



**TOWN OF DURHAM**  
8 NEWMARKET RD  
DURHAM, NH 03824-2898  
603/868-8064  
[www.ci.durham.nh.us](http://www.ci.durham.nh.us)

**Town Planner's Project Review**  
**Wednesday, January 11, 2017**

- XI. **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 the Laroche Brook wetland where 100 feet is required. Tabb Family Trust, Tom Boisvert, Trustee, property owner. Joel Runnals, Norway Plains Associates, surveyor. Map 15, Lot 2-1. Rural District.
- I recommend that the board set the public hearing for January 25 and schedule a site walk.

Please note the following:

- 1) The applicant proposes to build a freestanding 30 x 36 foot garage within the wetland conservation overlay district. This would be considered an accessory structure or building. See the tax map and aerial photo at the bottom. The property is Lot 2-1. The lot is 2.45 acres.
- 2) WCOD. The garage would be located about 75 feet from Laroche Brook. Rivers and streams are considered wetlands. There is a 100 foot buffer strip from wetlands in the Wetland Conservation Overlay District. “Accessory structures and buildings other than those allowed as permitted uses” are allowed in the overlay district by conditional use.
- 3) Specific criteria. The Planning Board approves a conditional use in the overlay district with the advice of the Conservation Commission upon a determination that the following standards are met (in addition to the general conditional use criteria):
  - a) There is no alternative location on the parcel that is outside of the WCO 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, 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.

The applicant addressed these 4 criteria (See the handwritten sheet).

- 4) The applicant also needs to address the 8 general criteria. I have requested this information and will forward it to the board when I receive it.
- 5) We expect the applicant to present the application to the Conservation Commission at its meeting on January 12.
- 6) Site plan. See the foundation location plan. The proposed garage is situated 75 feet from Laroche Brook. I spoke with the surveyor. The two lines shown along the brook were delineated in early November 2016. They represent both sides of the brook as observed on that day (though the two lines are depicted slightly differently, due to an AutoCAD glitch). Thus, they do not represent either the edge of delineated wetlands or the ordinary high water mark of the stream. According to the applicant the slope is fairly steep here so it is unlikely that there is a wetland separate from the brook closer to the garage. The actual edge of the wetland that is the brook itself may be a few feet closer to the garage. However, for a garage for a single-family use on the plans as shown, I do not think it appropriate to require the applicant to formally delineate the wetland nor ordinary high water mark, only to clarify whether the distance is 75 feet or somewhat closer. The value of a site walk would illustrate exactly what is proposed. On the other hand, if the Planning Board believes that the wetland/ordinary high water mark should be formally delineated please point this out on January 11 or at the site walk.
- 7) Shoreland District. Laroche Brook is also in the Shoreland Protection Overlay District. The setback for structures from Laroche Brook, a perennial stream, is 75 feet. Thus, it appears that the garage would be outside of this overlay district. The district sets that setback simply at 75 feet from the brook but it is ambiguous whether this applies to the ordinary high water mark which could be slightly closer than 75 feet. Thus, if it seems that we should include a conditional use under the shoreland district I will include that language for the agenda and the project for January 25. At any rate, the criteria for a conditional use under the WCOD and SPOD are virtually identical.
- 8) I will forward the information to the Technical Review Group for any comments but will not bring this project to the TRG at an actual meeting. I will forward any comments that I receive.
- 9) Conditional use. Conditional uses involve notices to neighbors within 300 feet, a public hearing, a sign announcing the public hearing, review of the 4 specific and the 8 general criteria, and an affirmative vote of five Planning Board members to approve.

