December 6, 2021 Comments on Proposed Short-Term Rental Bylaw, draft for consideration on December 6, 2021 by the Greensboro Selectboard.

Sent to Selectboard via email to Brett Stanciu, zoning@greensborovt.org

General Comments – Part 1 of 2

On behalf of myself and my Greensboro property co-owners, E. Siobhan Mitchell and Andrew Mitchell, we write again to express our views on the proposed Short-Term Rental Bylaw, as revised for the December 6, 2021 Selectboard meeting. This is the third time we have submitted written comments on the Short-Term Rental Bylaw. The proposed Bylaw directly impacts us as we own vacation property on the North Shore of Caspian Lake. We begin by expressing our appreciation for the substantial revisions made by the Planning Commission to the draft Bylaw since our prior comments dated August 24, 2021.

Our first general comment is in support of the change from a proposed permit application and approval process to a registration process. We believe the registration process is a much more manageable and appropriate means of tracking the number, location, and ownership of Short-Term Rental Dwelling Units in Greensboro. By gathering data and creating a means of establishing accountability for the few (if any) Dwelling Units where Short-Term Rentals are affecting the quality of life for Town residents and neighbors, it will be much easier to evaluate whether Short-Term Rentals create disturbances or issues, and if so, what is the best means to address them, i.e. through legislative means or on a case-by-case basis based on specific properties and their owners/operators/occupants.

Our second general comment is to express appreciation for the improved drafting, organization, and use of defined terms as appropriate. Thank you.

We will address our third general comment – enforcement – at the end of our specific comments in Part 2.

With respect to the specific text of the proposed Bylaw, we do have concerns that remain, as follows:
Specific Comments

1. Intent of Short-Term Rental Bylaw. While the draft Bylaw states that one of its intentions is to protect the town’s natural resources, the connection between the draft Bylaw and the protection of the quality of natural resources is not readily evident. There are provisions requiring accurate advertising of parking and occupancy limits, however evidence of impacts of Short-Term Rentals (STRs) on natural resources is lacking. Rules regarding maximum capacity of a structure for an STR (less than 30 days) and parking are much more closely aligned to enforcement of building code and zoning rules, as transitory uses of property that exceed capacity limits (those that are less than 30 days) are unlikely to affect water quality or other natural resources. The greatest sources of environmental impact to Lake Eligo and Caspian Lake are documented to be agricultural and stormwater runoff, including sediment loading resulting from large-scale clearing of vegetation – not septic systems. We respectfully suggest that the sole, true purpose of the Short-Term Rental Bylaw is to ensure that rental properties are in compliance with state regulations. Acknowledging this purpose, we question whether the Town is the proper jurisdictional authority to secure compliance with state law. We also question the various provisions, outlined below, that reflect a degree of overreach and risk of confusion where Town and state requirements differ.

2. Section (A). We agree with this definition of a Short-Term Rental, per 24 V.S.A. §2291(29).

3. Section (B). Short-Term Rental Requirements

   a. “Dwelling Unit” appears in the first paragraph with capitalized initials. This is a defined term, however it lacks a definition. Please define what constitutes a “Dwelling Unit.”

   b. The first paragraph states that the registration shall be completed within one year from the time this bylaw is adopted. Adoption of a bylaw is not the same as an effective date. Please revise to state that Registration shall be completed within one year from the time this bylaw takes effect. What constitutes “completion”? Is it when the property owner (or agent) submits the three requirements under Section (C) to the town Zoning Administrator? Also “short-term rental” in the second sentence should be capitalized, and should be followed by “of a Dwelling Unit.” This requirement should also provide a means of registering an STR Dwelling Unit after the effective date. Without such language, new STR operators will not know when, or even if, they need to register. Language should be added to state that, alternatively, registration of a Short-Term Rental shall be completed, within 30 days (or some other reasonable time frame) after a Dwelling Unit is rented for Short-Term Rental occupancy, calculated from the date of commencement of the Short-Term Rental.
c. Subpart 1. The text of subpart 1 suggests that all of the listed contact information is required by 18 V.S.A. §4467. This is incorrect. This discrepancy could lead to confusion and delayed response by property managers.

i. 18 V.S.A. §4467 states in its entirety: “A short-term rental operator shall post within the unit a telephone number for the person responsible for the unit and the contact information for the Department of Health and the Department of Public Safety's Division of Fire Safety.” Put simply, the state requires posting of three phone numbers: (1) the person responsible for the unit; (2) the Department of Health; and (3) the Division of Fire Safety.

ii. Subpart 1 requires the owner’s name, phone number, mailing address, and an emergency contact or designated representative. The designated emergency contact representative shall be “geographically proximate” and on call 24 hours a day, 7 days a week. This requirement fails to reflect the reality of short-term rentals. Often, an owner handles the daily management and communications of the rental. There can potentially be an “emergency” contact but for owner managed units, typically the owner is the primary contact. Just as often, however, the owner delegates property management to a third party. There are many reasons why the owner may do this and consequently, may not want or need to have their contact information listed. They may be military and on overseas duty, they may be elderly and/or infirm, they may want privacy and not want renters to have direct access to their phone number and address, or they may have personal reasons. This requirement of posting owner phone numbers and addresses is an unreasonable intrusion on an owner’s privacy. If an owner has delegated responsibility to a property manager, for any reason, that decision should be respected by the Town, and only that manager’s contact information should be posted. Furthermore, a telephone number is adequate. Requiring the owner’s phone number and address could lead renters to assume incorrectly that the owner should be contacted for maintenance, emergency, and other reasons. This could lead to a delayed response while the owner transmits the message (to the extent they can) to the manager. Also, state law does not require geographic proximity (which is undefined). Why does the Town think this is needed? Also, the requirements do not account for seasonal changes. Must the emergency contact be available year round or only during summer months when rentals occur?

