

Conditional Use and Variance Hearing
Daniel Davis, William Davis, and Laurie Callahan
November 2, 2020

To consider a conditional use and variance request by Daniel Davis, William Davis, and Laurie Callahan to reconstruct and relocate the family cottage at 189 Cheney Road.

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

Warnings were posted on October 8, 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 applicants and the following abutters and neighboring property owners: Andrew Kehler and Victoria Von Hessert, Stewart and Rebecca Arnold, and the Jane G. Sprenger Trust on October 8, 2020. It was published in the Hardwick Gazette on Wednesday, October 14, 2020.

Development Review Board members present: Jane Woodruff, MacNeil, Linda Romans, Nat Smith, Lee Wright, Wayne Young, and Mike Metcalf. BJ Gray joined the meeting at 7:35 PM.

Development Review Board members absent: Jan Travers.

Others present: Daniel Davis, applicant; Laurie Callahan, applicant; Adam Davis, architect.

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 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. Adam Davis to explain what the Davis-Callahan family proposes to do on their property at 189 Cheney Road. Mr. Adam Davis explained that the cottage is set on concrete piers that have tipped and are failing as a foundation. The applicants propose to improve their house by lifting it up and setting it back from the lake approximately 10' on a new full basement. This will create an open space between the house and the lake. A few trees will be moved and replanted. Perennials at the rear of the house will be replanted, and garden beds with native plants will be created on the other three sides. The one-story addition on the cottage's north side must be detached to move the structure. The applicants propose to rebuild that section, which needs repair, and add a second floor. The building footprint will not be enlarged. A deck will be added and a 90 sf covered — but not enclosed — entryway will be added to the street side of the cottage. As part of the overall upgrade, the septic system will be replaced. Although the building might be slightly raised due to the foundation, the cottage is moving up the hill, so the average grade will make the proposed height approximate to the current height of 26'3".

The hearing ended at 7:25 PM. The Board went into deliberative session at 7:27 PM and came back into public session to announce their decision at 8:14 PM.

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 one side setback and the road setback, but is 39'2" from the lakeshore, not the standard of 150'. The right side setback abutting the Jane G. Sprenger Trust property is 16'8", not the standard of 20'. The lot is .31 acres, not the standard of 1 acre. The cottage renovations require a conditional use permit. The relocation requires a variance.

5.4 Conditional Uses — cottage renovations

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 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 cottage complies with one side and the road setback. It does not meet the setback for the Jane G. Sprenger Trust lot line, but will not increase its current nonconformity of 16'8". The cottage cannot meet the 150' lake setback, but will be more conforming with the proposed 10' increase from the shoreline.*
- 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. The structure is compatible with other structures in the area.*
- 6. The proposed structure adheres to the uses allowed in the relevant district. A seasonal house is an allowable use in this district.*
- 7. The proposed structure will not affect the noise or air pollution in the area. The structure will not affect noise or air pollution in the area.*

5.5 Variances — cottage relocation

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 preexisting, nonconforming small lot that was 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 the Zoning Bylaws and authorization of a variance is necessary to enable the reasonable development of the property.* The proposed move will make the cottage less nonconforming regarding the lake setback without compromising the road setback. The lot is too small for the structure to be fully compliant with setbacks.

3. *The unnecessary hardship has not been created by the applicant.* The applicants did not create the lot size.

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.* Adjacent properties will not be impacted.

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 public welfare.

5. *The variance represents the minimum that will afford relief and the least deviation possible from the bylaws and town plan.* The cottage will be moved further back from the lake to decrease its degree of nonconformity. This relocation is a reasonable use of the property.

Decision and Conditions

Based upon these findings, the Development Review Board voted unanimously (7 – 0) to approve.

(Alternates vote in the absence of Board members.) BJ Gray did not vote, as she had not attended the presentation.

Conditions:

1. Any and all necessary state and federal permits must be in place before construction can begin.
2. The relocated cottage must comply with appropriate setbacks to the road.

Signed:


Jane Woodruff, chair

date November 5, 2020


Brett Stanciu, clerk

date November 5, 2020

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.

