

Conditional Use and Variance Hearing
Nancy and Tim Howes
February 18, 2021

To consider a conditional use and variance request by Nancy and Tim Howes to raze their current structure which contains both living and garage space, rebuild a dwelling further back from the lake, and construct a separate garage at 89 Eveningside Road.

The application requires a review under the following sections of the Greensboro Zoning Bylaws: 2.7 Shoreland Protection District; 5.4 Conditional Uses; 5.5 Variances, and 8.9 Nonconforming Uses and Structures Within the Shoreland Resource Zone.

Warnings were posted on January 27, 2021 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 applicants and the following abutters and neighboring property owners: Hewes Living Trust; Susan Lukens Trust; Brad and Cathy Irwin; Marie Boardman; Mary Ciaschini Trust; John and Brad Irwin on January 27, 2021. It was published in the Hardwick Gazette on Wednesday, January 27, 2021.

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

Development Review Board members absent: None.

Others present: Tim and Nancy Howes; Dee Belle; Laurence Hewes III; Mary Hewes; Laurence Hewes IV; Christine Armstrong; Derrick Martens.

Correspondence from interested persons: None.

During the course of the hearing the following exhibits were submitted: None.

The hearing was conducted by electronic communication (ZOOM).

Summary of Discussion:

Ms. Woodruff, chair, began the hearing at 7:01 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 welcomed the Howes and asked for a description of their proposal for 89 Eveningside Road. Mr. Howes said he had been a summer resident of Greensboro all his life. He and his family have decided to make Eveningside Road their permanent home. The current structure requires repairs to the foundation, and the plumbing, electrical, and heating systems. The house is near the lake. A stone retaining wall has caused erosion on the shoreland. The native flora was replaced by lawn. The Howes propose to raze the house and rebuild 28' additional feet back from the shoreline. The current house does not meet the west side setback; the proposed structure will be in compliance with all setbacks, except the lakeshore setback; however, the structure will be in greater compliance with that setback. The proposal includes a substantial mitigation plan and replaces lawn with native plantings. The retaining wall will be removed and the natural grade restored. The proposed house has a green energy plan, including geothermal heat and solar. Local artisan work will be incorporated. As the house will be a four-season residence, the Howes would like to have a garage for storage. Mr. Howes noted the neighbors will not have their viewshed compromised by the house or the detached garage.

A brief discussion ensued about the basement. The basement will be used for mechanical space. The Board clarified that the additional square footage in living space is acquired by separating the garage, raising the eaves in the second floor, and adding an approximate 9% in expanded footprint.

Mr. Hewes, an abutting landowner, noted he and his wife are in support of the proposal.

Ms. Woodruff thanked all discussion participants and noted their input was helpful to the Board. The hearing ended at 7:36 PM. The Board entered into deliberative session at 7:38 PM and came back into public session to announce their decision at 8:45 PM.

Findings of Fact:

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

8.9 Nonconforming Uses and Structures Encroachments Within the Shoreland Resource Zone

A)3. A Nonconforming Structure may be enlarged, extended, reconstructed, expanded, modified, or relocated only with the approval of the DRB, subject to conditional use review under Section 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. The Board determined this project meets the criteria for a Conditional Use.

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. This project will have no effect on existing or planned community facilities.*
- 2. the character of the area. The house and garage are compatible with the character of the area.*
- 3. traffic in the vicinity. These structures will not have an adverse effect on traffic in the vicinity.*
- 4. bylaws and ordinances presently in effect. The project poses no negative effects on bylaws and ordinances presently in effect.*
- 5. the utilization of renewable energy resources. Utilization of renewable energy resources will not be adversely altered.*

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, non-conforming lot of .5 acre.*
- 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 dwelling conforms to all setbacks, except the 150' lakeshore setback. The lot size prohibits compliance with this setback. The*

current dwelling is approximately 35' from the lakeshore. The proposed dwelling will be located 62' from the lake and will be more in compliance with the setback.

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.* This standard is not applicable for residential use.

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.* This standard does not apply to these plans.

5. *The proposed structure is compatible with other structures in the area.* The dwelling is similar to other nearby structures.

6. *The proposed structure adheres to the uses allowed in the relevant district.* A single family dwelling conforms to uses in the Shoreland Protection District.

7. *The proposed structure will not affect noise or air pollution in the area.* Noise and air pollution are not a concern in this proposal.

Decision:

Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the application to raze the current dwelling and rebuild the proposed new house at 89 Eveningside Road. The Board determined that the standards for a conditional use permit were met.

5.5 Variances

A) Variance Criteria

1. *There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the property, and that unnecessary hardship is due to these conditions and not to the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located.* The garage cannot conform to the 150' lakeshore setback on this lot, due to the unique physical circumstances of the .5 acre lot.

2. *Because of these unique circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and the authorization of a variance is necessary to enable the reasonable use of the property.* A garage is a reasonable use.

3. *The unnecessary hardship has not been created by the applicant.* The pre-existing lot was not created by the applicants.

4. *If authorized, the variance will not:*

a) *alter the character of the neighborhood or district* This Accessory Structure will not change the character of the neighborhood.

b) *impair the use or development of adjacent property* Adjacent landowners will not be unduly affected by a garage.

c) *reduce access to renewable energy resources* This is not applicable.

d) *be detrimental to the public welfare* This is not applicable.

5. *The variance represents the minimum that will afford relief and the least deviation possible from the bylaws and town plan.* The Accessory Structure complies with all setbacks, except the lake setback, and is located as far from the lake as practicable.

Decision:

Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the application to build a garage at 89 Eveningside Road. The Board determined that the standards for a variance were met.

Conditions:

1. Any and all necessary state and federal permits must be in place before construction begins.
2. The Board appreciated the upgrade to the septic system and the robust mitigation plan. The applicants must comply with the mitigation plan.

Signed:

 _____, chair

Jane Woodruff

date 2/22/21

_____, clerk

Brett Ann Stanciu

date _____

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.