

ZONING BOARD OF ADJUSTMENT - APPLICATION

16-40-CU

TOWN OF CHARLOTTE

Office Use Only #ZBA- _____

Planning & Zoning

Date Received: _____

P.O. Box 119

159 Ferry Road

Charlotte, VT 05445

Phone: 802-425-3533

Note: Decisions of the Zoning Board of Adjustment may be appealed to the Vermont Environmental Court within 30 days of the date of the Board's written decision. Zoning Permits will not be issued so as to become effective prior to the end of that appeal period.

E-Mail: Gloria@townofcharlotte.com

Hearing Date: 4/16/16

Receipt # _____

Application Fee \$500 ✓

Appeal Fee \$500

Telecommunications Facilities Fee \$2,000

*APPLICANT/REPRESENTATIVE (if different from owner)

Name 923 TRUST / CARLENE TOUFO / DAVID BERTRAND
Address 532 FLAT ROCK / 40 COLLEGE ST LOBBY 3
CHARLOTTE, VT. / BURLINGTON, VT 05401
Phone 802.238.8890 / 802.238.8890 / 802.999.4035

*Representative must submit a letter from the owner of the property authorizing him/her to represent them for permits, hearings, etc.

Map 42 Block 50 Lot 62 Parcel ID # 00025 0532 Property address 532 FLAT ROCK, CHARLOTTE

Lot size 1.163 Lot frontage % of Lot coverage (building) (overall) Building height Front yard setback

Side yard setback Rear yard setback Zoning District SSHM

This application references Zoning Bylaw section(s) SSHM

Plot Plan (a plot plan must be submitted showing the lot, existing structures and setbacks, easements, right-of-ways on or abutting the lot, septic primary and replacement areas, well, streams and any other information significant to this application) Submittals no larger than 11" x 17".

Use attached sheet to list all abutting property owners. Include those across any street, private road or right-of-way.

Applicant will be required to notify adjoining property owners, by certified mail or certificate of service, after a hearing date has been set.

Submit (1) original and (5) copies of complete application.

Conditional Use: Variance: Thompson's Point Seasonal Dist: Appeal: Other: describe)

Describe your request: (When appropriate, make reference to attached documents, letters, photographs, etc.)

APPLICATION MUST BE RECEIVED AT LEAST 23 DAYS PRIOR TO THE HEARING DATE. BE SURE TO COMPLETE ALL SECTIONS OF THE NECESSARY FORMS AND ATTACHMENTS. ONLY COMPLETE APPLICATIONS WILL BE ACCEPTED.

Signature of applicant [Signature] Date 3/15/16

TABLE 2.7 SHORELAND SEASONAL HOME MANAGEMENT DISTRICT (SHM)

(A) **Purpose.** The purposes of the Shoreland Seasonal Home Management District are (1) to protect and preserve, for seasonal residential use only, those areas of Thompson's Point that have been historically developed for seasonal residential use and have remained essentially unchanged over the years; (2) to protect the unique historic and physical character of these areas; (3) to protect the scenic beauty of the shoreland and lake, as viewed from the lakeshore and the water; (4) to protect the environmental quality of the area and the lake, and (5) to allow for development which does not adversely affect the town's natural and scenic resources or properties and uses in the vicinity, and is compatible with the rural character of the town as expressed in the *Charlotte Town Plan*.

(B) Allowed By Right (No permit needed)

1. Agriculture [see Section 9.2]
2. Forestry [see Section 9.2]

(C) Permitted Uses

1. Dwelling/Seasonal (pre-existing only)

(D) Conditional Uses

1. Accessory Structure [see (F)(2)]
2. Municipal Facility [see (F)(3); Section 4.15]
3. Demolition of an existing structure or portion thereof [see (F)(9)]
4. Alteration of an existing structure [see (F)(7) and (F)(8)]
5. Replacement of an existing structure see (F)(9)]
6. Shoreline Improvements [see (F)(11)]

(E) Dimensional Standards (unless otherwise specified by use type):

Minimum Lot (Leasehold) Area: NA [see F(1)]
Minimum Frontage/Road: Existing
Minimum Frontage/Shore: Existing
Minimum Setback/Front: 50 feet (from ROW)
Minimum Setback/Side: 50 feet
Minimum Setback/Rear: 50 feet
Minimum Setback/Shore: Existing (see (F)(8))

Maximum Height: (Section 3.5): Lesser of 30 ft or 2 stories
Maximum Building Coverage: 7% [see (F)(7)]
Maximum Lot Coverage: 10%

Subdivision: Not allowed
PRDs: Not Allowed
PUDs: Not Allowed

(F) District Standards:

- (1) For the purposes of these regulations, leaseholds shall be considered lots. No further subdivision of leaseholds, other than boundary adjustments that do not result in the creation of additional leaseholds, is allowed.