d. Subpart 2. The text of Subpart 2 suggests that 18 V.S.A. §4468(b) requires owners to complete and post within the Short-Term Rental a copy of the Vermont Short-Term Rental Safety, Health, and Financial Obligations Form. This is not correct. 18 V.S.A. §4468(b) states, in its entirety: “Included with the [safety, health, and financial obligations packet for short-term rental operators] set forth in subsection (a) of this section shall be a self-certification form
pertaining to health and safety precautions that short-term rental operators must take into consideration prior to renting a unit. *The form shall be retained by the operator and need not be filed with the Department.*” (emphasis added) State law does not require posting of this form in the Dwelling Unit. To the extent that the Bylaw seeks to secure compliance with state law, the posting requirement goes above and beyond state requirements to “take into consideration” the health and safety precautions and should be deleted.

e. **Subpart 3.** This proposed provision requires owners to obtain the State-prepared educational information packet. State law contemplates that short-term rental operators will obtain and familiarize themselves with the safety, health and financial obligations form. Again, the Bylaw fails to distinguish between owners and operators of STRs. The focus here should be on operators, not owners. An owner should be able to entrust a third party property manager and that manager should be obligated to familiarize themselves with the safety, health, and financial obligations form referenced in 18 V.S.A. §4468(a).

f. **Subpart 4.** This section regarding accurate occupancy and parking limits is vague and confusing. First, Section (C).2 references two sources of occupancy information. One is the Permit for the property for Dwelling Units constructed or occupied after July 1, 2007. The second is the number of bedrooms indicated if a local zoning or wastewater permit does not exist for Dwelling Units constructed before July 1, 2007. As a tax assessment tool, we presume that the Listers Property Card (which is undefined) does not provide a specific occupancy limit. Defining the number of bedrooms is not a substitute for determining the actual occupancy limit. Some houses have large bedrooms that easily accommodate 2 or 3 bunk beds and/or additional sleeping accommodations. Others have small bedrooms with space for 1-2 people. How does the Town intend to define actual occupancy limits? As for parking, there is no reference for establishing parking limits. Imposing a requirement to advertise only “accurate” parking limits is without any foundation.

g. **Subpart 5.** We suggest including the phrase “for each Dwelling Unit” after Short-Term Rental to ensure that the houses/cabins used for Short-Term Rentals are distinguished from the activity of Short-Term Rentals.

h. **Subpart 6.** Again there is a blurring of distinctions between an owner and an operator. Vermont law requires all operators of a Short-Term Rental to collect and remit appropriate taxes. Vermont law does not require the “owner” to collect and remit Vermont Tax. The Bylaw should specify that the Tax referred to is the Meals & Rooms Tax. This tax is administered through a license issued to the operator of the business. Note that a business does not need to be an LLC or corporation. A sole proprietor or partnership can operate a business in their own personal name(s).

i. **Subpart 7.** It is not clear what is meant by a “new Short-Term Rental registration.” If ownership changes, can the new owner not simply update the existing registration with new owner and contact information and tax license number?
j. Subpart 8. The term "timely trash removal" is vague and subject to dispute. It is not clear how this would be enforced. It is also not clear what is meant by "Provisions." Does this mean a contract for regularly scheduled removal (i.e. an outside service) or can the owner/operator decide when there is enough accumulated trash to warrant a trip to the transfer center?

k. Subpart 9. "Large destination events" is not defined and would not likely suffice for an enforcement action. Is a birthday party a large destination event? Probably not if it is for a 10 year old and involves 8-10 kids plus their parents and relatives. But what about a birthday party for a 90 year old that has 100s of friends and descendants and family? How about a small wedding with 10 guests? What about a small wedding with 20 guests? The point is, if I choose to adverse for small destination events, at what point does the guest count creep up to the point where it is considered a large destination event. This is a very subjective limitation and is problematic, to say the least.

4. Section (C). Registration Requirements:

a. The list of requirements should be more explicit in stating that the operator must provide the listed documentation.

b. As stated above in Specific Comment 3(d), submission of the Vermont Short-Term Rental Safety, Health and Financial Obligations Form is not a requirement of 18 V.S.A. §4468(b). To the extent the Town wants the self-certification form to go above and beyond the requirement that short-term rental operators "take [it] into consideration prior to renting a unit," it must be transparent with that intent.

c. As stated above in Specific Comment 3(f), it is our understanding that the Listers Property Card provides information regarding the number of bedrooms. This is not the equivalent of the occupancy limit. We question whether it is a valid basis for establishing the occupancy limit.

d. 18 V.S.A. §4468 does not require a short-term rental operator to obtain a Meals & Rooms Tax Number. To the contrary, this statute requires the operator to post its Tax Number in any advertisement of its short-term rental. Subpart 3 of Section (C) does not appear to promote the requirement of obtaining a Meals & Rooms Tax Number.

