

Conditional Use Hearing
Coe and Coe Architecture
151 Gunther Lane
September 11, 2023

To consider a conditional use request by Coe and Coe Architecture for a conditional use permit to build a boathouse for Nicholas and Susanna Gunther at 151 Gunther Lane.

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 Protection District.

Warnings were posted on August 16, 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: Potter and Ferber Trust; Zoe Carter and Joseph Guth; Lisa Carter, on August 15, 2023. It was published in the Hardwick Gazette on Wednesday, August 16, 2023.

The hearing was conducted by electronic communication (ZOOM).

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

Development Review Board members absent: None.

Others present: James Coe; Susanna Gunther; Nicholas Gunther; Zoe Carter; Janet Showers Patterson; Day Patterson; Alison Gardner; Christine Armstrong; Sharon Putney.

Correspondence from interested persons: Email exchange September 10-11, 2023, between Nicholas and Susanna Gunther and Zoe Carter; email dated September 11, 2023, Janet Showers Patterson; email dated September 11, 2023, Christine Armstrong.

During the course of the hearing the following exhibits were submitted: Exhibit #1, email from Janet Showers Patterson, September 11, 2023; Exhibit #2, email from Christine Armstrong, September 11, 2023.

Summary of Discussion

Ms. Woodruff, chair, began the hearing at 7:03 p.m. She noted the application under consideration has been submitted by Coe and Coe Architecture, to construct a new boathouse at 151 Gunther Lane. Mr. Coe will present. The owners of the property, Mr. and Ms. Gunther, are also in attendance and intend to speak. Development Review Board member Mr. MacNeil recused himself from the merits of the application, but may participate as a member of the public.

Ms. Woodruff noted that two emails were submitted later in the day, from Ms. Patterson and Ms. Christine Armstrong. These were forwarded to the Gunthers and Mr. Coe. Ms. Woodruff inquired if the applicant and landowners are prepared to address these concerns appropriately

tonight. Mr. Coe said he had done some calculations that afternoon in a preliminary fashion, not as a stamped affidavit. Mr. Gunther expected to address these with reasonableness, the hallmark of Vermont culture. Ms. Woodruff decided to continue the hearing and offered to leave the evidence open at the end. She noted these two submissions are specific and detailed, and wanted to be certain the applicants had opportunity to address the questions.

Ms. Woodruff directed the clerk to enter these two letters into evidence. She noted this is a quasi-judicial hearing and explained that anyone who wished to make a statement or ask a clarifying question will be sworn in. She explained the process for hearing. Mr. Coe will present the proposed project. Mr. and Ms. Gunther may supplement. The Board will have an opportunity to ask questions, followed by an opportunity for the public to make a statement or ask questions. Mr. Coe and the Gunthers will have the final word. If the Board enters deliberative session, a decision will likely be rendered that night. She noted that several Board members were able to attend the September 9, 2023, site visit. Everything that was said at the site visit will need to be repeated, as the site visit does not constitute evidence.

Ms. Carter noted she did not receive a written warning. Ms. Stanciu said the mailed warning had been returned that weekend to the Town office, marked "unable to forward." Ms. Woodruff replied that the purpose of the warning was to inform Ms. Carter of the hearing and the site visit. She noted Ms. Carter was able to attend the site visit and is confident the reason for the written warning has been met.

Mr. Coe stated the boathouse will comply with Town zoning requirements. The proposed structure is 18' by 22', for a total of 396 square feet. It is 15' in maximum height, measured from the average ground plain surrounding the structure. The boathouse is designed to meet the needs of the owners and the functions of a boathouse with minimal impacts on the lake. The proposed boathouse is sited to remove one 6" dying spruce. All other sites around the lake on this property would require removing substantial numbers of trees. The design is compatible with the existing structures on the lot in the brown, shingled style, which should blend into the wooded background. The pitched roof slopes away from the lake. The boathouse is intended to be as light a footprint on the land as possible.

