



TOWN OF DURHAM
8 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064
www.ci.durham.nh.us

Town Planner's Project Review
Wednesday, January 25, 2017

IX. ***Public Hearing - 250 Newmarket Road – Patio.*** Conditional use to install a patio adjacent to an existing single-family house within the wetland and shoreland overlay districts. Jason and Megan Lenk, property owners. Rural District. Map 18, Lot 3-1.

➤ I recommend approval as stated below.

Please note the following:

- The Conservation Commission reviewed the application on January 12, 2017 including the four overlay district criteria and recommends approval as stated in this email to me from Rob Sullivan, DCC chair:

"The Durham Conservation Commission met on 1/12/17 and reviewed the application for a back patio addition at 250 Newmarket Road (Lenk Residence).

"We reviewed the application, the existing conditions, setbacks, and proposed plan for construction. The project met the required criteria for conditional use and applicable criteria for overlay districts.

"The Conservation Commission recommends that the Planning Board approve the conditional use application for the project."

- Here are the four specific criteria for the conditional use in the two overlay districts:

The Planning Board shall approve a Conditional Use Permit for a use in the WCO District [and SPO District] only if it finds, with the advice of the Conservation Commission, that all of the following standards have been met in addition to the general standards for conditional uses and any performance standards for the particular use:

- a. There is no alternative location on the parcel that is outside of the WCO District/[SPO District] that is feasible for the proposed use;*
- b. The amount of soil disturbance will be the minimum necessary for the construction and operation of the facilities as determined by the Planning Board;*
- c. The location, design, construction, and maintenance of the facilities will minimize any detrimental impact on the wetland [adjacent shoreland and waterbody as well as downstream waterbodies], and mitigation activities will be undertaken to counterbalance any adverse impacts; and*
- d. Restoration activities will leave the site, as nearly as possible, in its existing condition and grade at the time of application for the Conditional Use Permit.*

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NOTICE OF DECISION

Project Name: **Patio for Jason and Megan Lenk**
Action Taken: **APPROVAL**
Project Description: Conditional use for installation of a patio for a single-family house within the wetland and shoreland overlay districts
Address: 250 Newmarket Road
Applicant: Jason and Megan Lenk
Map and Lot: Map 18, Lot 3-1
Zoning: Rural District
Date of approval: **January 25, 2017**

The application is approval subject to the following terms and conditions:

- 1) Application. The application is approved based upon the information and documentation presented in the application. The patio will be built as described in the application, including use of permeable pavers. Any proposed changes to the plans may be approved in accordance with Planning Board policy.
- 2) Findings of fact. As part of this review and approval the Durham Planning Board finds the following:
 - a) Documents. The applicant submitted an application, supporting documents, and plans for the project;
 - b) Public hearing. The Planning Board held a public hearing on January 25, 2017.
 - c) Conditional use. The application was processed and reviewed in accordance with the requirements for conditional uses.
 - d) Criteria. The Planning Board voted to approve the conditional use after a finding that the eight standard conditional use criteria and the four conditional use criteria in the overlay district, as listed in Section 175-61 B. and 175-72 B., are met.
 - e) Reference line. For the purpose of this review, use of the edge of river as located April 27 through May 4, 2009 and the mean low water line was sufficient – rather than requiring delineation of the ordinary high water mark and wetland boundary – due to the minimal impact of the project and the steep slope of the bank.
 - f) Flood Zone. The entire lot is in a flood zone, Zone AE with a base flood elevation of 35.6 feet. The flood elevation refers to finished floor area, not outdoor patios.
 - g) TRG. The project was not presented to the Technical Review Group but TRG members received the application. No comments were forwarded.

- h) DCC. The Conservation Commission reviewed the application on January 12, 2017 and recommended approval per the four criteria.
- i) Setbacks. The setback from the Lamprey River in the Shoreland Protection Overlay District for structures is 125 feet. The setback from wetlands in the Wetland Conservation Overlay District is 100 feet. The Lamprey River is considered a (riverine) wetland. A patio is considered a structure under the Zoning Ordinance. It is allowed in both of these overlay districts as a conditional use as an “accessory structure.” The patio will be located approximately 60 feet+ from the shoreland and wetland as the edge of river as shown on the large plans is 60 feet from the patio.