General Comments – Part 2 of 2

An overarching concern associated with the proposed Short-Term Rental Bylaw is the question of enforcement. Certainly a scaled back registration process is much easier to administer than the initial permit approval process, however the question remains: what will the Town do if unregistered STRs are encountered, or if registered STRs have failed to comply with specific obligations of the STRs? Does Greensboro intend to conduct inspections? Does it intend to solicit public input and reports of non-compliance? Is the goal to maintain an accurate register of STRs to allow neighboring
properties to know whom to contact in case of a complaint? Or is intended to be an arm of the state, identifying and reporting rentals that have the occasional party or are failing to list the required information in their STR? We fear for a divisive community split between those who favor and those who oppose STRs, and the resulting neighbor conflicts. During the public hearings before the Planning Commission it was apparent that some property owners, particularly second home owners who do not rent, see STRs as a “business” and view their operators as profit centers or commercial enterprises, that classification is not supported by the IRS. Nor is it supported by us. Our vacation property is first and foremost a family treasure that we want to preserve for future generations. The tax burden of course influences our decision to rent to visitors who want to enjoy the same experiences that we enjoy. Through decades of renting to families drawn to the beauty of the Northeast Kingdom, we have found that the rental community shares the same commitment to preserving the experience of Greensboro that we, as homeowners, do, and wants to preserve those attributes just as generations of property owners have done for more than a century.

Thank you for considering these comments. We would be happy to respond to any questions you may have.

Maureen Mitchell
E. Siobhan Mitchell
Andrew Mitchell
Re: GPC bylaw changes
3 messages

Jennifer Ranz <jenniferranz@gmail.com>
To: Brett Ann Stanciu <zoninggreensborovt@gmail.com>

Mon, Dec 6, 2021 at 11:20 AM

Hi Brett,
I am not in favor of the GPC proposed bylaw changes in regards to short term rentals. I do not think it necessary that the town have more requirements than the State of Vermont.

Jennifer

Jennifer Ranz
Turning Stone Farm
Greensboro, Vermont 05841

Zoning Administrator <zoning@greensborovt.org>
To: Peter Romans <promans802@gmail.com>, David Kelley <davidkelley05602@gmail.com>, Tracy Collier <tmcollier33@yahoo.com>, Matt McAllister <mmloggingvt@gmail.com>, Gary Circosta <gcircosta@greensborovt.org>
Cc: Joshua Karp <jkarp@greensborovt.org>, Kim Greaves <townclerk@greensborovt.org>

Mon, Dec 6, 2021 at 11:38 AM

I'll collect all public comments, but I'm forwarding this comment I just received FYI before tonight's hearing.

Thanks,
Brett

[Quoted text hidden]

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Brett Stanciu
Greensboro Zoning Administrator
(802) 533-2640
www.greensborovt.org
Office Hours:
Tuesday & Thursday
9 am - 4 pm

Zoning Administrator <zoning@greensborovt.org>
To: Jennifer Ranz <jenniferranz@gmail.com>

Mon, Dec 6, 2021 at 11:39 AM

Hi Jennifer,

Thank you for taking the time to write in. I've forwarded this comment to the Selectboard.

Best,
Brett

[Quoted text hidden]
[Quoted text hidden]
Re: Selectboard Public Comment Hearing for Bylaw Amendments

3 messages

Clive Gray <clivegrayvt@gmail.com>  Thu, Nov 18, 2021 at 6:20 PM
To: zoning@greensborovt.org

I propose a zoning amendment to clarify the DRB's responsibility with regard to signs larger than 6 square feet. The proposed amendment is shown below in bold. It is designed to remove the DRB's jurisdiction in cases where a sign is not visible from a public road or from an adjoining property.

Greensboro Zoning By-Law – 2.5 Rural Lands District (proposed amendments)

(A) Description. The Rural Lands District consists of land that is rural in character with residential uses, forestry, agricultural, Agribusiness, and other small businesses which facilitate the local food economy as the present primary uses. The Rural Lands District areas are generally served by town roads and are suitable for rural residential and Agribusiness development.

(B) Purpose. The Rural Lands District is established to accommodate low density residential development while preserving open space, and to encourage Agribusiness and other small businesses which facilitate the local food economy as well as productive agricultural and forest resources. When classified as affordable housing, clustered higher density development may be appropriate in this district.


Zoning Administrator <zoning@greensborovt.org>  Fri, Nov 19, 2021 at 6:17 AM
To: Clive Gray <clivegrayvt@gmail.com>

Hi Clive,

Thanks for this email. I'll forward this along to the Selectboard.

Very best,
Brett

https://mail.google.com/mail/u/0/?ik=1fa8a385d3&view=pt&permthid=thread-f%3A1716820456789058169&simple=msg-f%3A1716820456789058169...
Hi all,

I hope you had a nice Thanksgiving.

I received this comment from Clive Gray about a week ago; I've been holding it in expectation that I might receive a few more. At this point, I've received no other written comments.

I'll forward along in a packet this and any additional comments I might receive before the December 6 public comment hearing.

