

This 25<sup>th</sup> day of January A.D. 2018at 11 o'clock AM minutes 4 m andrecorded in vol. 231 on page 703 - 706Attest: [Signature] Town Clerk **Zoning Board of Adjustment**

**In Re: ZBA-17-165-CU Conditional Use Review Conditional Use application for the construction of additions on the building within the setback on the property located at 701 Hills Point Road in the Town of Charlotte (M30B50L07).**

### **I. Introduction and Procedural History**

On November 14, 2017, Eli Lesser-Goldsmith submitted an application for conditional use review to undertake modifications to the house located at 701 Hills Point Road, including; 1. A second story that will increase the volume within the southern side setback; 2. The enclosure of the center breezeway into a mudroom, and; 3. The increase of the footprint of the reconstructed garage, which encroaches further toward the northern side setback, triggering a Conditional Use Review. The property is located within the Shoreland (SHR) Zoning District.

The public hearing took place on December 13, 2017 at 7:00 PM at the Town Offices at 159 Ferry Road in the Town of Charlotte, Vermont. Public notification was originally accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper on November 30, 2017; posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store; and by direct correspondence to adjoining property owners on the same date.

A site visit was conducted at the property by the Zoning Board of Adjustment (ZBA) at 6:00 PM, just prior to the public hearing. Present at the site visit were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, and Stuart Bennett. Also in attendance were Daryl Benoit (ZBA Staff), the applicant Eli Lesser-Goldsmith, and neighbor Roger Binkerd.

Present at the December 13<sup>th</sup> public hearing were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, Stuart Bennett, and Andrew Swayze. ZBA staff, the applicant Eli Lesser-Goldsmith, and neighbors Roger Binkerd and Gregory Smith were also present during the hearing.

### **II. Exhibits**

The following exhibits were utilized for the decision:

1. Survey map;
2. Side elevations;
3. Floorplan with additions (indicating shift of structure toward the lake and the removal of lakeside deck) and installation of pillars within the side setback (and possibly within the lakeshore setback);

### **II. Standard of Review**

The application requires review under the following sections of the Land Use Regulations for the Town of Charlotte (Approved March 1, 2016), hereafter referred to as the Regulations:

1. Chapter II, Section 2.3, Table 2.6 - Application of District Standards; Shoreland District (SHR);
2. Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards

### III. Findings

Based on the application, testimony, exhibits, and other evidence, the Zoning Board of Adjustment makes the following findings:

1. The lakeside deck encroaches into the lakeshore setback. The deck will be removed.
2. The new roof drip edge and supporting pillars on the south side of the new house will not encroach into the southerly side yard setback further than the southerly-most side of the existing house.
3. The new roof drip edge and supporting pillars on the west side of the new house will not encroach into the lakeshore setback more than existing the lakeside deck.
4. The existing house has 3 bedrooms. There shall be no more than 3 bedrooms in the new house.
5. The exiting garage encroaches into the northerly side yard setback. The proposed relocation of the north wall of the existing garage will create a greater encroachment into the northerly side yard setback.
6. The breezeway will be enclosed.
7. The following describes the Shoreland District within Chapter II, Section 2.3, Table 2.6(A) of the Regulations;

“The purposes of the Shoreland District are: (1) to protect the scenic beauty, environmental qualities and recreational opportunities of Lake Champlain and its shoreline, as viewed from both the lakeshore and the water (2) to minimize runoff pollution and maintain bank stability by maintaining a vegetated buffer within 100 feet of the shoreline, and (3) to allow residential and limited commercial development that is consistent with these aims and is compatible with the rural character of the town as expressed in the Charlotte Town Plan.”

The Character of the Area is reflected by the residential use and building styles on Hills Point Road. Hills Point Road is predominantly a residential use. The predominant feature of the residences on Hills Point Road is a non-reflective exterior surface as viewed from the lake. The proposed house has a predominantly reflective exterior surface as viewed from the lake.

