

Conditional Use Hearing  
Anne Francoeur  
November 21, 2019

*To consider a conditional use request by Anne Francoeur to tear down and rebuild a single family dwelling on her land at 285 Al's Ave.*

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, and 8.9 Nonconforming Uses and Structures within the Shoreland Resource Zone.

**Warnings** were posted on October 23, 2019 at the Greensboro Town Hall, the Greensboro Post Office, the Greensboro Bend Post Office, and Willey's and Smith's Stores. It was sent to the applicant and the following abutters and neighboring property owners: John Moffatt, Ronald Brochu, Charles & Scott Garen, Hugh Knox, the Bishop Family Trust, and Jill & John O'Brien on October 23, 2019. It was published in the Hardwick Gazette on Wednesday, November 6, 2019.

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

**Development Review Board members absent:** BJ Gray

**Others present:** Rob Brigham, applicant for Anne Francoeur; and Christine Armstrong

**Correspondence from interested persons:**

None

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

None

**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 then asked Mr. Brigham to explain what Ms. Francoeur wants to do on her property at 285 Al's Ave. Mr. Brigham said that Ms. Francoeur wants to tear down the existing, nonconforming house and rebuild it on the same footprint with the addition of a second story. The proposed house will have the look of a barn with a cupola. The building, including the cupola, will be 30 feet or less in height. The present deck will be taken off and replaced by a stone patio. There will be 3 bedrooms as there are now. It will be insulated, although it will be a seasonal house. The building is on town water seasonally. There will be a new mound septic system for this house and the adjoining house. It has been approved by the State and designed for the existing 8 bedrooms in the two houses, although Ms. Francoeur plans to reduce the number of bedrooms in the two houses to 6. The proposed house will be built on a concrete slab with a frost wall. It will have radiant heat. They will plant shrubs, bushes, and trees around the perimeter of the house as mitigation, reducing the amount of lawn presently there.

The hearing ended at 7:35. The Board went into deliberative session at 7:40 and came back into public session to announce their decision at 8:05.

## **Findings of Fact:**

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

### **2.7 Shoreland Protection District**

This pre-existing, nonconforming lot is .22 acres instead of the 1 acre prescribed in the by-laws and is 90 feet in depth instead of the standard of 200 feet.

Only one of the two corners facing the lake meets the by-law standard of 150 feet from the lake.

The sideline setbacks are met, but the rear of the house does not meet the setback standard.

This is a pre-existing, nonconforming lot and structure. The proposed structure will be built on the same nonconforming footprint and will not increase the nonconformity. The height will be increased from 16 feet to 30 feet which complies with the present standards.

### **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. It will not have an adverse effect.*
- 2. the character of the area. It will not have an adverse effect.*
- 3. traffic in the vicinity. It will not have an adverse effect.*
- 4. by-laws and ordinances presently in effect. It will not have an adverse effect.*
- 5. the utilization of renewable energy resources. It will not have an adverse effect.*

#### *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 thus exempt.*
- 2. Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district. This is a pre-existing, nonconforming structure and thus exempt.*
- 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 required.*
- 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 signs.*
- 5. The proposed structure is compatible with other structures in the area. It will be compatible with other structures in the area.*
- 6. The proposed structure adheres to the uses allowed in the relevant district. It adheres to the uses allowed in the area.*
- 7. The proposed structure will not affect the noise or air pollution in the area. The Board considered the noise and air pollution and decided that it will not affect the area.*

The Board voted unanimously (6 – 0) to approve the conditional use review of rebuilding this nonconforming structure.

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

C1 States that a house, including its porches and decks, can be reconstructed subject to conditional use review under section 5.4 if it does not increase the degree of nonconformity. The proposed structure complies with this standard.

In considering mitigation, the Board thought that 8.9 A3 and C3 seemed to be contradictory as applied

to this application. Given the perceived inconsistency in A3 and C3, the plan presented at this hearing to plant trees, shrubs and other plants around the building and, most importantly, the planned new septic system, the Board endorsed these items as mitigation.

**Decision and Conditions**

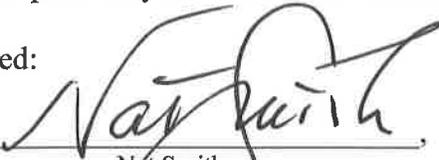
Based upon these findings, the Development Review Board voted unanimously (6 – 0) to approve this application.

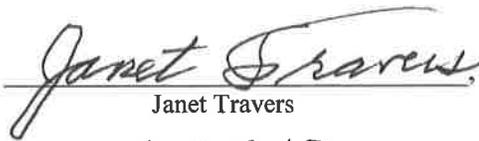
(Alternates vote in the absence of Board members.)

**Conditions:**

- 1. Any and all necessary state and federal permits must be in place before construction can begin.
- 2. The patio may not exceed the dimensions of the current deck and must be permeable.

Signed:

  
\_\_\_\_\_, vice chair  
Nat Smith  
date 11-24-19

  
\_\_\_\_\_, clerk  
Janet Travers  
date 11-24-19

**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.