



# CIVIL ENGINEERING ASSOCIATES, INC.

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**RECEIVED**

AUG 11 2016

CHARLOTTE  
PLANNING & ZONING

August 10, 2016

Mr. Joe Rheume, Town Zoning Administrator  
Town of Charlotte  
P.O. Box 119  
Charlotte, Vermont 05445

**Re: Tiller House Proposed Addition  
Conditional Use Application - 362 Holmes Road**

Dear Joe:

We are in receipt of your determination that the previously issued Conditional Use Approval for this property which covered the removal and replacement of the existing house cannot be used as authorization for the alternate plan for the small addition to the existing house.

The property is located wholly within the Shoreland Zoning District and the existing 5-bedroom home is located partially in the 150-foot structure setback from Lake Champlain.

This application seeks approval for the conversion of an existing 150 SF porch into two levels of heated space. There is an addition and new porch on the south side of the house but these fall outside of the structure setback.

As outlined in Section 3.8(B)(2) ... *A nonconforming structure:.....*

*(2) may only be structurally modified or moved in a manner that will not increase the degree of noncompliance, unless approved by the Board of Adjustment in association with conditional use review under Section 5.4. For purposes of these regulations, any structural alteration which extends the footprint, height or volume of a structure within any required setback or above the required maximum height (i.e., the amount of encroachment), shall be considered to increase the degree of noncompliance...."*

As such, please find attached a Conditional Use application for the proposed addition which covers the standards set forth in Section 5.4 as well as 2.3(F)(9).

Mr. Joe Rheaume

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The applicant has already received approval under a separate application to the State of Vermont (administered by the Town of Charlotte) for:

1. the relocation of the existing conventional wastewater disposal currently located approximately 100-feet from the lake to a point over 500 feet from the lake (see attached site plan).
2. Shoreland Protection Permit from the State of Vermont.

Please find enclosed the following materials in support of this application:

1. Conditional Use application form
2. Application fee of \$500.
3. Response to Condition Use Review Standards (This document provides the Land Use Regulations and application standards and the applicant's response (*in italicized bold font*) to each).
4. Town Plan Mapping - This attachment represents the applicable town maps as they relate to the discussion with compliance with the Town Plan within the Performance Standards.
5. Building Footprint Plans – These plans show the existing building and porches compared with the proposed building and porches. The site plan Sheet C1.1 also shows the area of encroachment within the 150-foot setback.
6. List of Abutters

*Plan Submittals*

7. Overall Site Plan
8. Rendering
9. Building Elevations
10. CD with PDFs of submittal documents.

This completes our summary of the proposed project features. If you should have any questions, please feel free to contact me at 864-2323 x310 or at [dmarshall@cea-vt.com](mailto:dmarshall@cea-vt.com).

Respectfully,



David S. Marshal, P.E.

Project Engineer

Enclosures (as listed above) Plans – Six 11x17's

Cc: T. Tiller Hard copy and Digital; C. Wickersham (Digital Only); CEA 13229.01

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PLANNING & ZONING

## Tiller Property – Permitting Standards for Proposed House Addition Shoreline Zoning District – Conditional Use Review

August 10, 2016

- a. **Nonconforming Structures.** Any structure, or portion thereof, legally in existence as of the effective date of these regulations which does not comply with the requirements of these regulations as adopted, or as subsequently amended (*i.e. 150-foot building setback from the Lake Champlain mean high water mark*), shall be considered a nonconforming structure. *The Tiller House currently includes large portions of the house located within the Lakeshore setback/District.* A nonconforming structure may continue to be occupied indefinitely in accordance with the Act [4412(7)], subject to the following limitations.

A nonconforming structure:

- i. may undergo routine maintenance and repair, provided that such action does not increase the degree of noncompliance; ***Not applicable to the proposed scope, see next section.***
- ii. may only be structurally modified or moved in a manner that will not increase the degree of noncompliance unless approved by the Board of Adjustment in association with conditional use review (*See section 3(h) below*).

For purposes of these regulations, any structural alteration which extends the footprint, height or volume of a structure within any required setback or above the required maximum height (i.e., the amount of encroachment), shall be considered to increase the degree of noncompliance. ***The proposed project will convert an existing 150 SF porch into a heated space on two levels.***

Any structural alteration of a nonconforming structure which extends the footprint, height or volume of a structure outside of any required setback or below the required maximum height shall not be considered to increase the degree of noncompliance. ***There are portions of the building which are proposed to be enlarged located outside of the Shoreline Zoning District 150-foot lakefront setback and as such is not considered to increase the degree of non-compliance.***

- a. **Conditional Use 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:

iii. 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. ***The project will not increase the number of bedrooms (occupancy potential) of the house. As such, there will be no change in the properties impacts on the municipal road system other governmental services such as administration, recreation, library or senior center.***

iv. 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. ***The proposed project benefits from large separation distances from the adjacent properties. The proposed additional will occupy the same location as the original porch. The attached elevations of the building identify the proposed character of the building. The layout does not significantly change the width of the structure as viewed from Lake Champlain while complying with the height standards for the underlying zoning district.***

- v. 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. ***As the proposed project will not increase the number of residential units on the property, there will be no permanent change in the traffic levels from this property not on the surrounding roadway system.***
- vi. 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, ***As the project will continue to utilize the existing private roadway (Holmes Road) out to Lake Road, the project does not trigger the need for a Highway Access Permit.*** water or wastewater ordinances ***The project will not increase the water supply or wastewater design flows from the site and therefore could continue to utilize the existing wastewater disposal system located approximately 100-feet from the Lake. However, as part of a proactive effort to provide a long term wastewater disposal solution for the property, the applicant proposes concurrently to construct a new fully complying mound wastewater disposal system approximately 500 feet from the Lake. The State Wastewater System and Potable Water Supply application is pending before the Town.*** 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.
- vii. 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). ***The proposed addition will not decrease, and may actually increase, future***

**solar panel placement. The proposed location of the house is amply separated from the adjacent properties so that there will not be any solar shadowing effects on the adjacent properties.** Conditions may be imposed as appropriate to ensure access to and the long-term availability of renewable energy resources.

