

Conditional Use and Variance Hearing
Town of Greensboro
Chris Philips
September 13, 2012

To consider a conditional use permit and variance request by Chris Philips for inside renovations and the addition of an upper deck and stairs at their camp at 325 Black's Point Rd. The camp is within the 150 foot buffer zone of Caspian Lake.

The conditional use permit is for an alteration to a nonconforming structure within the 150' buffer zone of Caspian Lake. It requires a review under the following sections of the Greensboro Zoning By Laws: 2.5 Lakeshore District, 3.8 Nonconforming Structures and 5.4 Conditional Uses.

The addition of stairs from the proposed second floor deck requires a variance review under the following sections of the Greensboro District Zoning By-laws: 2.5 Lakeshore District; 3.9 Protection of Water Resources; and 5.5 Variances.

Warnings were posted at the Town Hall, the Greensboro Post Office and the Greensboro Bend Post Office on August 22, 2012. Warnings were also sent to Chris Philips, applicant; John Dernavich, representative, and the following abutters: Clara Day; Jeffrey Parker et al; Dawn Gustafson & David Lane, et al; New England Estates LLC, c/o A, Lorraine PLC; and Carolyn Norris-Baker on August 22, 2012. It was published in the Hardwick Gazette on Wednesday, August 29, 2012.

Zoning Board members present: Marsha Gadoury, Bud Harvey, Nat Smith, Linda Romans, Janet Travers, Jane Woodruff and Wayne Young

Others present: John Dernavich, applicant's representative; Kristen Leahy, zoning administrator; and Anne Harbison

Oath: administered to those present

The hearing began at 7:07. The Board went into deliberative session at 7:34 and came back into public session to announce their decision at 8:32.

Summary of Discussion

After the oath was administered and Ms. Woodruff explained the hearing procedure, Mr. Dernavich explained what the Phillips want to do. Mr. Dernavich stated that the Phillips began by wanting to replace the deteriorating deck facing the lake. As they thought about the project, they decided it made sense to flip the upstairs and downstairs rooms to get optimum light in the living area. Then they decided that they would like to add a deck on the upper level and they felt that external stairs would enable them to have easier egress from the deck. The proposed stairs were positioned to the side of the deck and house and facing away from the lake so they would not be readily visible. Also, because of the lay of the land, the deck would be closest to the ground on that side and the stairs would not have to be as long.

It was brought out that in 3.8 #3 of the zoning bylaws, the footprint of a nonconforming structure may not be expanded, but, with a conditional use permit, additions to the height may be done as long as the structure does not exceed the maximum height requirement. The same would apply to a deck. Ms. Harbison stated her concerns about the inside stairs which are narrow, steep and winding. She felt that another set of stairs from the upper level of the camp (from the proposed deck) would be advantageous.

Findings

Based on the application and testimony, the Zoning Board of Adjustment makes the following findings: In addressing the addition of an upper deck, the Board considered the general and specific criteria for conditional uses. (5.4 Conditional Uses)

B) The proposed addition of an upper deck would not have an adverse effect on:

1. the capacity of existing or planned community facilities.
2. the character of the area.
3. traffic in the vicinity
4. bylaws and ordinances presently in effect.
5. N/A

C) Specific Standards:

1. The minimum lot size is appropriate for the Lakeshore District.
 2. It meets all setback requirements
 3. N/A
 4. N/A
 5. The structure is compatible with other structures in the area.
 6. The structure adheres to all criteria in the Lakeshore District,
 7. The deck will have no effect on the noise or air pollution on the area.
- The addition of an upper deck met all of the conditional use criteria.

Next the Board addressed the request for external stairs from the upper deck. In so doing, it looked at the criteria for Variances. (5.5 Variances)

1. The Board found that there were no physical circumstances or conditions, including irregularity, narrowness, or shallowness of the lot size or shape, or exceptional topographical or other physical conditions peculiar to the property that necessitated the external stairs.
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.

As in #1, the board found that there were no unique physical circumstances that necessitated the stairs, so the property can be developed in conformity to the provisions of the Zoning Bylaw..

3. The unnecessary hardship has not been created by the applicant.

N/A

4. For the following reasons, the variance will not alter the character of the neighborhood or district in which the property is located, impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

The Board found that the addition of the stairs would follow all the facts in this standard.

5. The variance, if authorized will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaws and town plan.

The Board found that authorizing the variance would not represent the least deviation possible.

The external stairs did not meet the criteria for a variance. The Board found that the addition of the external stairs from the deck did not conform to numbers 1, 2, or 5 of the variance criteria.

Decision and Conditions

Based upon these findings, (and subject to the conditions set forth below), the Zoning Board of Adjustment voted unanimously to approve the conditional use application for the addition of an upper deck.

The Board also voted unanimously to deny the variance request for external stairs from the upper deck.

This approval is subject to the following conditions:

The upper deck is not to have a roof and neither deck is to be enclosed.

Signed:

Aue Woodruff, chair

date 9/17/2012

Janet Travers, clerk

date 9-16-12

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 Zoning Board of Adjustment. 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.