

Variance Hearing
Nancy Keyes
September 28, 2023

To consider a variance request by Nancy Keyes to add a bathroom on a nonconforming cottage on her property at 1183 Craftsbury 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 September 6, 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: Harold Gray; Harold Gray Trustee, Andrew and Kyle Gray; Ethan and Auriel Gray, Life Estate Clive Gray. It was published in the Hardwick Gazette on Wednesday, September 6, 2023.

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

Development Review Board members absent: BJ Gray (recused); Joann LaCasse (alternate).

Others present: Nancy Keyes, Justin Keyes, Cameron Keyes, Janet Showers Patterson, Christine Armstrong.

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 7:02 p.m. She noted that, when she made a site visit, she asked Mr. Justin Keyes to be prepared to answer questions about the slope. Slope was raised in a previous Board hearing and is an important part of the bylaw. She said 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.

Mr. Justin Keyes said his parents have owned the cabin since 1963. The cottage was built in 1931. At that time, zoning did not exist, and the cottage is now nonconforming. His aging parents would like to continue to use their cottage. The single bathroom is located down the hall and around the corner from the master bedroom, and it has a clawfoot bathtub. As his parents grow older, it is challenging for them to use the bathroom. Mr. Justin Keyes noted his father uses a walker. He uses the outdoor shower with assistance and a harness. The proposed ADA compliant bathroom will enable his parents to age in place. A laundry room is included. This would alleviate the challenge of carrying laundry up the hill to another cabin.

The proposed addition will be a single floor room on the back of the current structure that would have the least visual impact from the lake. The Keyes also decided that building to the side of the current cabin would encroach on the lake. The structure would complement the current dwelling

with a similar shingle style. He noted other structures have had somewhat similar requests granted.

Mr. Keyes noted he did a slope analysis and determined the area under the proposed addition is slightly under 11%. Mitigation includes a 20' wide cedar hedge between the proposed addition and the vegetative buffer zone. A 12" sediment fence will be used during construction.

Ms. Keyes said the current bathroom is challenging as she and her husband age. This addition will make life a little easier for the couple. Mr. Justin Keyes added that the cottage is fairly small. Neither bedroom has closet space, and there is only one small storage space. Mr. Cameron Keyes thanked the Board for their time and consideration.

Questioning from the Board discussed foundation possibilities, the site's dryness during the recent July flood, and the challenges of adding the proposed bathroom in any other location on the site. The Board clarified that the existing structure is beyond the 100' shoreland buffer. The porch is 110' from the lakeshore. The house begins at 120' from the shore. The proposed addition will be 140' from the shoreline. The back of proposed addition is 160' from the lake. 10' of the proposed addition would be within the setback. Mr. Justin Keyes clarified that the proposed addition is 14' by 20', and 16' high. The proposed structure matches the current house, and the ridgeline would continue in an unbroken line.

Mr. Justin Keyes explained he measured the slope with a laser level. The rise was 13 inches over 10 feet, which is slightly over 11%.

Ms. Patterson said this project is similar to a project she and her husband Day Patterson did in 2014-2015 at 87 Birch Lane. The small cottage is within 150' of the lake. The Board approved a conditional use permit for a second bedroom and a washer and dryer, with mitigation.

Ms. Keyes represented both neighbors emailed her approval of the proposed addition. Neither neighbor will be able to see the proposed structure. She added that the project's urgency is that she is uncertain if her husband could stay in the cabin in the future without this bathroom. The impact of this decision is significant for them.

The hearing ended at 7:38 p.m. Ms. Woodruff thanked the applicants and members of the public. The Board entered deliberative session at 7:39 p.m. and came back into public session to announce their decision at 8:11 p.m.

Findings of Fact:

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

The Board determined that the applicants requested this proposed project due to the physical challenges of the aging owners. This hearing came before the Board as a request under 5.5 Variances. During deliberation and after all the evidence was discussed, the Board determined that the analysis should be under 5.6 Waivers. The waiver under discussion was for the 150' lake setback.

§ 5.6 Waivers

(A) *As an alternative to some variances, the Development Review Board (DRB) may grant a waiver of setbacks, lot frontage and building heights specified in Article 2. Such waivers must be in conformance with the municipal plan [§4414(7) (a)] and state planning goals [§4302] and shall:*

1. *Allow for mitigation through design, screening or other remedy; or **The mitigation plan includes a cedar hedge and silt fencing.***
2. *Allow for structures providing for disability accessibility, fire safety and other legal requirements; or **The Board determined the applicants have an accessibility need for a bathroom and laundry room to allow the applicants to continue to use their cottage, which is on a very steep slope, as they continue to age and as they encounter increasing problems with mobility.***
3. *Provide for energy conservation and renewable energy structures and preservation of natural and historical resources. **This is not applicable.***

(B) *The waiver, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations. **The Board determined that the proposed bathroom could not be placed within the current structure. It is not reasonable or useful to add a second-floor bathroom. The proposed placement has the least impact on the lake and viewshed.***

(C) *In addition, the result will not alter the character of the neighborhood, impair reasonable or appropriate use of adjoining properties, nor cause harm to the public welfare. **The proposed addition is compatible with the character of the neighborhood.***

(D) *The process of applying for and/or appealing a waiver is same as for a variance (Section 5.5). A waiver may be granted subject to conditions. However, a waiver can only be granted on the basis of a hardship requirement proven in writing. **In a letter included with the application, the applicants explained the hardship of aging in their cottage and their increasing issues with physical mobility.***

Decision:

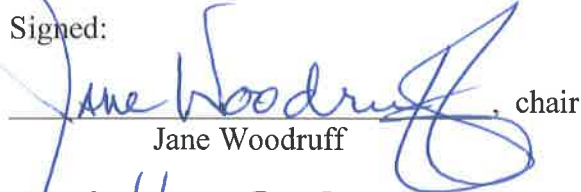
Based upon these findings, the Development Review Board voted to approve a waiver for a bathroom and laundry room addition of approximately 280 square feet at 1183 Craftsbury Road


which encroaches approximately 10' into the lake setback. The Board (6-0) determined that the standards for a waiver were met. MacNeil, recused, did not attend the deliberative session.

Conditions:

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

Signed:


_____, chair
Jane Woodruff
date October 2, 2023


_____, clerk
Brett Ann Stanciu
date October 2, 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.