



## PLANNING DEPARTMENT

### Town of Durham

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### MEMORANDUM

To: Zoning Board of Adjustment  
From: Michael Behrendt, Durham Town Planner  
Date: February 25, 2021  
Subj: 190 Piscataqua Road - Variance Application

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I am sending this memorandum to the Zoning Board of Adjustment on behalf of the Durham Conservation Commission. We understand that Tom and Erin Daly are submitting an application for a variance for construction of a single family house within the Town's Wetland Conservation Overlay District (WCOD) and possibly also the Shoreland Protection Overlay District (SPOD).

Because the construction would occur within the WCOD and/or the SPOD and potentially impact natural resources the commission thought it appropriate to provide comments on the project. We appreciate the opportunity to do so and understand that the ZBA makes its own judgments about variance applications and will accept these comments as it sees fit.

A variance is needed for construction of any part of the house within the WCOD and SPOD. A conditional use approved by the Planning Board with recommendations from the Conservation Commission will be needed for other parts of the site that would be located within the WCOD and SPOD: patio, deck, outbuildings, driveway, walls, utilities, drainage structures, and other structures.

When the Daly's proposed construction came to my attention as the Town Planner, given the complexity and challenges with the site, impacts upon natural resources, and likelihood of the need for both a variance and conditional use, I suggested to the property owners that they meet with the Conservation Commission to discuss their plans and possibly receive guidance from the commission.

The Dalys met with the Conservation Commission at two regular meetings and on a site walk at the property where the commission observed where the proposed work would occur, as staked out. The commission does not have a specific definitive recommendation for the ZBA but rather offers a number of comments as discussed at its meeting on February 22, 2021. The commission voted unanimously to convey these comments to the ZBA. The applicant expects to submit a conditional use application to the Conservation Commission and the Planning Board later. The commission will review that formal application, with a fresh look, when it is received.

*over)*

Note that the Conservation Commission's comments are based upon a plan called "Daly Plans Rotated," which includes a portion of the house within the SPOD. That plan was presented to the commission on February 22. After the commission's meeting, the applicant revised the plans shifting the location of the house in a northerly direction so that the house would not be located in the SPOD at all (though it will be located closer to the wetland). The applicant said that they made this adjustment based upon comments by the commission emphasizing the sensitivity of the shoreland area. The commission has not reviewed this revised plan and has offered no comments about it.

The Conservation Commission would encourage members of the ZBA to watch the commission's discussion on DCAT to get a full sense of their comments (February 22, 2021).

#### Comments from the Conservation Commission

- This is a large, ambitious plan that is difficult to fit into the buildable area. The house appears to be located in an optimal location on the site recognizing the severe constraints with the WCOD and SPOD.
- The construction plans attempt to balance environmental concerns and it is recognized that there are tradeoffs.
- The project will remove aging septic systems and place the new system a good distance from the shoreland and wetland.
- Several other structures located within the WCOD and SPOD will be removed.
- Permeable pavement will be used throughout the site where applicable.
- Landscaping plans show thoughtful choices for vegetation and removal of invasive plants. Shoreland plants and trees will remain and there will be additional buffer plantings.
- The drainage system will address stormwater and mitigate runoff.
- A significant concern with the project is the lawn area which has as much impact on the shoreland as the house, or a greater impact (This will likely be examined as part of the conditional use review).
- It would be best to reduce the area of development in proximity to the bay.
- The Conservation Commission appreciates the efforts of the applicant to respond to suggestions from the commission. However, further efforts to reduce the overall footprint of the project (including both the house and improvements on the site) would be appreciated. Pulling in from the buffers with a smaller footprint is always desirable.

Thank you to the Zoning Board of Adjustment for accepting these comments.