Very best,

Brett
Memorandum

TO: Greensboro Selectboard

FROM: Rick and Linda Ely

RE: Comments on Proposed Amendments to Zoning Bylaw for purposes of Selectboard Public Hearing on December 6, 2021

December 6, 2021

We are writing as private citizens and non-resident landowners in Greensboro to comment on the proposed amendments to the Greensboro Zoning Bylaw being addressed at the Greensboro Selectboard’s public hearing on December 6, 2021. We thank the members of the Planning Commission for their hard work in creating this draft and express our support for sensible zoning regulation within Greensboro. Regrettably, however, we believe that the proposed amendment does not yet meet this “sensible” standard because:

- it contains numerous drafting flaws, conflicts and errors, most notably the requirement in §2.7.P.2 that all non-conforming lots within the Shoreland Zone (which we estimate comprise over 60% of the total lots) obtain a variance from the DRB for any “Development” (which is broadly defined to include simple activities such as tree and shrub removal and storage of equipment or materials), even where those activities would otherwise be permitted under exemptions or guidelines elsewhere in the proposed By-law. These flaws need to be corrected before the proposed By-Law is allowed to proceed.

- it adds additional, more stringent and, in many cases, unreasonable or overbroad restrictions, despite the Agency of Natural Resources having determined that Greensboro’s existing by-law already provides “functionally equivalent” protections to the standards set forth in Vermont’s Shoreland Protection Act.

- It eliminates grandfathering in several customary situations, including (i) where an accessory dwelling unit is to be reconstructed and (ii) for lawns, gardens and landscaping created between July 1, 2014 and the effective date of this by-law.

In short, the imposition of additional regulatory burdens for which there is insufficient justification, as well as the enumeration of those burdens by way of flawed drafting, constitutes bad public policy. For these reasons, we oppose the proposed bylaw in its current form.

Thank you for the opportunity to submit the attached detailed comments. We are available at the Selectboard’s convenience to discuss or explain any of these points in greater detail.

Respectfully submitted,

Rick and Linda Ely
Comments on Proposed § 2.7 “Shoreland Protection District” of Zoning Bylaw

Our comments below are focused on § 2.7 “Shoreland Protection District”, and are presented in the order of the provisions of the proposed section in order to assist Selectboard members in their further review of the draft. We may have additional comments should the Selectboard or Planning Commission determine to publish a further revised draft.

§ 2.7.C Precedence. This new provision states that, where a conflict occurs between the provisions of the proposed by-law, the most restrictive provision will apply. As discussed further below, this provision effectively eliminates, for the majority of lots in the Shoreland Protection District, the effect of many of the exemptive provisions set forth elsewhere in the by-law and, as a result, is a serious drafting flaw.

§ 2.7.D Applicability. This subsection would require a zoning permit “for all land development...and... any activity that would clear land, remove vegetation or create impervious surface within 250 feet of the mean water level of Caspian and Eello lakes, unless specifically exempted.” This wording increases by 150% the depth of the Shoreland Buffer Resource Zone, from its current 100’ to the proposed 250’, particularly in relation to clearance of land and removal of vegetation. We believe this is an unreasonable and arbitrary extension of regulation in this area that is out of line with current Vermont state standards. By contrast, as recently as 2014 Vermont’s Agency of Natural Resources determined that Greensboro’s existing Zoning By-Law, including its provision of a 100’ buffer zone, are “functionally equivalent to the standards required by the Shoreland Protection Act for protected shoreland area”. While we share the Planning Commission’s objective to protect lake quality, we do not believe that these new standards will provide any meaningful additional protection in this area.

§2.7.E Exempt Development. We have several comments on this subsection:

- Clause 4, provides an exemption for vegetative management practices permitted under Subsection Q. As discussed below, however, in the case of non-conforming properties those provisions are effectively superseded by the variance requirements of § 2.7.P.2. We assume this is an unintended drafting error.

- The date in clause 5 should be changed from “July 1, 2014” to “the effective date of this 2.7” and the following words should be added to the end of the clause: “to the extent they were permitted by applicable bylaws at the time they were established.”

The proposed reference to “July 1, 2014”, when combined with the effective expansion of the Shoreland Buffer Resource Zone from 100’ to 250’ under Subsection 2.7.D, would have the effect of eliminating grandfathering for the maintenance of lawns, gardens and

landscaping created in the nearly eight years between July 1, 2014 and the likely effective date of this by-law, where those lawns, gardens or landscaping fall between 100’ and 250’ from the shoreline, even if they were permitted under by-laws in effect at the time they were created (for example, during that period Greensboro’s existing bylaw would have permitted the creation of new landscaping between 100 and 250 feet from mean water level). This result is unreasonable and arbitrary.2

- The reference in clause 6 to footpaths not exceeding “5 feet” should instead be “6 feet”, which is consistent with Vermont’s Shoreland Protection Act Handbook.3

§2.7.J General District Standards. This provision would impose a number of restrictions that would burden property use in ways that are significantly more stringent than the requirements under the Shoreland Protection Act. We believe this is an unreasonable and arbitrary extension of regulation in this area that is out of keeping with the current approach in Vermont. In particular:

- Clause 2 imposes a 15% slope standard for areas to be cleared or covered with impervious surface, rather than the 20% slope standard that would apply under the Shoreland Protection Act (the same provision appears in clause 2.7.P.1.d).
- Clause 3 imposes a 15% limitation on impervious areas throughout the Shoreland Protection District, rather than the 20% standard that would apply under the Shoreland Protection Act.
- Clause 4 imposes a strict 60% vegetative cover requirement on all land within 250’ of the lake, citing “Vermont Shoreland Best Management Practices”. By contrast, Vermont’s standard allows cleared areas in the protected shoreland area to exceed 40% “where [best management practices] are used to mitigate the loss of vegetated cover”.4 We believe this more flexible standard is better suited to the existing density and small lot size in much of Greensboro’s Shoreland Protection District.
- Because of the operation of the “Precedence” provisions of § 2.7.C, discussed above, additional language needs to be added in Clause 16.b. to exempt its 1:2 gradient standard for banks & roadways from the stricter slope standard that would otherwise apply under Clause 2 above.

