



TOWN OF DURHAM
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Town Planner's Review
Wednesday, March 13, 2019

- VIII. ***Public Hearing - 32 Cedar Point Road – Conditional Use.*** Conditional use for revetment (retaining wall) within the Shoreland Protection Overlay District. Heiderscheidt Trust, Benedict and Manisha Heiderscheidt, Trustees, property owner. Steve Riker, Wetland Scientist, Ambit Engineering, designer. Map 12, Lot 1-8.
- Based on the information available at this time (subject to new information from the site walk and public hearing) and *subject to questions about the method proposed being adequately addressed*, I recommend approval as stated below.

Please note the following:

- 1) Method of construction. The methods proposed are relatively new as NHDES now requires softer methods than simply hardening the slope. The Planning Board had some questions about the durability of the methods at the presentation on February 13, any warrantee for the structure, liability in case of failure, and if there are other established methods worth considering. The applicant said he would look into those questions.
- 2) Revised plans. Revised plans (dated February 13) are included in the packet and were emailed earlier. The patio area was moved further from the shoreline and the grading was changed. The impact upon the shoreline appears to be less than in the prior plans. Steve Riker can explain the changes at the site walk and at the public hearing.
- 3) Site walk. The Planning Board is holding a site walk on Wednesday, March 13, at 3:00 p.m.
- 4) Criteria. Approval will require a positive finding under the 8 general criteria and these 4 specific criteria under the SPOD. The applicant addressed all of the criteria in the application.
 - a. There is no alternative location on the parcel that is outside of the SPOD that is reasonable practical 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 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 pre-existing condition and grade at the time of application for the Conditional Use Permit.
- 5) Conservation Commission. The Conservation Commission reviewed the application on January 28 and voted that the commission found the 4 criteria were met. I sent the revised plans to the commission but have not heard any concerns.
 - 6) Conditional use. All procedural requirements for a conditional use on the part of the applicant have been met. Approval will require a vote of 5 Planning Board members.

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NOTICE OF DECISION

Project Name: 32 Cedar Point Road revetment (retaining wall) –
conditional use

Action Taken: Approval

Property Owner: Benedict and Manisha Heiderscheidt, Trustees

Designer: Steve Riker, Wetland Scientist, Ambit Engineering

Map and Lot: Map 12, Lot 1-8

Zoning: Residence Coastal

Date of approval: March 13, 2019

- 1) The proposal was approved as submitted. Submit the final approved set of plans to the Planning Department prior to construction: one full size paper copy, one 11x17 copy, and one pdf.
- 2) The applicant must obtain all pertinent local, state and federal approvals prior to starting construction.

Findings of Fact. 1) The patio location and grades were changed on February 13, 2019. 2) The project was presented to the Planning Board on February 13, 2019. 3) A site walk and public hearing were held on March 13, 2019. 4) The Conservation Commission reviewed the project on January 28, 2019, approved the wetland permit, and recommended approval of the 4 SPOD criteria. 5) The applicant addressed all conditional use criteria in the application and met the procedural requirements for the conditional use. 6) The Town Planner determined that the applicant complied with applicable requirements. The application was forwarded to the Technical Review Group but no members or staff had any concerns. 7) The Planning Board duly approved the conditional use application based on the conditional use requirements. 8) Other structures were approved on the site as conditional uses on May 9, 2018.