### IV. Conclusions of Law

#### **Chapter II, Section 2.3, Table 2.6 – Shoreland District (E) Dimensional Standards:**

1. Minimum Side/Rear/Front Setback (from ROW): 50' / Lakeshore: 150' (from MHW):  
The lakeshore setback of the house (existing deck) is currently about 170' from the lakeshore (unable to determine the exact MHW mark). The proposed increase of the main

house would be slightly further away from the shoreline than where the deck currently stands. However, the proposed south-most pillars may be within the Lakeshore setback.

The current southern side setback is about 36' from the property line. About half of the proposed 2nd floor square footage would be constructed within the setback, increasing the volume within it.

The current northern side setback is about 28' from the property line. The proposed garage/carport would encroach about 3'-4' closer to the property line, reducing the setback to about 24' from the property line.

2. Maximum Height 30' – Lesser of 30' or 2 stories:

The proposed addition will stand at a 25' 3" height to the top of the roof, and therefore meets the district standard.

3. Maximum Building Coverage (5%) / Lot Coverage (10%):

As the lot is about 1.01 acres with a single family dwelling. The improvement increases the building footprint to about **3,200 sq. ft.** The proposed structure would slightly exceed the district standard at ~7.3% *Maximum Building Coverage*.

The current amount of impervious surface exceeds 0.2 acres, already exceeding the *Maximum Lot Coverage*. The lakeside deck would be removed, but the house would increase in size. Therefore, there would be a moderate increase in the non-conforming Lot Coverage.

**Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards:** stipulates that a 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;
  - There are no known adverse impacts with planned facilities or services.
2. Character of the area affected;
  - Referring to Finding 7 above (Section 2.3, Table 2.6(A) of the Regulations), the *Character of the Area* is reflected by the residential use and building styles on Hills Point Road. Hills Point Road is predominantly residential.
  - The predominant feature of the residences on Hills Point Road is a non-reflective exterior surface as viewed from the lake.
  - The proposed house has a predominantly reflective exterior surface as viewed from the lake.
  - This feature is not in keeping with the *Character of the Area*, and would impact the “*scenic beauty, environmental qualities and recreational opportunities of Lake Champlain and its shoreline, as viewed from both the lakeshore and the water.*” (Section 2.3, Table 2.6(A) of the Regulations)
3. Traffic on roads and highways in the vicinity;
  - There are no known adverse impacts.

4. Bylaws in effect;

- There are no known non-conformance issues with other Town Bylaws.

5. The use of renewable energy resources;

- There are no undue adverse effects on renewable energy resources.

**V. Decision and Conditions**

Motion to approve the application (ZBA-17-165-CU) was made:

**Vote: 1 Ayes. 4 Nays. 0 Absent.**

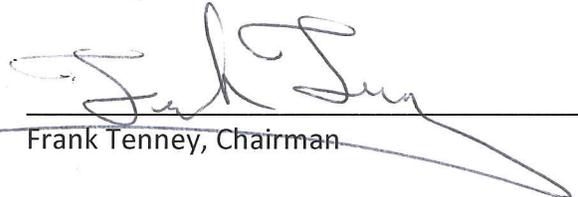
The application is DENIED for the following reasons.

1. The exiting carport encroaches into the northerly side yard setback. The proposed relocation of the north wall of the existing carport will create a greater encroachment into the northerly side yard setback.
2. As the purpose of the Shoreland District as stated in Finding 7 above (Section 2.3, Table 2.6(A) of the Regulations);

The Character of the Area is reflected by the residential use and building styles on Hills Point Road. Hills Point Road is predominantly residential. The predominant feature of the residences on Hills Point Road is window/exterior glass (a reflective surface) of less than 50% of the exterior wall area facing the shoreline.

The proposed house has window/exterior glass (a reflective surface) that appears to be greater than 50% of the exterior wall area facing the shoreline. This feature is not in keeping with the Character of the Area, and would impact the *"the scenic beauty, environmental qualities and recreational opportunities of Lake Champlain and its shoreline, as viewed from both the lakeshore and the water."*

Dated at Charlotte, Vermont this 24th day of January, 2018.



Frank Tenney, Chairman

*This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the latest date of signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.*