

Variance Hearing
Steve Kirby and Kathy Newbrough
July 27, 2023

To consider a variance request by Steve Kirby and Kathy Newbrough to place a two-car garage on their property at 685 Harrington Road.

The application requires a review under the following sections of the Greensboro Zoning Bylaw: 2.6 Resource District and 5.5 Variances.

Warnings were posted on July 5, 2023, 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: Franz Hislop; Gwyneth Harris; Stephen, Karen, and Jennifer Offord; Douglas and Sandy Geller; John Lukens and Lori Arczynski. It was published in the Hardwick Gazette on Wednesday, July 5, 2023. The hearing was conducted by electronic communication (ZOOM).

Development Review Board members present: Jane Woodruff, Nat Smith, MacNeil, Wayne Young, BJ Gray, Lise Armstrong (alternate), Joann LaCasse (alternate), Brett Stanciu (ex officio).

Development Review Board members absent: Mike Metcalf and Tim Brennan.

Others present: Steve Kirby and Kathy Newbrough.

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 7:06 p.m. 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 referred to a drawing the applicants submitted which was discussed at the July 22, 2023, site visit. The drawing illustrates the proposed two-car garage with approximately 70SF that encroach on the 50' setback from Harrington Road. She noted all discussion at the site visit will need to be repeated under oath tonight.

Mr. Kirby said constructing a two-car garage on the 685 Harrington Road property faces obstacles. The applicants desire to build the garage level with the house for ease of access. Currently, the parking area is approximately 7 feet above the existing floor level of the house. The stairs from the parking area to the house will be precarious in the winter. The septic tank poses an impediment to the garage's placement. The placement of the house limits possible locations for a garage. The house isn't that far back from the road's 50' setback. The slope of the land dictates where the garage will need to be placed if the garage will be built at a first-floor level.

Ms. Newbrough added that the proposed garage is the standard, two-car garage size. The majority of the garage adheres to the setback, except for the approximate 70SF.

Ms. Woodruff asked if there is any way to pivot the garage to the bring that 70SF behind the 50' setback. Mr. Kirby replied that the septic tank is the greatest challenge. Moving the septic tank would pose a substantial amount of work. Ms. Woodruff asked if the proposed garage could be pivoted to conform to that setback. Mr. Kirby replied that the 50' setback gets closer to the house at the current parking area, so moving the garage from its proposed location would not avoid encroaching on the setback.

Ms. Woodruff asked the applicants to explain how the solar panels on the roof of the proposed garage impact the structure's design. Ms. Newbrough noted that the applicants had consulted Green Mountain Solar. To be cost-effective, the garage roof must have maximum southern exposure. The proposed solar panels are not the garage's main design driver, but are a consideration. Ms. Woodruff asked the applicants to describe the property for the written record. Mr. Kirby noted Harrington Road has a gradual slope before the applicants' house. The existing driveway is fairly flat, with an elevation approximately 7' above the house's floor level. Currently, the house is accessed via stairs. Placing the garage in the proposed location would ideally be helpful as the garage would be at the first-floor level of the house. Ms. Woodruff confirmed that the property has approximately eight and a half acres. Mr. Kirby said he hopes the Board considers the request a reasonable use of the property.

Ms. Woodruff thanked the applicants. The hearing ended at 7:28 p.m. The Board entered deliberative session at 7:29 p.m. and came back into public session to announce their decision at 7:45 p.m.

Findings of Fact:

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

The proposed placement of the applicants' two-car garage requires a variance as it would not meet the 50' setback for Harrington Road. 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. A two-car garage cannot be constructed on the property in a reasonable location and conform to the road setback, due to the existing configuration of the house, the septic tank, and the slope of the property. These constraints were not created by the applicants.*

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 only reasonable placement of the proposed two-car garage on the property intrudes on the road setback.*

3. *The unnecessary hardship has not been created by the applicant.* The applicants did not create the current configuration of existing house, septic tank, and slope of property.

4 *If authorized, the variance will not:*

a) *alter the character of the neighborhood or district* A two-car garage in the proposed location will not alter the character of the area.

b) *impair the use or development of adjacent property* No adjacent properties will be adversely affected by this shed.

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.

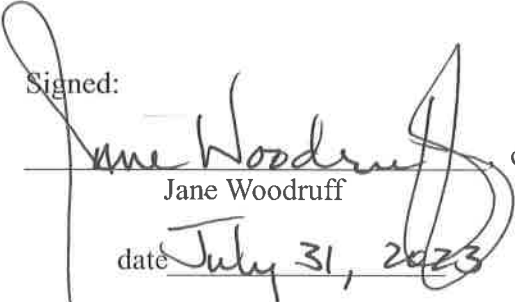
5. *The variance represents the minimum that will afford relief and the least deviation possible from the bylaws and town plan.* The applicants requested the minimum relief of a 10-foot variance to place their proposed two-car garage on this lot.

Decision:

Based upon these findings, the Development Review Board voted to approve the variance request to place two-car garage at 685 Harrington Road with an encroachment of approximately 70SF on the 50' Harrington Road setback. The Board (7-0) 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.

Signed:  chair
Jane Woodruff
date July 31, 2023

 clerk
Brett Ann Stanciu
date 7.31.2023

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.