



**TOWN OF DURHAM**  
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**Town Planner's Project Review**  
**Wednesday, March 27, 2024**

VIII. **Public Hearing - 12 Oyster River Road – Conditional Use**. Conditional use application to install deck, patio, steps, retaining wall, and landscaping within the Shoreland Protection Overlay District. Katherine Cook/New Heritage Designs, property owner. Ben Groves, Rye Beach Landscaping, contractor. Map 109, Lot 80. Residence A District.

➤ I recommend approval as stated below **subject to** comments from the Conservation Commission and results of the Planning Board site walk and public hearing..

Please note the following:

- This is an application for a conditional use to install a deck, patio, steps, retaining wall, and landscaping within the Shoreland Protection Overlay District (SPOD) buffer.
- The application is being reviewed by the Conservation Commission on Monday, March 25.
- The Planning Board is holding a site walk on Wednesday, March 27, at 5:00 pm.
- The applicant addresses the four SPOD criteria and the eight general conditional use criteria and provides several photographs of existing conditions.
- The structures are all allowed as conditional uses. The planting of native and naturalized plant species are allowed as a Permitted Use A, 1.
- Here are the specific SPOD conditional use criteria:

B. The Planning Board shall approve a Conditional Use Permit for a use in the SPOD only if it finds that all four of the following criteria have been met in addition to the general criteria for conditional uses and any performance standards for the particular use:

1. There is no alternative design and location on the parcel for the proposed project that would:
  - a) have less adverse impact on the SPOD and overall ecological values;
  - b) be workable; and
  - c) be reasonable to expect the applicant to utilize.
2. The design, construction, maintenance and operation of the proposed structures and activities within the water resource and buffer will minimize soil disturbance and adverse impacts to water quality to the extent workable.

3. Mitigation and restoration activities of the area being disturbed will allow for the site to perform the functions of the water resource and buffer to the extent workable. Planting of native or naturalized vegetation shall be included as appropriate (See Section 175-60 A. 1. for reference).
4. The proposed project will not have substantial adverse impacts to known rare species, rare habitats, water quality, aquatic connectivity, or wildlife corridors. Applicants are not required to provide supporting documentation for this criterion unless the Planning Board has good reason to believe this criterion applies.

C. Ecological value is defined as the environmental functions performed by all lands and waters to support the variety of habitats and the abundance and diversity of all flora and fauna.

**\*Draft\***

**NOTICE OF DECISION**

**Project Name:** 12 Oyster River Road – conditional use  
**Action Taken:** APPROVAL  
**Project Description:** Conditional use for deck, patio, steps, retaining wall, and landscaping within the Shoreland Protection Overlay District  
**Property Owner:** Katherine Cook/New Heritage Designs  
**Applicant:** Katherine Cook  
**Contractor:** Ben Groves, Rye Beach Landscaping  
**Map and Lot:** Map 109, Lot 80  
**Zoning:** Residence A District  
**Date of approval:** March 27, 2024

The application is approved as submitted.

Findings of fact. As part of this review and approval the Durham Planning Board finds the following: **A)** The applicant submitted an application, supporting *documents*, and plans for the project; **B)** The Planning Board held a *public hearing* on the application; **C)** The Planning Board reviewed the application in accordance with the Durham Zoning Ordinance, and found that the application *meets all requirements* (except where waivers or variances may have been granted); **D)** The Planning Board determined that a surveyed plan was not needed given the extent of information provided, the location of the buffer line (through the house), and the site walk which the boards held; **E)** The board held a site walk; **E)** The application was reviewed by the Conservation Commission on March 25, 2024; **G)** the Planning Board found that the eight criteria for *conditional uses* and the four special criteria outlined in the Zoning Ordinance are adequately addressed in the applicant’s application for a conditional use; and **H)** The Planning Board duly *approved the application* as stated herein, including the conditional uses. Substantial records are maintained of the process and documentation submitted in the Planning Department. A record of documentation and a timeline of the project will be prepared as needed.