Conditional Use and Variance Hearing

Carolyn Norris-Baker

August 3, 2020

*To consider a conditional use request by Carolyn Norris-Baker to build a garage and renovate and expand the kitchen at 292 Black’s point Road.*

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.7 Shoreland Protection District; 5.4 Conditional Uses; 5.5 Variances; and 8.9 Nonconforming Uses and Structures within the Shoreland Protection Zone.

**Warnings** were posted on July 13, 2020 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: New England Estates, LLC, Arthur and Mary Day, and David Day on July 13, 2020. It was published in the Hardwick Gazette on Wednesday, July 15, 2020.

**Development Review Board members present**: BJ Gray, MacNeil, Linda Romans, Nat Smith, Jane Woodruff, Lee Wright, Wayne Young, Janet Travers (alternate) and Mike Metcalf (alternate),

**Development Review Board members absent:** none

**Others present**: Carolyn Norris-Baker and Frank Baker, applicants; Eric Clark, contractor; Brett Stanciu, Zoning Administrator; and Christine Armstrong.

**Correspondence from interested persons:** none

The hearing was conducted by electronic communication (ZOOM).

**Summary of Discussion**

Ms. Woodruff, chair, began the hearing at 7:03 PM. 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 then asked Mr. Baker and Ms. Norris-Baker what they want to do on their property at 292 Black’s Point Road. They want to construct an accessory structure (a garage) on their property as well as do some reconstruction of the kitchen in their dwelling. They presented their ideas with a power point presentation which can be found on the Town website ([www.greensborovt.org](http://www.greensborovt.org) under Town Business - Committees and Commissions - Development Review Board) The 15ft. 4in. x 28ft. garage (430 sq. ft.) would be built overlapping the former garage footprint which was torn down years ago. It will be built on a slab and have the same siding as the present house. The placement will require removal of 3 mature trees and some saplings. It meets all the setback requirements, but the lot is nonconforming.

Renovation of the kitchen began when the Norris-Bakers realized they needed to replace the roof and roof windows in the camp. They thought it was a good time to think of making changes to the kitchen which was never adequate. The renovation of the kitchen would increase its area from 120 sq. ft. to 233 sq. ft. and increase its efficiency. Presently, it has three doors which result in a difficult circulation pattern and little counter space. The renovation would incorporate an existing storage closet and two small portions of the surrounding decks. It does not expand the footprint beyond the present decks. It would change the pitch of the roof to match the roofline on the other side of the main house and allow rainwater to runoff closer to the existing patch of trees and shrubs to help deflect ground water runoff into the lake.

The hearing ended at 7:50 and went into deliberative session at 7:52 and came back into public session to announce their decision at 8:33.

**Findings of Fact:**

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

**2.7 Shoreland Protection District**

This is a pre-existing, nonconforming house and lot. The house meets the side and back setbacks, but is 80 feet from the lakeshore, not the standard of 150 feet. The lot is .81 acres instead of the standard of 1 acre.

The proposed garage meets all dimensional standards except the size of the lot.

The proposed kitchen renovation will incorporate two small portions of the camp decks, and will enlarge the footprint of the house into the deck area, but does not expand the deck footprint.

**8.9 Nonconforming Uses and Structures within the Shoreland Resource Zone**

The Board looked specifically at 8.9 #3 and #4 which were relevant to the proposed kitchen renovation project.

Bylaw 8.9 #3 statesthat a nonconforming structure may be enlarged, extended, expanded . . . only with the approval of the DRB, subject to conditional use review under section 5.4. The DRB must determine that the enlargement, extension, expansion . . . does not increase the degree of nonconformity or else it compensates for lost Shoreland Buffer through mitigation measures and meets all applicable requirements of these regulations.

8.9 #4 states that where the expansion of a nonconforming structure is permitted, the DRB shall require the applicant, as a mitigation measure, to return a significant portion of any mowed or cleared areas . . . to a naturally vegetated state with supplemental planting of appropriate natural vegetation. . .

With these two regulations in mind, the Board looked at the kitchen renovation under 5.4 conditional use review.

**5.4 Conditional Uses – kitchen renovation**

 *B) General standards*

*The proposed conditional use will not have an adverse effect on:*

 *1. the capacity of existing or planned community facilities.* It will have no effect on these.

 *2. the character of the area.* It will not affect the character of the area.

 *3. traffic in the vicinity.* It will have no effect on the traffic in the area.

 *4. by-laws and ordinances presently in effect.* It will not affect the bylaws or ordinances.

 *5. the utilization of renewable energy resources.* Not applicable.

*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.

 *2 Setbacks will be the same as for other permitted uses unless other standards are given for conditional use setbacks in the district.* The house complies with the side and back setback requirements, but the nonconforming 80 foot setback from the lake is pre-existing.

 *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*. Not applicable.

 *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.*  Not applicable.

 *5. The proposed structure is compatible with other structures in the area.* It is compatible with other structures in the area.

 *6. The proposed structure adheres to the uses allowed in the relevant district.* A summer house is an allowable use in this district.

 *7. The proposed structure will not affect the noise or air pollution in the area.*  The Board considered this and decided that neither the garage nor the kitchen renovation will affect the noise or air pollution in the area.

The Board voted unanimously 7-0 to grant the conditional use request for the kitchen. As a mitigation measure, in compensation for the expansion of the footprint, the applicants must replace 300 sq. ft. of lawn within 50 feet of the lake with native flora.

The Board commends the applicants’ intension to replace their old toilets with modern low-flow toilets which will help the water quality of the lake.

**5.5 Variances – accessory building (garage)**

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.* This is a pre-existing, nonconforming lot.

 *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 the Zoning Bylaws and authorization of a variance is necessary to enable the reasonable development of the property.* The proposed garage has been placed so it conforms to all the setbacks except the lot size.

 *3. The unnecessary hardship has not been created by the applicant.* This is a pre-existing, nonconforming lot which has not been created by the applicant.

 *4 If authorized, the variance will not:*

 *a) alter the character of the neighborhood or district*  It will not alter the character of the area.

 *b) impair the use or development of adjacent property* It will have no impact on adjacent properties.

 *c) reduce access to renewable energy resources* It will have no impact on access to renewable energy resources.

 *d) be detrimental to the public welfare* It will not be detrimental to the public welfare.

 ***5.*** *The variance represents the minimum that will afford relief and the least deviation possible from the bylaws and town plan.*  The proposed garage has been placed so it conforms to all setbacks except the nonconforming size of the lot which is pre-existing and cannot be changed.

 The Board voted unanimously (7-0) to grant the variance for the garage

**Decision and Conditions**

Based upon these findings, the Development Review Board voted unanimously (7 – 0) to grant both the variance for the garage and the conditional use permit for the renovation and expansion of the kitchen with the associated mitigation measures. (Alternates vote in the absence of Board members.)

The proposed garage was placed so it conforms to all setbacks except the nonconforming size of the lot which is pre-existing and cannot be changed. The proposed kitchen expansion was kept within the bounds of the decking which surrounds the kitchen. The applicants were amenable to creating natural areas as a mitigation measure for the expansion of the foortprint of the house.

**Conditions:**

The applicants must replace 300 sq. ft. of lawn within 50 feet of the lake with native flora as a mitigation measure in compensation for the expansion of the footprint of the house.

Signed:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, chair \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, clerk

 Jane Woodruff Janet Travers

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.