

Conditional Use Amendment  
Day Patterson & Janet Showers Patterson  
October 28, 2020

*To consider a conditional use request by Day Patterson & Janet Showers Patterson to rebuild an accessory structure on their property at 146 Birch Lane.*

The application requires a review under the following sections of the Greensboro Zoning By-Law: 2.7 Shoreland Protection District, 5.4 Conditional Uses, and 8.9 Non-conforming Uses and Structures within the Shoreland Protection District.

**Warnings** were posted on September 28, 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: Gwen and Tod Mann and Marian Wright & Greg Boester. It was published in the Hardwick Gazette on Wednesday, September 30, 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:**

**Others present:** Day Patterson and Janet Showers, applicants; Marian Wright, abutter ; Christine Armstrong; and Brett Stanciu, zoning administrator

**Correspondence from interested persons:**

Letter from Marian Wright dated Oct. 27, 2020

**During the course of the hearing the following exhibits were submitted:**

#1 letter from Marian Wright dated Oct. 27, 2020

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. Patterson to explain what he and his wife want to do on their property at 146 Birch Lane. Mr. Patterson began by saying the structure is quite old and was on the property when they purchased it. It is located a distance from the lake and is not readily visible from the lake. It is a shed or small barn used for storage of multiple items, including boats in the winter. In the summer Mr. Patterson sometimes uses that space as a workshop space and it houses several different kinds of electric saws for that purpose. Being an old building, there are gaps and holes in the siding, the cinder block foundation shifts, and the sill on at least one side of the structure is sitting on the ground. Mr. Patterson and Ms. Showers would like to replace the structure which will sit on cement piers so runoff can go under the building and be constructed on the same footprint as the present structure. The height will be increased from 13 feet 6 inches to 16 feet to ensure room for the foundation piers to position the building off the ground and give the Patterson's a little more storage space.

Ms. Woodruff then opened the hearing for questions and comments.

Ms. Wright, an abutter, is concerned about the looks of the structure and hopes it will fit in with the character of the area in design and color. They also hope its use will continue to be for storage and a workshop and not as a living space. Mr. Patterson stated that the proposed structure would be rebuilt in the same size and shape as the present building. It will have some windows and a shed or gable roof. It will be used for storage and a workspace as it always has been, not as a living space. It was referred to as a boathouse on the 2019 Mutrux survey included with the application, but it is not and, in Mr. Patterson's memory, never has been used as a boathouse.

The hearing ended at 7:43. The Board went into deliberative session at 7:45 and came back into public session to announce their decision at 8:04.

### **Findings of Fact:**

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

#### **2.7 Shoreland Protection District**

The proposed structure will be rebuilt on the footprint of the present non-conforming structure. The right side setback is 33 feet and the left side is 20 feet, both of which meet the standard of 20 feet. It is 18 feet front the center line of the road which does not meet the 50 foot standard. It is 30 feet from the lake which does not meet the standard of 150 feet.

At 1.08 acres and 100 feet of road frontage, the lot meets the standard of 1 acre and 100 feet of road frontage.

The lot has 58 feet of lake frontage which does not meet the 100 foot standard.

The proposed structure would be built on the pre-existing, non-conforming footprint. Its height would be increased from 13 feet 6 inches to 15 or 16 feet.

#### **8.9 Nonconforming Uses and Structures in the Shoreland Protection District**

(3) Any structure may be enlarged, extended, reconstructed, expanded, modified or relocated on with the approval of the DRB, subject to conditional use review (5.4). The DRB must determine that the enlargement, extension, expansion, modification or relocation does not increase the degree of nonconformity or else it compensates for lost Shoreland Buffer through mitigation measures and meets all other applicable requirements of these regulations.

#### **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 rebuilt shed will not have an adverse effect on existing or planned community facilities.
- 2. the character of the area.* It will not adversely affect the character of the area.
- 3. traffic in the vicinity.* It will not affect traffic in the area.
- 4. by-laws and ordinances presently in effect.* It will not adversely affect the bylaws and ordinances presently in effect.
- 5. the utilization of renewable energy resources.* It will not affect the utilization of renewable energy resources.

##### *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.* The 1.08 acre lot meets the minimum size requirement 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 rebuilt structure will be built on the same footprint as the pre-existing, nonconforming structure so the present setback requirements are not applicable.
- 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.* The rebuilt structure will not have a commercial or industrial use.
- 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.* There will be no exterior signs.
- 5. The proposed structure is compatible with other structures in the area.* The proposed structure will replace a similar pre-existing structure and be built on the existing footprint. It will not exceed 16 feet in height.

6. *The proposed structure adheres to the uses allowed in the relevant district.* The proposed structure will be used as a storage shed and workshop which is compatible with the uses of similar structures in the area. Accessory structures are an allowable use in the Shoreland Protection District.

7. *The proposed structure will not affect the noise or air pollution in the area.* The DRB considered this and determined that the noise and air pollution will not affect the area.

When considering the character of the area, the DRB considers the area to include all properties in the Shoreland Protection District. From the information given in the application, findings of fact, and testimony, the DRB understands that this accessory structure will be rebuilt on piers, on the same footprint as the pre-existing, nonconforming structure, and to a height not exceeding 16 feet. It will be used as a storage shed and sometime summer workshop as it has in the past. It will have electricity but no plumbing.

### Decision and Conditions

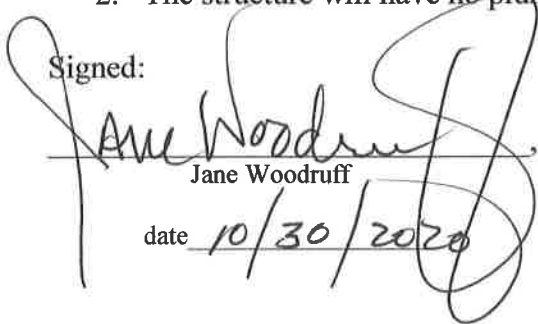
Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve the application. (Alternates vote in the absence of Board members.)

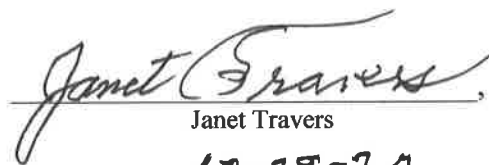
The DRB considered the information presented in the application, findings of fact, and testimony. Accessory structures up to 30 feet in height are an allowable use in the Shoreland Protection District. The proposed structure will be built on the same footprint as the pre-existing, nonconforming structure so the setback regulations in the present bylaws do not apply. Its height will be raised slightly but will not exceed 16 feet. It will be used as a storage shed and sometime workshop as it has been used in the past which conforms with the use of other accessory structures in the Shoreland Protection District. The DRB has no jurisdiction over the design, color, or materials used in a structure, but trusts the landowner will use materials, design and color that conform to other structures in the District.

### Conditions:

1. The structure will not exceed 16 feet in height. This is the stated desire of the applicant.
2. The structure will have no plumbing.

Signed:

  
Jane Woodruff, chair  
date 10/30/2020

  
Janet Travers, clerk  
date 10-29-20

### 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.