

Variance Hearing
Tim and Nancy Howes
July 29, 2021

To consider a variance request by Tim and Nancy Howes for a boundary line adjustment at 89 Eveningside Road.

The application requires a review under the following sections of the Greensboro Zoning Bylaw: 2.7 Shoreland Protection District and 5.5 Variances.

Warnings were posted on July 14, 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: John and Brad Irwin; Brad and Cathy Irwin; Susan Lukens Trust; Hewes Living Trust; Joan Mullaney and Anne Miner; and William and Cathy Storey. It was published in the Hardwick Gazette on Wednesday, July 14, 2021.

Development Review Board members present in person: MacNeil.

Development Review Board members who participated via Zoom: Nat Smith; Jan Travers (alternate); Linda Romans; Lee Wright; Mike Metcalf (alternate); Wayne Young.

Development Review Board members absent: Jane Woodruff; BJ Gray.

Others present in person: Brett Stanciu and Tim Howes.

Correspondence from interested persons: None.

During the course of the hearing the following exhibits were submitted: Exhibit 1 is a site plan.

The hearing was conducted by electronic communication (ZOOM) and in person at Fellowship Hall, United Church of Christ, Greensboro.

Summary of Discussion:

Nat Smith, vice chair, began the hearing at 7:08 PM. He explained the procedure for the hearing, and asked the clerk to swear in all those who wished to speak at the hearing. He asked Mr. Howes to describe his request. Mr. Howes said he and Ms. Howes had been granted a permit from the Development Review Board a few months prior to build a house on their 89 Eveningside Road property. When the house was staked out, the applicants realized the house site was too close to a stand of mature cedar trees on the east side of the property. The applicants' arborist and builder have advised that the house should be positioned further away from the cedars to protect the trees' long-term health. Mr. Howes screenshared a site plan, included as Exhibit 1. As an alternative to potentially damaging the cedar trees, the applicants propose to purchase a 20' strip of property from an adjacent property owned by Lidie Howes. The new house could be repositioned 8 or 9 feet further from the cedar trees. The Lidie Howes' property, which would have no shorefront, would be slightly less nonconforming. Mr. Howes noted the parcel adjacent to the lake would become more conforming. He also noted the property line adjustment would have no meaningful impact on any boundary that relates to construction. A survey has already been completed.

Mr. Smith clarified that the proposed house would meet all setbacks. Mr. Howes answered that all setbacks have been met and would be increased. Mr. Smith also confirmed that the piece would be absorbed into the applicants' property and not kept a separate lot. Some discussion

revolved around the proposed absence of lake access from the Lidie Howes' property. The Board agreed that was not relevant.

Mr. Smith thanked Mr. Howes for his well-prepared application and his family's concern for the cedars. The hearing ended at 7:25 PM. The Board entered into deliberative session at 7:26 PM and came back into public session to announce their decision at 8:01 PM.

Findings of Fact:

Based on the application and testimony, the Development Review Board makes the following findings: the proposed boundary line adjustment requires a variance as both properties are nonconforming lots in the Shoreland Protection District. All of the following criteria must be 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 three mature cedar trees cannot be cut as they are within the Shoreland Buffer Zone.

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.* The purchase of additional property is required for the applicants to conform to building setbacks and prevent potential damage to the trees.

3. *The unnecessary hardship has not been created by the applicant.* The mature cedar trees are an irreplaceable natural feature.

4 *If authorized, the variance will not:*

a) *alter the character of the neighborhood or district* The area will not be affected by this boundary line adjustment.

b) *impair the use or development of adjacent property* No adjacent lot will be adversely impaired.

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


d) *be detrimental to the public welfare* Public welfare is not a concern in this application.

5. *The variance represents the minimum that will afford relief and the least deviation possible from the bylaws and town plan.* The applicants asked for the minimum reasonable adjustment of property lines.

Decision:

Based upon these findings, the Development Review Board voted (7-0) to approve the variance request for a boundary line adjustment at 89 Eveningside Road. Mike Metcalf (alternate) and Jan Travers (alternate) voted in the absence of Ms. Woodruff and Ms. Gray.

Signed:

 , vice chair
clerk

Nathaniel Smith

date 8-2-21

 ,

Brett Ann Stanciu

date 8-2-2021

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.