- v. For uses in this district subject to conditional use review under Section 5.4, the Board of Adjustment shall also find that:
1. the proposed use will not cause unsafe or unsanitary conditions on land or on the water; ***The proposed relocation of the wastewater disposal system away from the lake with fully complying vertical and horizontal separation distances will likely improve the sanitary conditions of the area. As there is no proposed increase in density, there correspondingly should see no increase in unsafe conditions as it relates to traffic on the surrounding roadways.***
  2. the proposed use will not result in accelerated erosion, sedimentation or water pollution; ***The project will be subject to the conditions of a State Construction General Permit for low risk sites. The application of the EPSC standards set forth in that Permit have been designed to suitably protect receiving water from construction related earth disturbance activities. The retention of the existing vegetation within 100-feet of the lake goes further to accomplishing the goals of this overlay district.***
  3. the proposed use will not adversely impact wildlife habitat areas; ***As the project seeks to:***
    - a. ***generally re-occupy the original house footprint within the 23.5 acre property;***
    - b. ***there is no proposed change in vegetation between the house and the lake***
    - c. ***the State has not identified this a wildlife "Habitat Block",***
    - d. ***The Town wildlife mapping shows the area south of the house as being "Supportive Habitat" in which is to be retained***

***by inspection, there will not be an undue adverse impact on wildlife habitat areas;***

4. the proposed use will not interfere with existing public lake access, or scenic views of the lake as designated in the town plan ***The project does not propose any changes along the lake shoreline and as such will not adversely impact existing public access to the lake. The property is not located within a scenic view corridor;*** and
5. visual impacts, as viewed from the lake and from adjoining properties, are minimized ***Since the proposed addition is more of the "infill" variety which will not increase the widest width or breadth of the house, there will not be any undue adverse impacts on the view to the property from the Lake or from other properties to the Lake.***

The Board of Adjustment may require for approval the submission of erosion control and/or Shoreland management plan, prepared by a qualified professional, which identifies potential adverse environmental or visual impacts and associated mitigation measures. Such measures may be incorporated as a condition of approval.

(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, ***(We have attached the applicable Town Plan mapping in which the project site has been superimposed in support of understanding the relationship of the project site and the existing resource areas)*** and do not adversely affect significant natural, cultural or scenic features identified in the town plan, including natural areas, wildlife habitat ***The project does lie on the northern edge of a narrow band of "Associated Supporting Habitat". The proposed project seeks to site the new house in the location of the existing home and as such will not create an undue adverse impact on***

***the existing resource area, productive forests and farmland The project site is located within soil groups that represent "High Potential Soils" as outlined in the Town Plan. The proposal is to occupy the original house site thereby minimizing impacts on the remaining undeveloped portions of the property, surface waters The project will place the building slightly further from the lake and will relocate existing wastewater disposal system further away from the Lake, wetlands There are no wetlands on the property, water supplies and aquifers The water withdrawal(lake intake)pump house for the West Wind Water System is located on this property approximately 300 northeast of the house. There are no activities associated with the house project that will impact the lake intake or pump house, historic sites The Town Plan mapping does not show any resources in this area, and scenic views or vistas in the vicinity of the proposed development The Town Plan mapping does not show any scenic roadways or access points in the vicinity of the project site.***

(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 ***This project will meet those standards with the understanding that the non-complying structure will be made more complying as part of this project***, 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 ***The project currently provides large separation distances to the adjacent properties*** or significant natural, cultural or scenic features in the vicinity of the site.

(3) Performance Standards. The Board shall consider whether the proposed development will meet applicable performance standards under Section 3. li, 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.

***Please note that many of these performance standards were created for the management of commercial uses. As this project is limited to the modification of an existing structure many of these will be not applicable and have been noted accordingly below.***

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; ***As this project is for a single family home, there are no activities typically associated with this land use that would create a compliance issue. With the nearest property line being 600 feet away and the nearest home being over 800 feet away, the temporary impacts from construction noise should be very limited. The applicant would be willing to abide by a condition in which exterior construction activities are limited Construction hours will be limited to between 7:00 AM and 7:00 PM Monday through Friday and from 7:00 to 5:00 PM on Saturdays and 8:00 to 3:00 on Sundays.***

(2) Clearly apparent vibrations which, when transmitted through the ground, is discernable at property lines without the aid of instruments; ***Based on the current understanding of the soil conditions at the site, blasting will not be required. However, if they are, the applicant will abide by the operating requirements set forth in the attached Blasting Protocol.***

(3) smoke, dust, noxious gases, or similar 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; ***As this project is for a single family home, there are no activities typically associated with this land use that would create a compliance issue.***

(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; ***As this project is for a single family home, there are no activities typically associated with this land use that would create a compliance issue.***

(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). ***As this project is for a single family home, there are no activities typically associated with this land use that would create a compliance issue.***

(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; ***The project site is located far from the public or private roadways of the area. With the property currently shielded by vegetation or hilly terrain from any of the surrounding homes, there will be no impact on other property owners.***

(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 ***As this project is for a single family home, there are no activities typically associated with this land use that would create a compliance issue.***

(8) undue fire, safety, explosive, radioactive emission or other hazards which endangers the public, public facilities, or neighboring properties, or which results in a significantly increased burden on municipal facilities and services. ***As this project is for a single family home, there are no***

**activities typically associated with this land use that would create a compliance issue.**

**End of Section**