Mr. Coe returned to the site today to make calculations regarding the bylaw prohibition on building on slopes greater than 15%. He said the state survey lidar data is misleading. He calculated in the worst-case scenario from corner to corner the slope across the site is less than 15%. He measured 32" over 18 feet and 39" over 28.5 feet. He calculated approximately 14.5% slope on the eastern profile of the building and 13% across the total length of the site. The options to move it to move level ground would require cutting more trees. This proposal has the minimal tree removal of one ailing tree. The boathouse will be well-disguised in the trees.

The structure will be used for boats, toys, and lifejackets. A route to the lake will make this accessible for the user, not for public use. Mr. Coe calculated the open area at 35%, including the septic (which has been improved), leaving 65% coverage. The impervious area is estimated at 12%, which includes all rooftops, driveways, walkways, and some of the rock in the lake.

Mr. Gunther said the most important motivation for the boathouse concerns Ms. Gunther who suffers from arthritis. Carrying boats over the terrain from the garage to the lake is not easy and would be greatly assisted by a dock. He added that he did not realize he could build a boathouse when he built the garage. He expects the proposed boathouse will aid his wife and, secondarily, provide a place to store boats. Currently, boats are stored on a rock which not aesthetically pleasing. The garage will continue to be used an additional space to store boats. Mr. Gunther added he is appreciative of the boathouse's design. The proposed placement is set back a little further from the lake than ideal, but this position preserves all but one sickly tree. Mr. Gunther grew up on the property, as did his mother, and his mother's parents spent the majority of their lives there. He expressed commitment to the lake and surrounding aesthetics.

Ms. Gunther replied to a submitted comment pertaining to the permitted accessory dwelling unit, alleging that required mitigation was incomplete. The comment incorrectly stated there is no rain garden; a rain garden was planted around the patio and walkway. The rain buckets have yet to be added as a final detail.

The Board questioned the foundation. Mr. Coe replied that a layer of gravel will be laid, then four by four sleepers and an inch and a half of decking, for a total of five and a half inches. He expects to have as little modification to the site as possible. Upon furthering questioning from the Board, Mr. Coe repeated his slope calculations. The applicants could find a more level spot, but additional trees would need to be removed.

Some discussion revolved around stairs and the placement of the boathouse. Mr. Coe noted that moving the boathouse 25' back from the lake, as a Board member suggested, would require cutting down two large cedars and a spruce tree. The Board expressed appreciation regarding concern for the trees.

Mr. Patterson noted grade is difficult to evaluate and requested that a certified evaluator be hired to evaluate the proposed site. He stated that it was his impression that, under the bylaw, the applicants are not allowed to build on that site without expert testimony. Ms. Christine Armstrong noted from the bylaw the requirement in section 8.6 H(5) regarding adherence to the most currently available lidar data from the state, or a topographical survey. She questioned the size of the boathouse and the need for a boathouse. Mr. Gunther replied that a boathouse would be useful for his family.

Ms. Carter inquired if any impact on her was considered. She questioned potential impact on the land and additional tree cutting. She noted she is concerned about the dock and noise from children, and has requested the Gunthers to consider moving the dock. She added that she has been coming to Greensboro for 50 years, is proud of how Greensboro has preserved the lake, and questions how the size of boathouses are in keeping with the Greensboro she knows.

Ms. Woodruff stated that the Development Review Board can only consider the application as submitted and whether the proposed project is permitted under the bylaw. The Board has no authority to require a relocation of a proposed structure.

Mr. Coe added the proposed boathouse is 73 and a half feet from Ms. Carter's property line; the required setback is twenty feet. He noted Ms. Carter's house is a foot and a half from the property line. Ms. Carter agreed.

Ms. Woodruff concluded that she believes the Board has all the information it needs. Mr. Patterson inquired if the Board had an accurate reading of the slope. Ms. Woodruff said the Board had testimony regarding the slope. Ms. Christine Armstrong inquired if the clerk could send the two submitted letters to Ms. Carter. Ms. Woodruff noted that the senders of the letters could have cc'd Ms. Carter. Testimony has closed. The clerk will post exhibits on the Town website. Mr. Gunther, Ms. Gunther, and Mr. Coe agreed they were comfortable with the evidence they provided.