§2.7.N. District Standards for Accessory Dwelling Units. This provision would require that the reconstruction of any ADU within the Shoreland Protection District may not exceed 900 square feet or 30% of the size of the Principal Structure, whichever is greater. This restriction conflicts

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2 Our proposed revisions also conform to the general grandfathering provision set forth in Clause 2.7.P.g. that permits maintenance of “cleared openings and lawns within the Shoreland Buffer Resource Zone legally in existence on the effective date of these regulations”.


4 See 10 VSA §1444(a)(4) (https://legislature.vermont.gov/statutes/section/10/049A/01444 ) and the Shoreland Protection Act Handbook at page 12.
with the Town’s traditional approach to zoning in this area, which is to grandfather existing structures and any reconstruction of those structures, provided the degree of non-conformity is not increased. Before proposing or adopting this provision, we believe the Selectboard should direct and publish for public comment an assessment of how many of the 200+ parcels in the Shoreland Protection District could be effected by this limitation in the future.

§2.7.O. District Standards for Nonconformities. The cross-reference in the first sentence of this provision to “Subsection 2.7 H” should instead be to “Subsection 2.7 I” (Dimensional Standards). In clause 6., the word “publicized” should be replaced with “published”.

§2.7.P. Nonconforming Uses and Structures with the Shoreland Buffer Resource Zone.

- In the case of expansion of Nonconforming Structures, subclause 1.d. of this subsection has expanded the slope restriction, referred to above in our comments on General District Standards, from “20% or greater” to “15% or greater” and, for the first time, imposes a mandatory natural revegetation standard for areas not “essential” to the intended use of the development. We believe that imposing an “essential” standard here effectively overrides the more flexible (and more appropriate) provisions of subclause c., which contemplates “Mitigation measures” in these situations.

- The words “, garden and landscaping” should be inserted in the first line of subclause 1.g. after the word “lawns” so that the language conforms to the usage and meaning of clause 5 of subsection 2.7.E.

- Subclause 2.7.P.2 should be revised. As drafted, it requires a variance from the DRB for any “Development” on any existing “non-conforming lot” in the Shoreland Zone that has a structure within 150’ of the lake, or has less than 100’ of shoreline frontage, or is less than 200’ deep. We estimate that at least 60% of the lakefront properties in the Shoreland Zone are non-conforming and fail to meet one or more of these criteria. Given the very broad definition of “Development”\(^5\), this effectively means that the owners of those properties would not be able to take advantage of the exemptions and guidelines that appear elsewhere in the proposed by-law, even for something as simple as cutting down a diseased shrub or tree, unless they first obtained a variance from the DRB.\(^6\) We assume this is an unintentional drafting error and respectfully suggest that subclause 2.7.P.2 be re-written as follows:

> Except for activities specifically exempted or permitted under this bylaw, no Development shall occur on pre-existing, nonconforming lots that do not comply with

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\(^5\) “Development” is defined elsewhere in the Zoning By-Law as “Any human-made change to improved or unimproved real estate, including but not limited to the construction, re-construction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any filling, grading, paving, excavation, earth moving, tree, shrub or ground cover removal, storage of equipment or materials, or the extension of use of land.

\(^6\) The proposed regulation also eliminates the DRB’s current ability to determine that this variance requirement does not apply, because of the operation of the new §2.7.D “Precedence”, which requires application of the most restrictive provision of the by-law where a there is a conflict between two provisions.
the Shoreland Buffer Resource Zone setback, lot shoreline frontage, and minimum depth standards unless a variance from the DRB is obtained in accordance with 24 V.S.A. § 4469(a) and § 5.5 of this bylaw.”

§2.7.Q. District Standards for Vegetative Cover. This provision requires compliance with enumerated tree distribution standards whenever an “applicant” proposes to “cut trees” within 250’ of the lakefront.

- As noted above, this is effectively a 150% expansion in the depth of the Shoreland Buffer Resource Zone that is in the current Bylaw. We believe this expansion in unwarranted.

- In addition to the vegetative protection standards set forth in the proposed by-law, we believe this section should permit the additional related activities permissible under the Shoreland Protection Act. These include:
  - Removal of invasive species, noxious weed and nuisance plants; and
  - Removal of 250 square feet of vegetation under three feet in height, at least 25 feet from the mean water level, as long as the Vegetation Protection Standards set forth in clauses 1. and 2. of subsection 2.7.Q are otherwise met and the duff layer is not removed.7

- The following language should be added to the end of the first sentence of 2.7Q.:
  “or the applicability of the exemption provided by §2.7.E.5”

This additional language is necessary to prevent the unintended operation of the Precedence language of §2.7.C.