No Further Subdivision

- (2) Accessory structures to allowed residential uses within this district are limited to one structure per leasehold (e.g., a utility shed) that does not exceed eight (8) feet in width, 12 feet in length, or 12 feet in height. Accessory dwellings of any type are specifically prohibited in this district.

THE PROPOSED PROJECT IS NOT AN ACCESSORY STRUCTURE

- (3) Municipal facilities allowed within this district are limited to municipally owned and/or operated outdoor recreational facilities (parks, beaches, lake access, other outdoor facilities and associated accessory structures), and municipal water and wastewater systems.

- (4) In addition to the provisions of Section 3.15, existing native woody vegetation between the shoreline and a structure shall be preserved and maintained. No existing or proposed use or activity shall result in soil erosion or adversely impact designated wildlife habitat areas. All trees on leased lots are owned by the Town, and permission from the Tree Warden shall be required for cutting or pruning within this district. Dead or storm damaged trees shall not be cut unless they are determined by the Tree Warden to be a hazard to structures or to public safety.

THIS PROJECT WILL NOT DISRUPT, CHANGE OR MODIFY ANY VEGETATION ON THE SITE.

- (5) Ordinary maintenance and repair of an existing structure which does not alter its footprint, height, appearance or historic character does not require a zoning permit.

THIS IS NOT A MAINTENANCE OR REPAIR PROJECT

- (6) No construction activity other than routine maintenance shall occur within this district between July 1 and Labor Day.

- (7) The alteration or expansion of an existing principal structure may be approved by the Board of Adjustment subject to conditional use review under Section 5.4, provided that:

- (a) the building footprint which is covered by a roof (including covered porches and decks) does not exceed seven percent (7%) of the area of the leasehold it occupies; and

THIS PROJECT WILL NOT CHANGE THE

BUILDING FOOTPRINT - PROPOSING GLASS ENCLOSURE TO EXISTING PORCH.

- (b) the alteration or expansion is not for the purpose of increasing occupancy; and

NO CHANGE IN OCCUPANCY

- (c) the applicant can demonstrate that all municipal and state regulations for sewage disposal are met for each structure altered or expanded including, where applicable, the Thompson's Point Wastewater System Sewer Ordinance.

NO IMPACT ON SEWAGE

DISPOSAL

- (8) The alteration, expansion or repair of any structure shall not reduce the structure's existing setback distance from the shoreline (mean high water mark) as of the effective date of these regulations, nor increase the height of the structure so that it exceeds two (2) stories or 30 feet, whichever is less.

PROPOSED PROJECT DOES NOT CHANGE BUILDING SET BACK - ENCLASING PERM.

- (9) Demolition and alterations, expansions or repairs that change the appearance, height, footprint or historic character of an existing structure are subject to conditional use under Section 5.4, design review under Subsection (G), and the requirements of Section 3.1. Historic structures damaged beyond repair may be replaced within the same footprint, subject to conditional use review under Sections 5.4, and design review under Subsection (G).

THE PROPOSED PROJECT WILL NOT CHANGE CHARACTER OF HOME, SIMPLE GLASS ENCLOSURE, LEAVING EXISTING RAIL IN PLACE

- (10) Temporary docks which are wooden or metal, used only for noncommercial purposes, are mounted on piles or floats, and removed at the end of each season do not require a zoning permit if the total (combined) length of all docks under single ownership does not exceed 50 feet (from Mean High Water), and the total (combined) area of all docks, including deck areas, does not exceed 500 square feet. No concrete, masonry, earth or rock fill, sheet piling, bulkheading, cribwork, or similar construction may form any part of the dock. Other types of docks shall be considered shoreline improvements.

THIS IS NOT A DOCK PROJECT.

- (11) Shoreline improvements are exempted from shoreline setback requirements, but shall be sited and designed to avoid wetlands, designated wildlife habitat, and other sensitive shoreline features; shall minimize surface runoff, channeling and soil erosion; and shall avoid adverse impacts and obstructions to adjoining shoreland areas.

THIS PROJECT WILL HAVE NO SHORELINE IMPACTS.

(G) **District Design Review Standards.** Before granting conditional use approval for any alteration, expansion, demolition, or removal of any portion of any principal structure in this district, the Board of Adjustment shall seek the recommendations of the Design Review Committee, based on information found in the Historic Sites and Structures Survey for the Town of Charlotte, prepared by the Vermont Division for Historic Preservation, and the report titled "A Natural and Cultural Resource Inventory and Planning Recommendations for Thompson's Point, Charlotte, Vermont" (September 1990, as may be amended). Copies of both reports are available for review at the Planning and Zoning Office. In addition, the Committee's recommendation to the Board shall include its findings with regard to the following design review criteria:

- (1) The size, scale, style, design and materials of any structural alteration, expansion or replacement are consistent and harmonious with existing structures, and with the overall historic and aesthetic character of the area.

