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TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT
October 8th, 2014

DRAFT

MEMBERS PRESENT: Ben Pualwan, Chair; Frank Tenney, Andrew Swayze, Douglas Webster, and Jonathan Fisher.

ADMINISTRATION: Britney Tenney, Zoning Clerk.

OTHERS PRESENT: Denise Kessler, Jeffery Bradley, Christopher Rutter, Trina Rutter, and others.

Minutes subject to correction by the Charlotte Zoning Board of Adjustment. Changes, if any, will be recorded in the minutes at the next meeting of the Board.

AGENDA:

- **ZBA-14-02: Reopening of the Kessler appeal hearing. The hearing is reopened at the reconsideration request of the Town Administrator.**
- **ZBA-14-06: Conditional Use Review for expansion of a porch roof and other outdoor alterations to a camp located in the Seasonal Shoreland District. The camp is located at 488 Flat Rock Road and is owned by Christopher Rutter.**

6:15 p.m. SITE VISIT: 488 Flat Rock Road, Christopher Rutter's camp.

CALL TO ORDER

Mr. Pualwan, Chair, called the meeting to order at 7:00 p.m.

ZBA-14-02: Reopening of the Kessler appeal hearing. The hearing is reopened at the reconsideration request of the Town Administrator.

The applicant Denise Kessler was present.

Mr. Pualwan reviewed staff notes and explained that the Zoning Board decided to reopen the hearing to correct ambiguous language in the decision. Mr. Pualwan explained that the ZBA intended to uphold the Zoning Administrator's decision to not issue a certificate of compliance for unpermitted work and remain silent on the issue of minimum density.

Mr. Pualwan explains that the only way for the ZBA to change the language of a decision after it has been closed, is to reconsider/reopen the hearing, and issue a new decision.

Ms. Kessler clarifies that this reconsidered hearing is for the original appeal of the Zoning Administrator's decision to deny the certificate of occupancy.

Mr. Pualwan tells Ms. Kessler that she is correct.

48 Ms. Kessler explained she waited the 45 days and did not get the decision in the mail. She
49 received the decision on the 54th day.

50
51 Mr. Pualwan asked why the decision was not distributed to Ms. Kessler before the 45 day
52 deadline.

53
54 Ms. Tenney explained that Ms. Kessler resided on Greenbush Road in North Ferrisburgh, and
55 she had mistakenly put the Charlotte zip code instead of the North Ferrisburgh zip code. The
56 certified letter was returned to Ms. Tenney several days later. Ms. Tenney resent the letter
57 immediately after it was returned.

58
59 Kessler explained that she had received the Zoning Administrator's request for reconsideration
60 before the Zoning Board's decision and was confused. Ms. Kessler felt like she could not ask for
61 help from the Town Office because of feeling of hostility. Ms. Kessler called around to other
62 towns to inquire about the legalities of 45 day deadline.

63
64 Mr. Pualwan explained to Ms. Kessler that the Zoning Board could not provide legal advice
65 regarding whether a good-faith effort to distribute would satisfy the 45 day distribution law. Mr.
66 Pualwan suggested that Ms. Kessler seek legal advice.

67
68 Ms. Kessler explained that because she did not receive the decision within the 45 days, she went
69 ahead, and had the contractors finish the reservations, and currently has both dwelling units
70 rented out.

71
72 Mr. Pualwan explains to Ms. Kessler that even if it was deemed automatic approval, she would
73 still need to obtain a certificate of occupancy before having renters move into the house.

74
75 Mr. Swayze states that having tenants in both dwelling units, without a certificate of occupancy,
76 would be a violation.

77
78 Ms. Kessler explained that she had interpreted the second paragraph of the Zoning Board
79 decision, to mean that Zoning Board was supporting the duplex on her existing small lot. When
80 she did not receive the decision within the 45 days, she understood that it was the Zoning
81 Board's way of granting approval.

82
83 Mr. Pualwan suggests that Ms. Kessler meet with Dean Bloch to set up a meeting with the
84 Selectboard to talk about relief option the Town can provide.

