

Conditional Use Hearing
MacNeil and Anderson Hunt
May 2, 2022

To consider a conditional use request by MacNeil and Anderson Hunt to build a new single-family dwelling on their property at 74 North Randolph Road behind a family cottage on the same lot.

The application requires a review under the following sections of the Greensboro Zoning Bylaws: 2.7 Shoreland Protection District; 3.10 Structures and Uses per Lot; 5.4 Conditional Use.

Warnings were posted on Wednesday, April 13, 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 applicants and the following abutters and neighboring property owners: Stella Ostle; Bennum Trust; James Hunt; Jennifer Nicasio; Ila Hunt; Ritchie and Amy Berger; Anatole Hernandez. It was published in the Hardwick Gazette on Wednesday, April 13, 2022.

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

Development Review Board members absent: Mike Metcalf; MacNeil recused himself and attended as an applicant.

Others present: Andy Hunt; Brett Stanciu; Christine Armstrong; John Hunt; Ritchie Berger; Richard Bennum.

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 7:04 PM. She explained the procedure for the quasi-judicial hearing and asked the clerk to swear in all those who wished to speak at the hearing.

Mr. MacNeil stated he and his brother are requesting a conditional use permit to build a new single-family four-season home on their 4.9 acre lot. The proposed dwelling has a 1300sf footprint. Living quarters are on the first floor with a walkout basement and attached garage. The proposed dwelling is 250' from the shoreline. The proposal conforms to the Greensboro zoning bylaw's 150' lake setback and the state's 250' shoreland protection area. The preexisting cottage has been the primary structure on the lot. He noted this cottage may be considered incidental and subordinate to the proposed principal dwelling. Or, this application could be considered under 3.10 with two primary use dwellings. He noted this lot has 4.9 acres and over 200' of shoreline; minimum lot standards in the Shoreland Protection District are one acre and 100' of shoreline. Mr. MacNeil read the definition of Primary Use from the Greensboro zoning bylaw: "Ordinarily only one such use or structure is permitted per zoning lot, unless otherwise specifically allowed by the Bylaw. If a lot owner intends to establish more than one such use or structure on a single piece of property, the owner must be able to meet the density requirements for each use or structure. For example, if the owner wished to have both a house and a retail business (not a home business) on the same piece of land in the Rural Lands district the owner would need 20

acres of land.” He noted this proposal meets density requirements for two principal dwellings. He believes the single-family house is the lot’s primary use, and the rental cottage is seasonal and secondary. Either way, Mr. MacNeil stated, this proposal meets the zoning bylaw requirements.

The Board clarified that the existing cottage has approximately 1,200sf, not including porches and decks, and four bedrooms. Discussion revolved around whether the applicants applied for a single-family dwelling and considered the preexisting cottage an accessory dwelling. Mr. MacNeil clarified that the application requests a conditional use permit for a primary use structure on a lot which contains a preexisting cottage. He reiterated that the density requirements are met for two primary use structures. The Board clarified that the correct acreage is 4.73 acres. Proposed roofing is standing seam with a drip edge. The Board inquired why the lot wasn’t partitioned. Mr. MacNeil stated that partitioning is desirable but not possible. The property has wetlands and wastewater system requirements cannot be met for subdivision. The Board clarified that the house dimensions are 28’ by 45’ with a 24’ by 24’ attached garage. The front of the proposed dwelling facing the lake would be 29’. The back of the house is a single story. The Board determined that the mean height would be less than 29’. The Board determined that the septic for the existing cottage is in the side yard. The replacement site is behind the garage. The replacement site for the proposed house is near the proposed house site. The total square footage of the proposed dwelling is approximately 2,400sf. The revised application submitted has slightly less square footage than the original proposal.

Mr. Berger noted that he had corresponded with the zoning administrator about the wastewater exclusionary zone for his proposed well, but he understands this is not in the province of the Development Review Board. The Bergers’ primary concern for this hearing is the condition of the road. He noted the narrow camp road is surrounded by water. He is concerned that heavy equipment or increased traffic will damage the road. He voiced concern whether the road will be maintained. A second concern is whether the hours of construction are set within reasonable hours. He inquired about the siding of the house and the color of the roof. Mr. MacNeil noted the siding and roof will be designed to blend into the surroundings. He added that the proposed dwelling is a year-round house, so the condition of the road is important to the applicants, too. He assured the Board that the road will be maintained. The proposed dwelling is on the downhill side of the road, too, and subject to the same conditions as other dwellings on the road.

The clerk swore in Mr. Bennum, who arrived later to the hearing. Mr. Bennum reiterated that the Bennums’ main concern is whether the applicants will oversee the construction process. Mr. MacNeil noted that he lives in Greensboro year-round and will be building the house. He noted that the construction schedule is dependent on subcontractors. A road to the site must be built first, followed by digging and pouring the foundation. He noted he would be happy if he could begin framing by the end of the summer.