CAREFUL ATTENTION IS TAKEN TO WORK WITH MATERIALS
I.E (GLASS + TRIM) TO BE HARMONIOUS WITH CURRENT STRUCTURE
CLEAR GLASS WITHOUT MULLIONS OR MILITONS WILL BE USED,
(2) Natural features should be identified. NO TINTING, AND WHITE TRIM TO MATCH
Porch Railings will be kept HOME

- (3) Alterations or additions to an historic structure shall preserve the historic appearance of the structure and not alter the structure's historic integrity.

THIS IS NOT A HISTORIC PROPERTY.

- (4) Alterations to existing structures and new structures within the district shall be compatible with the visual elements of surrounding historic structures and the overall historic and aesthetic character of the area.

THIS PROJECT WILL BE COMPATIBLE WITH
EXISTING STRUCTURE + SURROUNDING STRUCTURES

- (5) The demolition of structures of historic significance shall be discouraged.

NO DEMOLITION REQUIRED

Section 5.4 Conditional Use Review

(A) **Applicability.** Any use or structure requiring conditional use approval shall not be issued a zoning permit by the Zoning Administrator until the Board of Adjustment grants such approval in accordance with the Act [§4414(3)], and the following standards and procedures.

(B) **Review Process.** Upon determination that an application is complete, a public hearing will be warned in accordance with Section 9.9(C). In accordance with the Act [§4464(b)] and Section 9.9(E), the Board shall act to approve, approve with conditions, or disapprove on each matter of an application for conditional use review; and shall issue a written decision within 45 days of the date of the final public hearing to include findings, conditions of approval, and provisions for appeal to Environmental Court. Failure to act within the 45 day period shall be deemed approval, effective on the 46th day.

(C) **General Standards.** In accordance with the Act [§4414(3)], the Board shall determine that the proposed conditional use shall not result in an undue adverse effect on any of the following:

(1) **The capacity of existing or planned community facilities and services.** The Board shall consider the demand for community facilities and services that will result from the proposed development in relation to the existing and planned capacity of such services and facilities, and the adopted municipal capital budget and program currently in effect. The Board may request information or testimony from appropriate local officials to help evaluate potential project impacts on existing and proposed community facilities and services. Conditions may be imposed regarding the provision of services and facilities, and/or the timing and phasing of development in relation to anticipated municipal capital expenditures or improvements, to minimize any adverse impacts to community facilities and services.

NO ADVERSE IMPACT TO COMMUNITY OR ADDITIONAL
BUDGET ON SERVICES.

(2) **Character of the area affected.** The Board shall consider the design, location, scale, and intensity of the proposed development in relation to the character of adjoining and other properties likely to be affected by the proposed use. Conditions may be imposed as appropriate to ensure that the proposed development is compatible with the character of the area, as defined by zoning district purpose statements, and specifically stated policies and standards of the municipal plan. Conditions may be imposed as necessary to eliminate or mitigate adverse impacts, including but not limited to conditions on the design, scale, intensity or operation of the proposed use.

ONLY ENCLOSED AN EXISTING SIDE PORCH WHICH
WILL BE COMPATIBLE AND NOT VISIBLE FROM
NEIGHBORS

(3) **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of traffic generated by the proposed development on the capacity, safety, efficiency, and maintenance of roads, highways, intersections, and bridges in the vicinity. A traffic impact assessment may be required. Conditions may be imposed as necessary to ensure that a proposed development will not result in unsafe conditions for pedestrians or motorists, including but not limited to physical improvements on or off site, or the use of accepted traffic management strategies.

NO NEW IMPACT ON TRAFFIC.

- (4) **Bylaws in effect.** The Board shall determine whether the proposed development conforms to other municipal bylaws and ordinances currently in effect, including but not limited to road, water or wastewater ordinances. The Board shall not approve a proposed development that does not meet the requirements of other bylaws and ordinances in effect at the time of application.

THIS PROJECT COMPLIES WITH BYLAWS
IN EFFECT.

- (5) **The use of renewable energy resources.** The Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources by either diminishing their future availability on the subject parcel, or by interfering with neighboring property owners' access to such resources (e.g., for solar or wind power). Conditions may be imposed as appropriate to ensure access to and the long-term availability of renewable energy resources.