85
86 **8:50PM- MOTION by Mr. Fisher, seconded by Mr. Pualwan to close the Kessler**
87 **reconsideration hearing.**

88 **VOTE: 5 ayes, 0 absent; motion carried**

89
90 **8:54 PM- ZBA-14-06: Conditional Use Review for expansion of a porch roof and other**
91 **outdoor alterations to a camp located in the Seasonal Shoreland District. The camp is**
92 **located at 488 Flat Rock Road and is owned by Christopher Rutter.**

93

94 Mr. Rutter gives a brief overview of the project. He explains that he would like to cover the
95 existing cement porch with a composite decking, extend the roof line of the porch to cover the
96 six feet of porch not currently covered by the roof, and remove three windows that currently face
97 the deck, and replace them with a three panel terrace door. Other alteration include covering a set
98 of cement deck stairs so that they have an even rise, sealing a door north side of the camp,
99 removing an outdoor fireplace, and place lattice around the sides of the concrete deck.

100

101 Mr. Tenney provided a site visit report. Mr. Tenney, Mr. Swayze, Mr. Fisher, and Ms. Tenney
102 were all present at the site visit. The existing cement porch was viewed, where the lattice was
103 going to be placed, and boundary lines were. Mr. Tenney explained that nothing was really
104 proposed outside of the building foot print.

105

106 Mr. Rutter explains two changes to the original request. The original plans called for the door on
107 the northern side of the camp to be replaced with a window. He would now like to remove the
108 door and keep that as wall space. He also explained that there would not be lattice placed on the
109 lakeside of the camp. The builder who created the plans did not realize that the cement deck had
110 a stone face on the lakeside of the camp. The south and north side of the cement deck will have
111 lattice to cover the cement.

112

113 There is brief discussion regarding the lot size. It is confirmed by the Lister's card that the lot is
114 .21 acres.

115

116 Mr. Pualwan recites Table 2.7 (F) (7) (a) of the Charlotte Land Use Regulations which states:
117 The alteration or expansion of an existing principal structure may be approved by the Board of
118 Adjustment subject to conditional use review under Section 5.4, provided that:(a) the building
119 footprint which is covered by a roof (including covered porches and decks) does not exceed
120 seven percent (7%).

121

122 Mr. Pualwan explains that the building coverage is currently approximately 15%, well above the
123 allowed 7%. He explains that looking at the roof extension from an impermeable surface view,
124 the 120ft2 proposed roof addition, over existing impermeable concrete, would not a make a
125 difference.

126

127 Mr. Pualwan explains that the lot coverage will not change but the building lot coverage will.
128 Mr. Pualwan explains that if the applicant would remove sidewalk cement, it would reduce the
129 lot coverage.

130

131 Mr. Pualwan asks if there is any part of the building structure that can be removed to offset the
132 addition of the porch roof.

133 Mr. Rutter replied that the structure doesn't lend itself to that kind of off-set.

134

135 Mr. Pualwan suggests, perhaps as a second best, the applicant could remove sections of the
136 cement walkways to reduce the lot coverage.

137

138 Mr. Rutter said that he would be willing to remove portions of the cement walkway to offset the
139 120sqft increase in building lot coverage.

140 There is some discussion regarding off-setting the building lot coverage. Mr. Rutter shows the
141 Board an elevation of the existing cement on the property and explains what walkways could be
142 removed.

143
144 After looking at the plans with the Board, Mr. Rutter said that he could spare to remove 120sqft
145 of sidewalk.

146
147 Mr. Tenney asks if the new roof would be constructed with the same material and design as the
148 existing roof.

149
150 Mr. Rutter told the Board that the same materials and design would be utilized. The roof
151 extension will have a cut out to go around the existing tree. Mr. Rutter explains that there will be
152 no tree cutting for this project. The outdoor stone fireplace will be removed with a hammer.

153
154 Mr. Pualwan explains that the ZBA will deliberate and review the bylaws to see if they allow for
155 the ZBA to make such an allocation.

156
157 **MOTION by Mr. Tenney, seconded by Pualwan, to close the hearing and enter into**
158 **deliberative session.**

159 **VOTE 5 ayes; motion carried**

160 **DELIBERATIONS**

161 The ZBA members entered Deliberative Session at 9:25 p.m.

162
163 **Motion by Mr. Fisher, Seconded by Mr. Tenney to approve the Rutter decision, with**
164 **conditions, pending review of the written draft.**

165 **VOTE: 5 ayes; motion carried.**

166
167 **ADJOURNMENT**

168 The ZBA meeting was adjourned at 9:45 p.m.

169
170 Minutes respectfully submitted, Britney Tenney, Zoning Clerk

171