Shoreland Protection District Definitions. We respectfully recommend that the definitions of “Impervious Surface” and “Shoreland Buffer” that currently appear in Article 8 of the existing by-law, which is being eliminated, should be retained here. In addition, the definition of “Duff” and “Vegetative Cover” in the Shoreland Protection Act should be added here or incorporated by reference.8 By contrast the proposed definition of “Upland Zone” is not used anywhere in proposed §2.7 and correspondingly should be eliminated.

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8 See: https://legislature.vermont.gov/statutes/section/10/049A/01442
Memorandum

TO: Greensboro Selectboard
FROM: Rick and Linda Ely
RE: Comments on Proposed Amendments to Zoning Bylaw for purposes of Selectboard Public Hearing on December 6, 2021

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- it adds additional, more stringent and, in many cases, unreasonable or overbroad restrictions, despite the Agency of Natural Resources having determined that Greensboro’s existing by-law already provides “functionally equivalent” protections to the standards set forth in Vermont’s Shoreland Protection Act.

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§ 2.7.D Applicability. This subsection would require a zoning permit “for all land development...and... any activity that would clear land, remove vegetation or create impervious surface within 250 feet of the mean water level of Caspian and Eligo lakes, unless specifically exempted.” This wording increases by 150% the depth of the Shoreland Buffer Resource Zone, from its current 100’ to the proposed 250’, particularly in relation to clearance of land and removal of vegetation. We believe this is an unreasonable and arbitrary extension of regulation in this area that is out of line with current Vermont state standards. By contrast, as recently as 2014 Vermont’s Agency of Natural Resources determined that Greensboro’s existing Zoning By-Law, including its provision of a 100’ buffer zone, are “functionally equivalent to the standards required by the Shoreland Protection Act for protected shoreland area”.¹ While we share the Planning Commission’s objective to protect lake quality, we do not believe that these new standards will provide any meaningful additional protection in this area.

§2.7.E Exempt Development. We have several comments on this subsection:

- Clause 4, provides an exemption for vegetative management practices permitted under Subsection Q. As discussed below, however, in the case of non-conforming properties those provisions are effectively superseded by the variance requirements of § 2.7.P.2. We assume this is an unintended drafting error.

- The date in clause 5 should be changed from “July 1, 2014” to “the effective date of this 2.7” and the following words should be added to the end of the clause:
  “to the extent they were permitted by applicable bylaws at the time they were established.”

The proposed reference to “July 1, 2014”, when combined with the effective expansion of the Shoreland Buffer Resource Zone from 100’ to 250’ under Subsection 2.7.D, would have the effect of eliminating grandfathering for the maintenance of lawns, gardens and

landscaping created in the nearly *eight years* between July 1, 2014 and the likely effective date of this by-law, where those lawns, gardens or landscaping fall between 100' and 250' from the shoreline, *even if they were permitted under by-laws in effect at the time they were created* (for example, during that period Greensboro’s existing bylaw would have permitted the creation of new landscaping between 100 and 250 feet from mean water level). This result is unreasonable and arbitrary.²

- The reference in clause 6 to footpaths not exceeding “5 feet” should instead be “6 feet”, which is consistent with Vermont’s Shoreland Protection Act Handbook.³

### §2.7.J General District Standards.

This provision would impose a number of restrictions that would burden property use in ways that are significantly more stringent than the requirements under the Shoreland Protection Act. We believe this is an unreasonable and arbitrary extension of regulation in this area that is out of keeping with the current approach in Vermont. In particular:

- Clause 2 imposes a 15% slope standard for areas to be cleared or covered with impervious surface, rather than the 20% slope standard that would apply under the Shoreland Protection Act (the same provision appears in clause 2.7.P.1.d).
- Clause 3 imposes a 15% limitation on impervious areas throughout the Shoreland Protection District, rather than the 20% standard that would apply under the Shoreland Protection Act.
- Clause 4 imposes a strict 60% vegetative cover requirement on all land within 250' of the lake, citing “Vermont Shoreland Best Management Practices”. By contrast, Vermont’s standard allows cleared areas in the protected shoreland area to exceed 40% “where [best management practices] are used to mitigate the loss of vegetated cover”.⁴ We believe this more flexible standard is better suited to the existing density and small lot size in much of Greensboro’s Shoreland Protection District.
- Because of the operation of the “Precedence” provisions of § 2.7.C, discussed above, additional language needs to be added in Clause 16.b. to exempt its 1:2 gradient standard for banks & roadways from the stricter slope standard that would otherwise apply under Clause 2 above.

### §2.7.N. District Standards for Accessory Dwelling Units.

This provision would require that the *reconstruction* of any ADU within the Shoreland Protection District may not exceed 900 square feet or 30% of the size of the Principal Structure, whichever is greater. This restriction conflicts

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² Our proposed revisions also conform to the general grandfathering provision set forth in Clause 2.7.P.g. that permits maintenance of “cleared openings and lawns within the Shoreland Buffer Resource Zone legally in existence on the effective date of these regulations”.


with the Town’s traditional approach to zoning in this area, which is to grandfather existing structures and any reconstruction of those structures, provided the degree of non-conformity is not increased. Before proposing or adopting this provision, we believe the Selectboard should direct and publish for public comment an assessment of how many of the 200+ parcels in the Shoreland Protection District could be effected by this limitation in the future.

§2.7.O. District Standards for Nonconformities. The cross-reference in the first sentence of this provision to “Subsection 2.7 H” should instead be to “Subsection 2.7 I” (Dimensional Standards). In clause 6., the word “publicized” should be replaced with “published”.

