

ZONING BOARD OF ADJUSTMENT

In Re: Conditional Use Review of 556 Flat Rock Road

ZBA-14-10

OPINION

I. Introduction and Issues Presented

On November 6, 2014, Peter Demick, on behalf of Douglas Mariboe, submitted an application for conditional use review for a proposed stone retaining wall on the lakeshore. The camp is located at 556 Flat Rock Road. Public notice of the application was achieved by distributing the notice of hearing via The Citizen on January 15, 2015; posting the notice of hearing at the Town Hall, The Brick Store and Spear Street Store; and mailing a notice of the hearing to adjoining property owners. Notices were mailed to Shaw Associates (00025-0572); Barbara B. Glade Trustee (00025-0526); and Jolinda Smith (00025-0534).

The application was considered by the Zoning Board of Adjustment (ZBA) at a public hearing on February 4, 2015. The ZBA reviewed the application under the Charlotte Town Plan, 2013 and the Charlotte Land Use Regulations, 2010. Present at the hearing were the following members of the ZBA: Frank Tenney, Chair; Andrew Swayze, Vice Chair; Jonathan Fisher; Douglas Webster; and Mathew Zucker.

II. Site Visit

A site visit was conducted at the property on February 1, 2015. The following people were present: Frank Tenney, Jonathan Fisher, Mathew Zucker, and Peter Demick.

III. Hearing Attendance

The following participated in the hearing: Peter Demick, the designated co-applicant and Gloria Regan.

IV. Evidence

During the course of the hearing, sworn testimony was taken from Peter Demick and Gloria Regan, and the following exhibits were entered into the record:

- A completed conditional use application form, submitted November 6, 2014.
- A list of abutters with addresses
- A statement from Douglas Mariboe, granting Peter Demick as the designated co-Applicant.

- Photographs depicting the “demo wall”
- A sketch of the building footprint and a copy of the tax map
- A site plan prepared by the Applicant dated November 5, 2014
- Photographs depicting the location and height of the proposed wall
- A Shoreland Project Registration Application, effective December 30, 2014
- Selectboard authorization, granted November 13, 2014

V. Findings of Fact

1. Douglas Mariboe is the leaseholder of Thompson’s Point Lot #103 & 102 located at 556 Flat Rock Road. The lot is owned by the Town of Charlotte. The leaseholder has authorized Peter Demick to represent him before the Board.
2. The parcel is located in the Seasonal Home Management District. Shoreline improvements are a conditional use in the Seasonal Home Management District.
3. The Applicant submitted photographs depicting the location and proposed height of the wall. The ZBA observed the location of the wall during the site visit.
4. The Applicant’s design plan illustrates that the wall will be constructed to tie into an existing stone wall and connect to pieces of naturally occurring ledge. The new wall will be between 5-7 layers thick and anchored into the ledge for stability. The proposed wall will be backfilled using soil from a neighboring farm to create a natural appearance.
5. The proposed wall will be approximately 30ft. long, and at its highest point, 32 inches tall.
6. The proposed wall be constructed from old Pantan stone and will have a total footprint of 75sqft. The proposed stone material was observed by the ZBA during the site visit.
7. The current building lot coverage is 6%. With the addition of the stone wall, the total lot coverage will increase to 6.1%. Pursuant to Section 2.7 (E), the maximum lot coverage allowed in the Seasonal Home Management District is 10%.
8. The Applicant proposes no cutting of trees or other vegetation as part of this project.
9. Gloria Regan, the representative of Shaw Associates, supports the construction of the proposed wall.

10. The Applicant's Shoreland Project Registration Application, was effective December 30, 2014

VI. Conclusions of Law

This application must comply with Tables 2.7 and Sections 3.12, 3.15, and 5.4. The provisions of these tables and sections not specifically addressed below are either inapplicable to this application or were unnecessary for the Board to reach its decision.

Table 2.7 Seasonal Shoreland Management District:

Under Table 2.7(D) 6 Shoreline Improvements (F)(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 impacts and obstructions to adjoining shoreland areas.

The ZBA has determined that no natural features, designated wildlife habitats, or sensitive features will be impacted by this project.

Section 3.12 Performance Standards

The ZBA has reviewed the application under the performance standards described in Section 3.12 and has determined that the project will not violate any of these standards.

Section 5.4 Conditional Use Review

Under Section 5.4(C) (2) the proposed stabilization measures must be compatible with the 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.

Based on the site visit, and the testimony of Peter Demick, the Board finds that the scale of this project is appropriate. The wall will be used by the Applicant to store his boats and protect the site against future erosion. The Applicant has selected natural looking rock in an effort to achieve a structure that will match the Thompson's Point shoreline. The Board strongly

encourages that every reasonable effort should be made to protect the scenic beauty of the shoreland and lake as seen from the lakeshore and water.

VII. Decision

Subject to the conditions set forth below, the Zoning Board of Adjustment **approves** this application as documented in the building plans and presented to the Board.

1. Construction of this project shall be completed in accordance with the dimensions of the site plan submitted by the Applicant, dated November 5, 2014.
2. The proposed backfill shall be seeded and planted with native vegetation.
3. Pursuant to Section 2.7(F)(6) no construction activity shall occur between July 1st and Labor Day.
4. Pursuant to Section 9.9(E)(5) this permit shall expire two years from the date of issuance if development has not commenced within that time.
5. Pursuant to Section 2.7 (F)(11), erosion control measures are to be taken before, during, and after the work is completed.
6. Pursuant to Section 2.7 (F)(4), there shall be no cutting of the trees or vegetation without the consent of the Charlotte Tree Warden.
7. It is the Applicant's responsibility to adhere to all local and State regulations, including, but not limited to, the Vermont Shoreland Protection Act.
8. The Applicant shall contact the Zoning Administrator for final inspection of the project to certify compliance with this decision.

Vote: 5 Ayes; 0 Dissents.

Dated at Charlotte, Vermont, this 23rd day of February, 2015.



Frank Tenney, Chairman

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.