At 8:25 p.m., Ms. Woodruff thanked Ms. and Mr. Gunther, Mr. Coe, and all the participants for their time. At 8:27 p.m., the Board entered deliberative session. At 9:27 p.m., the Board left deliberative session and announced their findings.

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. With 1.8 acres, the lot size meets the dimensional lot standards as noted in the bylaws. The structure conforms to the side and road setbacks.

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 do not impact community facilities.
2. *the character of the area affected, 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 boathouse will fit into the surrounding area. Only one ailing tree will be removed, and the boathouse will be sited among the densely forested area of the shoreline.
3. *traffic on roads and highways in the vicinity.* Traffic will not be impacted by this structure.
4. *bylaws and ordinances then in effect.* The proposed boathouse will not affect the town's bylaws and ordinances.
5. *utilization of renewable energy resources.* Renewable energy resources will not be impacted by this structure.

C) Specific Standards:

1. *Minimum 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.*

The lot size of 1.8 acres is in compliance.

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 boathouse meets 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.* This is not applicable.

4. *Location, on the lot, of structures and service areas shall be compatible with other structures in the area affected.* The proposed boathouse complements existing structures on the lot and in the Shoreland Protection District.

5. *In each district, uses are given specific criteria. In all cases these criteria will be adhered to.* Boathouses are a conditional use in this district.

6. *Noise, air pollution, exterior light, viewshed, and effects on the character of the neighborhood shall be considered.* All of these listed elements were considered, and the proposed boathouse does not have an adverse impact on any of the elements.

8.6 General Standards Within the Shoreland Buffer Resource Zone

H (5): Steep Slopes. *Any areas proposed to be cleared or covered with impervious surface must have a slope of less than 15% (as determined based on the most currently available lidar data from the state or by a current topographic survey of the project site prepared and stamped by a licensed Vermont surveyor), or the applicant must submit plans prepared by a professional engineer demonstrating that the slope will be stabilized with minimal potential for erosion and impacts to water quality.* The proposed site has a steep slope, but the testimony from James Coe is that the slope is 14.5% on the eastern side and 13% overall.

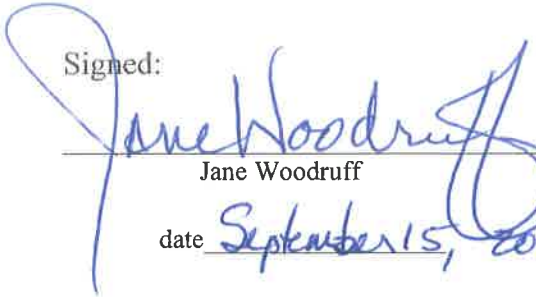
Decision and Conditions

Based upon these findings, the Development Review Board voted unanimously (8 – 0) to approve the application to build a new boathouse at 151 Gunther Lane. The Board determined that the standards for a conditional use permit were met. Mr. MacNeil recused himself, and did not attend the deliberative session.

Conditions:

1. Any and all necessary state and federal permits must be in place before construction begins.
2. As a condition of granting this conditional use permit, before any construction shall begin, the applicants shall submit in writing to the Zoning Administrator a certification that the proposed site *“to be cleared or covered with impervious surface must have a slope of less than 15% (as determined based on the most currently available lidar data from the state OR by a current topographic survey of the project site prepared and stamped by a licensed Vermont surveyor), OR the applicant must submit plans prepared by a professional engineer demonstrating that the slope will be stabilized with minimal potential for erosion and impacts to water quality,”* per 8.6 General Standards Within the Shoreland Buffer Resource Zone H(5).
3. There shall be no plumbing.

4. This boathouse shall have no decks or porches or any other similar appendages. Stairs are permissible.

Signed:  chair
Jane Woodruff
date September 15, 2023

 clerk
Brett Ann Stanciu
date September 15, 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.