§2.7.P. Nonconforming Uses and Structures with the Shoreland Buffer Resource Zone.

- In the case of expansion of Nonconforming Structures, subclause 1.d. of this subsection has expanded the slope restriction, referred to above in our comments on General District Standards, from “20% or greater” to “15% or greater” and, for the first time, imposes a mandatory natural revegetation standard for areas not “essential” to the intended use of the development. We believe that imposing an “essential” standard here effectively overrides the more flexible (and more appropriate) provisions of subclause c., which contemplates “Mitigation measures” in these situations.

- The words “", garden and landscaping” should be inserted in the first line of subclause 1.g. after the word “lawn” so that the language conforms to the usage and meaning of clause 5 of subsection 2.7.E.

- Subclause 2.7.P.2 should be revised. As drafted, it requires a variance from the DRB for any “Development” on any existing “non-conforming lot” in the Shoreland Zone that has a structure within 150’ of the lake, or has less than 100’ of shoreline frontage, or is less than 200’ deep. We estimate that at least 60% of the lakefront properties in the Shoreland Zone are non-conforming and fail to meet one or more of these criteria. Given the very broad definition of “Development”5, this effectively means that the owners of those properties would not be able to take advantage of the exemptions and guidelines that appear elsewhere in the proposed by-law, even for something as simple as cutting down a diseased shrub or tree, unless they first obtained a variance from the DRB.6 We assume this is an unintentional drafting error and respectfully suggest that subclause 2.7.P.2. be re-written as follows:

“Except for activities specifically exempted or permitted under this bylaw, no Development shall occur on pre-existing, nonconforming lots that do not comply with

5 “Development” is defined elsewhere in the Zoning By-Law as “Any human-made change to improved or unimproved real estate, including but not limited to the construction, re-construction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any filling, grading, paving, excavation, earth moving, tree, shrub or ground cover removal, storage of equipment or materials, or the extension of use of land.

6 The proposed regulation also eliminates the DRB’s current ability to determine that this variance requirement does not apply, because of the operation of the new §2.7.D “Precedence”, which requires application of the most restrictive provision of the by-law where a there is a conflict between two provisions.
the Shoreland Buffer Resource Zone setback, lot shoreline frontage, and minimum depth standards unless a variance from the DRB is obtained in accordance with 24 V.S.A. § 4469(a) and § 5.5 of this bylaw.”

§2.7.Q. District Standards for Vegetative Cover. This provision requires compliance with enumerated tree distribution standards whenever an “applicant” proposes to “cut trees” within 250’ of the lakefront.

- As noted above, this is effectively a 150% expansion in the depth of the Shoreland Buffer Resource Zone that is in the current Bylaw. We believe this expansion is unwarranted.
- In addition to the vegetative protection standards set forth in the proposed by-law, we believe this section should permit the additional related activities permissible under the Shoreland Protection Act. These include:
  - Removal of invasive species, noxious weed and nuisance plants; and
  - Removal of 250 square feet of vegetation under three feet in height, at least 25 feet from the mean water level, as long as the Vegetation Protection Standards set forth in clauses 1. and 2. of subsection 2.7.Q are otherwise met and the duff layer is not removed.7
- The following language should be added to the end of the first sentence of 2.7Q.:
  “or the applicability of the exemption provided by §2.7.E.5”

This additional language is necessary to prevent the unintended operation of the Precedence language of §2.7.C.

Shoreland Protection District Definitions. We respectfully recommend that the definitions of “Impervious Surface” and “Shoreland Buffer” that currently appear in Article 8 of the existing by-law, which is being eliminated, should be retained here. In addition, the definition of “Duff” and “Vegetative Cover” in the Shoreland Protection Act should be added here or incorporated by reference.8 By contrast the proposed definition of “Upland Zone” is not used anywhere in proposed §2.7 and correspondingly should be eliminated.

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7 See: https://dec.vermont.gov/sites/dec/files/lsm/lakes/docs/Shoreland/ln_AppendixDVIMP_guidance.pdf
8 See: https://legislature.vermont.gov/statutes/section/10/049A/01442
FOR TONIGHT'S SelBd Zoning Hearing / more input fm Guilmettes
2 messages

Annette Lorraine <rainlaw@sover.net> Mon, Dec 6, 2021 at 3:46 PM
To: Zoning Administrator <zoning@greensborovt.org>, Kim Greaves <townclerk@greensborovt.org>
Cc: John Guilmette <johnr.guilmette@gmail.com>, jdg Guilmette@gmail.com

Dear Members of the Selectboard,

I hope you have seen John Guilmette’s previous email (included below).

The Guilmette’s current situation illustrates why one part (§ 5.1 Zoning (D) Subdivisions) of the proposed new regulatory zoning language will be unnecessarily burdensome and costly for many landowners.

The Guilmettes want to do a boundary adjustment with a neighbor – to convey a separate lot of land they own, and adjust one boundary of their retained lot westward exactly parallel to their existing western boundary for 150’ – which would increase their retained lot from 1.4-acres to 2.1 acres.

Although their lots – and all the other abutting lots have already been surveyed, with monuments in the ground, – the proposed zoning language requires an entirely new and detailed survey...

