



TOWN OF DURHAM
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Town Planner's Project Review
Wednesday, March 13, 2024

- VIII. **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 that the board determine if a surveyed plan is needed, set a date for a site walk, and set a date for a public hearing.

Please note the following:

This is an application for conditional use to install a deck, patio, steps, retaining wall, and landscaping within the Shoreland Protection Overlay District (SPOD) buffer.

There is a detailed drawing in the application showing these items right behind the existing house. The following page with a survey by David Vincent shows *the adjacent lot*, not the subject lot, immediately to the south of the subject lot. This shows some details on the subject lot.

The buffer along the Oyster River is 125 feet. This extends well beyond the area being impacted. The applicant has asked if there is sufficient information provided so that they do not need to hire a surveyor to delineate the reference line for the river and the 125 foot buffer line. I include an excerpt from the Town's GIS showing some details. The 125 foot line runs through the house beyond the impacted area. The commission and board could also conduct a site walk to see the area close up. Please advise the applicant at the meeting (Conservation Commission or Planning Board) if a survey is needed and she will provide one.

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 is allowed as a Permitted Use A, 1.

Here are the 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.