



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

- X. ***Public Hearing - 44 Bennett Road – Garage.*** Conditional use for construction of a 30 x 36 foot garage serving a single-family residence. The garage would be 75 feet +/- from Laroche Brook where 100 feet is required in the Wetland Conservation Overlay District and 75 feet is required in the Shoreland Protection Overlay District. Tabb Family Trust, Tom Boisvert, Trustee, property owner. Joel Runnals, Norway Plains Associates, surveyor. Map 15, Lot 2-1. Rural District.
- I recommend approval as stated below, *subject to receiving a final okay from the Conservation Commission* (See first bullet below).

Please note the following:

- The Conservation Commission reviewed the application on January 12, 2017 including the four overlay district criteria and recommends approval, subject to a satisfactory site walk, 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 proposed garage at 44 Bennett Road.

“The commission reviewed the application, applicable setbacks, and proposed plan for the garage placement.

“No issues were identified in the meeting and the Commission voted to recommend approval of the application upon completion of a satisfactory site walk with the Planning Board later this month.

“The Conservation Commission will send a formal response to you after the site walk.”

* I will coordinate with Rob Sullivan on obtaining comments from the DCC prior to the Planning Board meeting.

- 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.*

Draft

NOTICE OF DECISION

Project Name: 44 Bennett Road garage
Action Taken: APPROVAL
Project Description: Conditional use in WCOD and SHOD for garage within buffers
Address: 44 Bennett Road
Applicant: Tom Boisvert
Property Owner: Tom Boisvert c/o Tabb Family Trust
Map and Lot: Map 15, Lot 2-1
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 project must be built as described. 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) Site walk. The Planning Board held a site walk on January 25, 2017
 - d) Conditional use. The application was processed and reviewed in accordance with the requirements for conditional uses.
 - e) Laroche Brook. Laroche Brook is in the Shoreland Protection Overlay District. As a brook it also constitutes a riverine wetland.

- f) 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. The applicant submitted statements addressing the two sets of criteria.
- 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 subject to a satisfactory site walk.
- i) Setbacks. The setback from Laroche Brook in the Shoreland Protection Overlay District for structures is 75 feet. The setback from wetlands in the Wetland Conservation Overlay District is 100 feet. The garage is allowed in both of these overlay districts as a conditional use as an “accessory structure.”
- j) Reference line. The garage would be located *about* 75 feet from Laroche Brook and was reviewed under the Shoreland Protection Overlay District since it is very close to the edge of the district. Given the limited scope of the project and the value of conducting a site walk, it was not deemed appropriate to require the applicant to delineate the actual ordinary high water mark for the brook nor the wetland boundary. The Planning Board could review the setback adequately on site as shown from the edge of brook as depicted on the plans. The two sides of the brook as shown on the plans were marked as observed by the surveyor in early November 2016.