Mr. John Hunt noted his father has concerns about cutting trees. He said it would be helpful to have information about what may be cut in the wetland buffer zone. He noted this proposal appears to meet the criteria for two cottages on one lot. He expressed this is important for future building on the lake. He has no objections to this project but hopes tree screening will remain. He expects that will not be a problem.

Ms. Woodruff noted Mr. Anderson Hunt appeared to be experiencing internet connection difficulties. She read Mr. Hunt's chat into the minutes: I would expect that we will reduce any runoff down Ila's Road. We are not cutting anything in wetland buffers.

The Board clarified that Ila's Road is a private road, and maintenance is often split between homeowners. Mr. John Hunt noted an example off Breezy Lane when a homeowner accessed a camp road and the road fell apart due to his building timeline. That owner repaired the road at his expense as the damage was caused by his action. He noted that Edgewood Lane might fall apart before Ila's Road.

Ms. Christine Armstrong asked the applicant to explain why he is not subdividing the property. Mr. MacNeil answered that the wetlands prevent division into four separate lots as the property cannot site that number of wastewater systems. Ms. Armstrong inquired why he is not following the zoning regulations and dividing into two lots. Mr. MacNeil replied that the zoning regulations do not require a subdivision. He noted that density requirements are for one acre and 100' of shoreline; this proposal is two acres per structure and over 100' of shoreline per structure. The density requirements are met. He read the Primary Use definition again from the Greensboro zoning bylaw and noted this definition is on page 80.

Ms. Armstrong asked whether the preexisting cottage, which doesn't meet setbacks, will be turned into an accessory dwelling structure or a second primary use. Mr. MacNeil replied that this decision is not his. He noted he considers the use of the preexisting structure clearly subordinate as it is only inhabited between two and three months of a year. The single-family dwelling will be occupied year-round. Ms. Armstrong asked if the applicants are requesting the DRB to relabel a nonconforming structure which is not permitted as a rental. Mr. MacNeil noted no rentals are permitted. An unclear exchange ensued.

Ms. Woodruff directed Ms. Armstrong to ask her question. Ms. Armstrong said it will be important to think about this proposal. She questioned whether other homeowners could relabel their structure as an accessory dwelling unit and build another structure. Ms. Woodruff stated that density and shoreline requirements must be met. Mr. Smith noted this proposal meets the requirements of 3.10. His reading of the application is that there are two primary use structures. Ms. Armstrong asked how those requirements are met if the original cottage doesn't meet setbacks. Ms. Woodruff answered that the original cottage is a preexisting nonconforming structure. No changes are proposed to that structure.

The hearing ended at 7:50 p.m. The Board entered into deliberative session at 7:51 p.m. and came back into public session to announce their decision at 8:20 p.m.

Findings of Fact:

Based on the application and testimony, the Development Review Board makes the following findings for a request for a conditional use to construct a single-family dwelling at 74 Randolph Road:

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 proposed project will have no adverse effect on community facilities.
- 2. the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the Town Plan.* The proposed single-family dwelling will be in keeping with the character of the area.
- 3. traffic on roads and highways in the vicinity.* Traffic will not be affected by the completed proposed dwelling.
- 4. bylaws and ordinances presently in effect.* The proposed project will not adversely affect current bylaws.
- 5. the utilization of renewable energy resources.* Renewable energy resources will not be impacted by this reconstruction.

C) Specific Standards:

- 1. Minimum lot size shall be that which is required for the district in which the use occurs unless other standards are given for conditional use lot size in the district in question.* This is a 4.73 acre lot with 252' of shoreline. The lot exceeds minimum standards in the Shoreland Protection 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 proposed dwelling meets lake, side, and road setbacks.
- 3. 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.
- 4. The proposed structure is compatible with other structures in the area.* This proposed dwelling conforms with other dwellings in the area.
- 5. In each district, uses are given specific criteria. In all cases these criteria will be adhered to.* A single-family dwelling is an allowed use in the Shoreland Protection District.
- 6. Noise, air pollution, exterior light, viewshed, and effects on character of the area shall be considered.* This proposed dwelling will not adversely affect these criteria.

Decision:

Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the application to build a single-family dwelling at 74 Randolph Road. Alternates voted in place of Mike Metcalf and MacNeil. The Board determined that the standards for a conditional use permit were met for MacNeil and Anderson Hunt to build a primary use structure under 3.10 of the Greensboro zoning bylaw.

Conditions:

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

Signed:

Jane Woodruff, chair
Jane Woodruff
date May 5, 2022

Brett Ann Stanciu, clerk
Brett Ann Stanciu
date May 5, 2022

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.

