

Conditional Use Hearing
Andrew Nicely
April 14, 2022

To consider a conditional use request by Andrew Nicely to reconstruct a boathouse at 133 High Pines Road.

The application requires a review under the following sections of the Greensboro Zoning Bylaws: 2.7 Shoreland Protection District; 5.4 Conditional Uses; and 8.8 New Uses and Encroachments Within the Shoreland Buffer Zone.

Warnings were posted on March 23, 2022, 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: the William S. Gordon III Trust; Alexandra Graylin-Frey; Kimball Igleheart Family Trust on March 23, 2022. It was published in the Hardwick Gazette on Wednesday, March 23, 2022.

Development Review Board members present: Jane Woodruff, Nat Smith, MacNeil, Wayne Young, BJ Gray, Mike Metcalf, Tim Brennan, Lise Armstrong (alternate), Joann LaCasse (alternate).

Development Review Board members absent: None.

Others present: Andrew Nicely.

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 7:05 p.m. and thanked the new Board members for attending. She noted the hearing was quasi-judicial, explained the procedure for the hearing, and asked the clerk to swear in Mr. Nicely.

Mr. Nicely said his grandparents had originally acquired the family property. The existing boathouse is presumed to date from the 1920's or '30's. The boathouse has not been modified in the past 100 years. In general, the wooden structure is in fair shape. However, the foundation is collapsing. The applicant noted he had spoken with adjacent landowners, the Graylin-Freys and the Iglehearts, and informed them of his intention to repair the boathouse. He reported that these neighbors supported this plan.

Since a portion of the boathouse is in the water, a state permit is required. Mr. Nicely initiated discussions with the Department of Environmental Conservation last summer to determine what repair and what methods would be allowable. The project received an approved permit. At the state's request, the new foundation will be different. The existing foundation is a wooden crib and cement wall enclosure around boulders. The state expressed a preference for pilings in the reconstructed foundation so fish will be able to swim among the pilings. Removal of the current foundation is a significant project. The concrete and boulders are heavy and must be disposed of

properly. Setting in the new pilings is also expected to be complicated. Rebuilding the wooden boathouse is anticipated to be the simplest part of the project.

The applicant explained that the proposed boathouse rebuild will reconstruct the structure exactly as it is. The siding will be similar wood and painted gray. The footprint will remain identical. The new foundation may sit a foot or two lower. If so, the boathouse will be taller, but it will not exceed the current height. No decks will be added. The proposed boathouse rebuild will conform to the current landscape. No plumbing will be added.

The Board inquired how heavy equipment will prevent damage to the shoreline. The applicant noted there are two options. One possibility is that heavy equipment will be used on the shore. The other option is to use a barge that would enter from the public boat launch and moor adjacent to the work site. The state expressed a preference for as much work as possible to be done on shore. The applicant acknowledges the concern about heavy equipment and noted care would be taken. Contractors would lay steel plates to prevent digging into the shore. No work can commence between April and the end of July. The applicant expected work would likely happen in late September or early October, possibly in 2023. The Board clarified that the proposed roof would also be asphalt shingles. Some discussion ensued about repairs to the dock. The applicant has obtained a state permit to reconstruct this dock. The Board complemented the design and detailed proposal.

Mr. Nicely thanked the Board for their time. He reiterated that his family are long-time stewards of the lake. He expressed appreciation for the lake's clear water and assured the Board that his family would supervise the work to insure it is done carefully.

The hearing ended at 7:34 p.m. The Board entered into deliberative session at 7:35 p.m. and came back into public session to announce their decision at 8:01 p.m.

Findings of Fact:

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

2.7 Shoreland Protection District

A boathouse is a conditional use in the Shoreland Protection District.

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.* Boathouses are a common use in the Shoreland Protection District and do not use community facilities.
2. *the character of the area, as defined by the purpose of purposes of the zoning district within which the project is located.* Similar boathouses are around the lake.
3. *traffic in the vicinity.* Traffic will not be increased by this structure.
4. *bylaws and ordinances presently in effect.* The boathouse will not affect the town's bylaws and ordinances.

5. *the utilization of renewable energy resources.* Renewable energy resources will not be affected by this structure.

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 of .87 acres.

2. *Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district.* This pre-existing nonconforming building is proposed to be reconstructed in the same location.

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 is a residential use, so 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.* No signs are included in the application.

5. *The proposed structure is compatible with other structures in the area.* The proposed boathouse design compliments existing structures in the Shoreland Protection District.

6. *The proposed structure adheres to the uses allowed in the relevant district.* Boathouses are a Conditional Use in this district.

7. *The proposed structure will not affect noise or air pollution in the area.* Noise or air pollution will not be increased by the proposed boathouse.

8.8 New Uses and Encroachments Within the Shoreland Buffer Resource Zone

B) Conditional Uses.

3. Boathouses.

f. No decks, porches or other similar appendages will be allowed on boathouses. No decks, porches, or other appendages will be included in this boathouse reconstruction.

g. A new or reconstructed boathouse shall require a conditional use permit. This proposed boathouse meets the criteria for a conditional use permit.

h. A new or reconstructed boathouse shall be used only for the storage of boats. This building is intended solely for the storage of boats.

Decision and Conditions:

Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the application to rebuild the Nicely boathouse at 133 High Pines Road. The Board determined that the standards for a conditional use permit were met.

Conditions:

1. Any and all necessary state and federal permits must be in place before construction begins.

Signed:

_____, chair
 Jane Woodruff

_____, clerk
 Brett Ann Stanciu

date _____

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.