“by a licensed surveyor which includes existing and proposed property lines, lot lines, boundary dimensions, location of roads, driveways, ROWs, easements, culverts, waterways, wetlands, floodplains, existing structures, wells, septic systems.”

[excerpt from § 5.1 Zoning (D) Subdivisions emphasis supplied]

Using the Guilmettes’ situation as an example, based on:

a. all the previous surveys and monuments, and
b. the amended state Wastewater/Potable Water Permit, including its Site Plan they are obtaining for the State, and
c. the fact that we can write a clear legal description of the new boundary line that anyone, including future surveyors can follow,

it seems entirely unnecessary, time-consuming, burdensome, and significantly expensive for these taxpayers to have to procure a whole new survey – which would be redundant as to all previous surveys, with the exception of one line.

Why not simply allow a map of proposed change?
May we suggest that the above language from § 5.1 Zoning (D) Subdivisions be amended to read as follows:

Application requirements:

a. All relevant State permits must be obtained.

b. A survey map prepared by a licensed surveyor which includes existing and proposed property lines, lot lines, boundary dimensions, location of roads, driveways, ROWs, easements, culverts, waterways, wetlands, floodplains, existing structures, wells, septic systems, or if adequate records are on file in the land records, a sketch or site plan or partial survey plan illustrating only the intended changes.

c. Recording fee and other local fees.

Thanks very much for your public service, your time, and your consideration of this.

Kind regards,

Annette Lorraine, attorney for Greensboro landowners, John & Janice Guilmette

Annette Lorraine, PLC

Law Office & Land as Legacy

PO Box 1466 (7 Main St., #301), Montpelier, VT 05601-1466

Fax: 855.457.9286 Tel: 802.262.6400

From: Annette Lorraine <rainlaw@sover.net>
Sent: Monday, December 6, 2021 3:09 PM
To: 'Zoning Administrator' <zoning@greensborovt.org>; 'Kim Greaves' <townclerk@greensborovt.org>
Cc: 'John Guilmette' <johnr.guilmette@gmail.com>; 'jdgilmette@gmail.com' <jdgilmette@gmail.com>
Subject: FOR TONIGHT’S SelBd Zoning Hearing / Input from John Guilmette
Importance: High

Hi –

I am traveling and unfortunately are having problems with phone service and can only text message. Please forward this note to the Select board for their meeting tonight.

Thank you, John Guilmette

To: Greensboro Select Board
Memorandum

TO: Greensboro Selectboard

FROM: Liz Steel

RE: Proposed Greensboro Shoreland Protection District By-law

December 7, 2021

As a follow up the discussion during the Selectboard Public Hearing Dec 6, 2021 on the Shoreland Protection District proposed By-law, I would like to submit the following comments for consideration.

I know the Planning Board is concerned with lake water quality and more sustainable landscaping practices around the lake, both of which I agree are a priority for Greensboro. However, I also feel that it is important to have a By-law that is practical, enforceable and seen as reasonable by the homeowners impacted, to ensure we end up with an improved outcome rather than a rejection of any change.

Education is key to help homeowners understand best management practices of their land abutting the lake. The Vermont Lake Wise program is helping significantly in this respect, with the promotion of the Vermont Shoreland Best Management Practices. In addition, updating the Greensboro Shoreland Protection District By-law to align with the Vermont Shoreland Protection Act, where this is not currently the case, is an important next step. This would help all residents understand what is currently required in Shoreland Protection Areas under Vermont State Law (which was the subject of some debate on the Selectboard call).

The Vermont Shoreland Protection Act A Handbook for Shoreland Development sets out clear guidelines for development activity and restrictions within the Shoreland Protection Area/District, the first 250ft from the lakeshore. By updating the Greensboro Shoreland Protection District By-law to meet these standards, the Town would already be improving the quality of property and land management around Caspian Lake. If the Planning Board feels the need to go further than the Vermont State standards, there should be quantifiable evidence to support the impact of these additional requirements. I would also suggest that any additional requirements to the Vermont State Law be introduced as a separate option, rather than embedded in the By-law update, to mitigate the risk of the Greensboro Shoreland Protection District By-law update being voted down.

By way of example - in the Vermont Handbook for Shoreland Development, Part Two - Vegetation Protection Standards states the following (amongst others) as allowable activities within vegetated cover areas:

- Removal of 250 square feet of vegetation under three feet in height, at least 25 feet from mean water level, as long as the duff layer is not removed;
- Removal of invasive species, nuisance plants and noxious weeds, such as purple loosestrife, buckthorn or poison ivy;
However the proposed Greensboro Shoreland Protection District By-Law states the following under 2.7Q - *District Standards for Vegetative Cover*:

2. *Other natural vegetation will be maintained as follows:*

- *Existing vegetative cover under three feet in height and other ground cover, including leaf litter and the forest duff layer, must not be cut, covered or removed*

This would seem an overreach in the proposed Greensboro By-law, especially as it applies to the full 250ft Shoreland Protection District. Not only is this impractical from an enforcement point of view, it is also not best practice for healthy plant and shrub maintenance, and homeowners impacted would see this as unreasonable.

I hope that the current draft of the Greensboro Shoreland Protection District By-law can be reworded to align with the Vermont Shoreland Protection Act guidelines, encouraging homeowners to follow best practices in shoreland landscape maintenance for the benefit of both the water quality and the Caspian Lake ecosystem.

Respectfully submitted,
Liz Steel
94 Lazy Lane