

Conditional Use
Robert Kasten Hearing
August 17, 2020

To consider a request by Robert Kasten for a Conditional Use permit to rebuild a shed on the property at 216 Black's Point Road.

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

Warnings were posted on July 20, 2020 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 the following abutters and neighboring property owners: Arthur and Mary Day; the Ronna Ragnfrid Gray Trust; Jerome B. King Trust, Christianne G. King, Trustee; Gwen Mann; and David Day on July 20, 2020. It was published in the Hardwick Gazette on Wednesday, July 29, 2020.

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

Development Review Board members absent:

Others present: Robert Kasten, Jr. & Robert Kasten III, applicants; Ivan Menard, contractor; Brett Stanciu, Zoning Administrator; for others see the sign-in sheet.

Correspondence from interested persons:

1. Email letter from David Day, abutter (in favor)

The hearing was conducted by electronic communication (ZOOM).

Summary of Discussion

Ms. Woodruff, chair, began the hearing at 7:04 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. Kasten III to explain what he wants to do on the property at 216 Black's Point Road. He stated that he would like to restore the small accessory building on their property and make it a bit higher with Ivan Menard's help. The existing structure is 9'4"x16' shed or think house on the site which is quite old and in bad disrepair. It is now about 11 feet high on the land side and 13 feet high on the shoreland side. Mr. Kasten would like to increase the height to 22 feet. Electricity service will remain in the building and there will be no plumbing. He would like to make a pier foundation which would possibly be hand dug or a small machine would possibly be used if they run into rock as they're digging. It would have a metal roof, as it has now, and the siding would be shingles and board and batten in keeping with the character of the neighborhood and giving it a similar feel to other buildings on the property. Mr. Menard added that the existing structure is made of round natural timbers that are decomposing so the structure is slowly falling down, and Mr. Kasten has reclaimed a lot of materials from a camp that was torn down this summer that will be used in the restoration. Mr. Kasten's father added that the property and this structure could be of historic significance. They are doing their best to maintain and restore the buildings that could have been there for as many as a hundred years.

Questions from board brought out the following facts:

- During the restoration process the Kastens will rebuild the structure further away from the shoreline as much as possible, but the exact size of the footprint will remain the same.
- The Kastens think this shed was once used by Bancrofts and the Pleasants, as a think house. It may have been built and used by Jack Black for whom the point is named.
- As they tear the building down, they will make an effort to save parts that are structurally sound and reuse them in the restored building.
- During construction they plan to put silt fences above and below the building to divert the water above to run away from the area and catch runoff from beneath the building to keep it from going into the lake. Mr. Kasten will talk to Amy Picotte from the Vermont Lake Wise program of the Department of Environmental Conservation to see what she recommends about erosion on the site and they will follow those guidelines.

- It was suggested that the land under the building be filled in and leveled so an average grade can be established. Then the height of the building can be measured, although the height doesn't have to be exactly 22 feet.
- The space created by the additional height will contain a partial loft Mr. Kasten will use for fly tying, painting, photography and as a place where he can be by himself.
- It is roughly 90 feet from the parking area and if the path through the woods to the building is used often, there will be erosion. This is also an area where help from the Department of Environmental Conservation could be used to control erosion.

Questions and comments from the public brought out these facts:

- Mr. Kasten has done much of the work by himself and has done a lot of study in preparation for this restoration. He does things in a proper manner and doesn't take shortcuts. The character and feel of the old buildings on the property has been maintained by the Kastens as they have upgraded the structures on their property.
- This is a very good example of erosion under the building and the hope is that Mr. Kasten will put erosion control measures in place before construction begins as well as while the work is being done. Erosion on the path to the structure is also an area of concern in which the Department of Environmental Conservation can help.

Mr. Kasten summed up by saying he will consult with and follow the recommendations of Amy Picotte who is the Lakeshore Manager and Lake Wise Coordinator of the Lake Wise Program of the Vermont Department of Environmental Conservation.

The hearing ended at 7:33. The Board went into deliberative session at 7:35 and came back into public session to announce their decision at 8:11.

Findings of Fact:

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

2.7 Shoreland Protection District

With almost 2.5 acres, the lot conforms to the bylaws. The pre-existing shed is 5 feet from the lake shore and therefore nonconforming. The present shed will be renovated on the same footprint. The height will be increased from an average of 12 feet to 22 feet, but will still be within the 30 foot standard.

8.9 Nonconforming Uses and Structures within the Shoreland Protection District

(3) Any structure may be enlarged, extended, reconstructed, expanded, modified or relocated on with the approval of the DRB, subject to conditional use review (5.4). The DRB must determine that the enlargement, extension, expansion, modification or relocation does not increase the degree of nonconformity or else it compensates for lost Shoreland Buffer through mitigation measures and meets all other applicable requirements of these regulations.

8.11 Shoreland Protection District Erosion Prevention and Sediment Control Standards for New Construction, Reconstruction and Relocation

There are seven standards to be followed for erosion prevention and sediment control before and during the construction process.

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 capacity of existing or planned community facilities will not be affected.
2. *the character of the area.* The character of the area will not be affected.
3. *traffic in the vicinity.* The traffic in the area will not be affected.
4. *by-laws and ordinances presently in effect.* The bylaws and ordinances will not be affected.
5. *the utilization of renewable energy resources.* The utilization of renewable energy resources will not be affected.

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. The lot meets the minimum standards for the district.*
2. *Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district. The structure meets all standards except the distance from the lake. This is a pre-existing, nonconforming structure and thus is exempt from that standard.*
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. N/A*
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. N/A*
5. *The proposed structure is compatible with other structures in the area. It is compatible with other structures on the property and in the area.*
6. *The proposed structure adheres to the uses allowed in the relevant district. It does adhere to the uses allowed in the district.*
7. *The proposed structure will not affect the noise or air pollution in the area. The Board duly considered the effect of the noise and air pollution and decided the structure will not have an adverse effect on either of them.*

Decision and Conditions

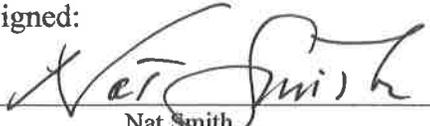
Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the conditional use permit. (Alternates vote in the absence of Board members.)

The Board felt Mr. Kasten did a lot of research and preparation for the restoration of this old structure and presented a clear and concise plan that showed a concern for the bylaw regulations and the environment. He seemed to have a genuine concern about erosion and a willingness to confront the problem and to get help to solve it.

Conditions:

1. Any and all necessary state and federal permits must be in place before construction can begin.
2. The applicant will consult with the proper authorities from the Department of Environmental Conservation in conjunction with the standards of Greensboro bylaw 8.11 to apply best practices for the control of erosion.
3. The site of the building will be moved as far away from the lakeshore as conditions allow, while maintaining the footprint of the existing structure.

Signed:


_____, vice chair
Nat Smith

date Aug. 19, 2020


_____, clerk
Janet Travers

date 8-18-20

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.