 square feet of habitable floor space and will be added on the back of the house, away from the lake.

5.4 Conditional Uses

The addition will 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 pre-existing, nonconforming camp meets the setback requirements from the back and side lot lines, but is not 150' from the lake. The camp is not in the Buffer Zone.
3. No fencing or landscaping is required for screening.
4. There will be no sign.
5. The non-conforming structure remains compatible with other structures in the area.
6. This is a pre-existing, non-conforming structure (see 8.9 (A) 2).
7. The proposed addition will not affect the noise or create air pollution in the area.

8.9 Nonconforming Uses and Structures within the Shoreland Protection Resource Zone

A

- 2 The expansion is located at the back of the nonconforming structure, away from the water.
- 3 Since the pre-existing structure is within the 150' setback of the lake, the addition will increase the nonconformity of the structure (see 5.4 and 8.9 (A) 4).
- 4 The applicant proposes planting a 10' x 60' strip of non-invasive, preferable native vegetation replacing the lawn near the shore as a mitigation measure. The access path will remain.
- 6 Erosion prevention and sediment control standards will be met during the construction process.

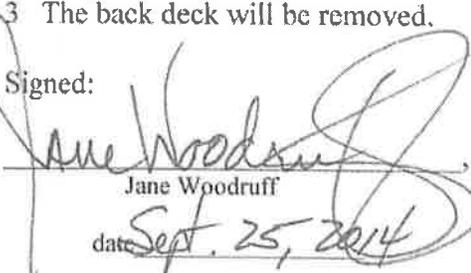
Decision and Conditions

Based upon these findings, and subject to the conditions set forth below, the Development Review Board voted unanimously to approve the conditional use application for an addition at the back of the camp at 87 Birch Lane.

This approval is subject to the following conditions:

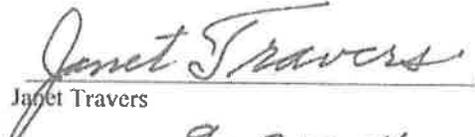
- 1 Erosion prevention and sediment control standards will be met during the construction process.
2. There will be a 10' x 60' strip of non-invasive, preferably native vegetation planted replacing the lawn near the shoreline as a mitigation measure. The access path will remain.
- 3 The back deck will be removed.

Signed:


Jane Woodruff, chair

date

Sept. 25, 2014


Janet Travers, clerk

date

9-25-14

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.