THIS PROJECT IS AN ENCLOSURE OF EXISTING
PORCH, THERE ARE NO ADDITIONAL ENERGY
NEEDS OF RESOURCES REQUIRED.

(D) Specific Review Standards. In addition to general standards under subsection 5.4(C), the Board may also consider the following and impose conditions as appropriate to reduce or mitigate the adverse impacts of a proposed development:

- (1) **Conformance with the Town Plan.** Whether applications conform to policies and objectives of the *Charlotte Town Plan*, and do not adversely affect significant natural, cultural or scenic features identified in the town plan, including natural areas, wildlife habitat, productive forests and farmland, surface waters, wetlands, water supplies and aquifers, historic sites, and scenic views or vistas in the vicinity of the proposed development.

PROJECT CONFORMS

- (2) **Additional Restrictions.** All conditional uses shall comply with the dimensional, density, siting and associated standards for the district(s) in which the use or development is located, including overlay districts, however the Board may require increased setbacks and buffers, or reduced lot coverage or densities of development to avoid or mitigate adverse impacts to adjoining properties or significant natural, cultural or scenic features in the vicinity of the site.

THERE IS NO CHANGE TO SETBACKS OR
LOT DENSITY

- (3) **Performance Standards.** The Board shall consider whether the proposed development will meet applicable performance standards under Section 3.13, and may impose conditions on the installation, operation, storage or maintenance of devices or materials necessary to meet these standards. In determining appropriate performance standards, the Board may consult with state officials, and consider accepted industry standards. In addition, the Board may limit hours of operation so that the use shall be consistent with the character of the area. Evening or night operations shall be permitted only if noise levels, lighting and traffic will not unreasonably interfere with surrounding uses.

Section 3.12

Performance Standards

(A) The following performance standards must be met and maintained for uses in all districts, except for agriculture and forestry, as measured at the property line. In determining compliance, the burden of proof shall fall on the applicant. The Town or a complainant shall be required to provide reasonable proof if challenging compliance after a permit has been issued. The Planning Commission or Board of Adjustment may require periodic reporting as a permit condition to confirm ongoing compliance. No use, under normal conditions, shall cause or result in:

- (1) noise in excess of 70 decibels, or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or within the Commercial/ Light Industrial District, noise in excess of 75 decibels;

Project will comply with noise performance standards

- (2) clearly apparent vibration which, when transmitted through the ground, is discernable at property lines without the aid of instruments;

will comply

- (3) smoke, dust, noxious gases, or other forms of air pollution which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

will comply and distance to nearest neighbor exceeds 500 feet.

- (4) releases of heat, cold, moisture, mist, fog or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;

No release of heat, cold or any other substance.

- (5) electromagnetic disturbances or electronic transmissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare, except from facilities which are specifically licensed and regulated through the Federal Communications Commission (FCC).

ALL ITEMS IN SECTION 5 WILL
BE COMPLIED WITH.

- (6) glare, lumen, light or reflection which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;

ALL ITEMS IN (6) WILL BE COMPLIED
WITH ... ONLY WORK FROM 7:30 AM TO
5:00 PM - NO LIGHTING NEEDED

- (7) liquid or solid waste or refuse which cannot be disposed of by available methods without undue burden to municipal or public disposal facilities, which pollutes surface or ground waters, or which is otherwise detrimental to public health, safety and welfare; or

WILL COMPLY WITH SECTION 7

- (8) undue fire, safety, explosive, radioactive emission or other hazard which endangers the public, public facilities, or neighboring properties, or which results in a significantly increased burden on municipal facilities and services.

NO ENDANGERS LISTED IN SECTION 8
WILL OCCUR.

<p>Name <u>923 Trust c/o Carleen Tufo</u></p> <p>Address <u>532 Feltrock Rd.</u> <u>40 College St #701</u></p> <p>Parcel # Map _____ Burlington Block _____ 05401 Lot _____</p>	<p>Name _____</p> <p>Address _____</p> <p>Parcel # Map _____ Block _____ Lot _____</p>
<p>Name <u>Jolinda Smith</u></p> <p>Address <u>256 South Mountain Ave</u> <u>Montclair, NJ</u></p> <p>Parcel # Map _____ 07042 Block _____ Lot _____</p>	<p>Name _____</p> <p>Address _____</p> <p>Parcel # Map _____ Block _____ Lot _____</p>
<p>Name _____</p> <p>Address _____</p> <p>Parcel # Map _____ Block _____ Lot _____</p>	<p>Name _____</p> <p>Address _____</p> <p>Parcel # Map _____ Block _____ Lot _____</p>
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David Bertrand will also be
acting as our representative
on this project
Cecilia A. Papp