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**TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 30, 2015**

DRAFT

MEMBERS PRESENT: Frank Tenney, Chair; Jonathan Fisher, Andrew Swayze, Stuart Bennett, Matt Zucker.

ADMINISTRATION: Britney Tenney, Zoning Clerk.

OTHERS PRESENT: Brad Rabinowitz, David Waller, Chris Coleman, Patricia Coyle, William Pinney, Tyler Cody, 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.

5:30 p.m.: ZBA-15-07 Site Visit at 529 Church Hill Road.

6:15 p.m.: ZBA-15-05 Site Visit at 212 Wings Point Road.

AGENDA:

- **7:00 PM: ZBA-15-05: Conditional Use Review to expand a non-conforming structure. Applicant is requesting to expand a screen porch over existing decking. The property is located at 212 Wings Point and is sited in the Shoreland District. The property is owned by Molly and Mark Valade.**
- **7:45 p.m. – ZBA-15-07 – Conditional Use Review to construct a two-bedroom accessory dwelling with an attached garage. The property is located at 529 Church Hill Road and is sited in the Rural District. The property is owned by Patricia Coyle.**

CALL TO ORDER

Mr. Tenney, Chair, called the meeting to order at 7:01 p.m.

ZBA-15-05: CONDITIONAL USE REVIEW TO EXXPAND A NON-CONFORMING STRUCTURE. APPLIANT IS REQUESTING TO EXPAND A SCREEN PORCH OVER EXISTING DECKING. THE PROPERTY IS LOCATED AT 212 WINGS POINT AND IS SITED IN THE SHORELAND DISTRICT. THE PROPERTY IS OWNED BY MOLLY AND MARK VALADE.

Brad Rabinowitz, co-applicant, and David Waller appeared on behalf of the application.

STAFF NOTES

Mr. Tenney reviewed staff notes.

Brad Rabinowitz and David Waller were sworn in.

APPLICANT COMMENTS

Mr. Rabinowitz explained that an existing scen porch would be enlarged over an existing deck. The camp footprint encroached in the setbacks and the structure was non-

48 conforming. The rabbit tails of the extended roof would end at the edge of the deck and
49 not to the wall as previously designed. The dimensions were 15'2". All the expansion
50 was within the existing footprint. There were several trees that grew through the decking.
51 Only one of the cedar trees in the deck would be removed. The tree was in front of where
52 the door would be. There was one other 2" diameter 'weed' tree growing at the side of
53 the camp that would be taken down as well, said Mr. Rabinowitz.

54

55 ZBA QUESTIONS/COMMENTS

56 In response to a question by Mr. Bennett, Ms. Tenney explained that Mr. Rabinowitz was
57 the Valade's designated co-applicant, which was allowed quite often.

58

59 Mr. Bennett asked when the deck was built. Mr. Waller explained that he started building
60 the camp in 2002 and it took three years. The deck was built about 10 years ago, said Mr.
61 Waller. Mr. Rabinowitz clarified that there was a camp on the property, which was
62 replaced by the existing camp.

63

64 Mr. Rabinowitz said that no additional exterior lighting would be added and the new
65 construction would be stained in the same brown stain. The new windows would match
66 the existing bronze aluminum windows, said Mr. Rabinowitz.

67

68 Mr. Bennett cautioned the applicant not to exceed the 15'2" dimension.

69

70 Mr. Tenney noted that there was a walking path along side the camp. Mr. Rabinowitz
71 replied that there was no intent to replace the path. No one walked around the side of the
72 house. The access was through the garage and the front of the house, said Mr.
73 Rabinowitz.

74

75 Mr. Bennett asked if a gravel path was put in would that be considered a 'structure'. Ms.
76 Tenney replied no.

77

78 Mr. Tenney explained the Deliberative process.

79

80 Mr. Tenney asked if the Charlotte Tree Warden would need to be notified regarding the
81 cedar tree; was it expendable, or not. If not, was there an alternative plan, or could the
82 door location be moved, asked Mr. Tenney. Mr. Rabinowitz said that he didn't want to
83 move the door. They would make the new porch work if the tree has to stay, said Mr.
84 Rabinowitz.

85

86 Mr. Fisher suggested that approval could be conditioned upon acceptance of an alternate
87 plan, if necessary. Ms. Tenney said that the applicant could submit an alternate plan with
88 a building permit application.

89

90 Ms. Tenney said that she would forward the Charlotte Tree Warden's contact information
91 to Mr. Rabinowitz.

92

93 **MOTION by Mr. Swayze, seconded by Mr. Zucker, to close the hearing regarding**
94 **ZBA-15-05 for a Conditional Use Review to expand a non-conforming screen porch**
95 **over existing decking at a property owned by Molly and Mark Valade, located at**
96 **212 Wings Point and sited in the Shoreland District.**

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

98

99 **ZBA-15-07 – CONDITIONAL USE REVIEW TO CONSTRUCT A TWO-**
100 **BEDROOM ACCESSORY DWELLING WITH AN ATTACHED GARAGE. THE**
101 **PROPERTY IS LOCATED AT 529 CHURCH HILL ROAD AND IS SITED IN**
102 **THE RURAL DISTRICT. THE PROPERTY IS OWNED BY PATRICIA COYLE.**

103 Patricia Coyle, owner, and Chris Coleman, Ms. Coyle's son, appeared on behalf of the
104 application.

105

106 STAFF NOTES

107 Mr. Tenney reviewed staff notes.

108

109 Patricia Coyle, Chris Coleman, Tyler Cody and William Pinney were sworn in.

110

111 APPLICANT COMMENTS

112 Mr. Coleman explained a proposal to build a 1,040 square foot two-bedroom accessory
113 dwelling and an attached garage. Ms. Coyle would continue to reside in the existing main
114 house until she could no longer manage stairs. Then she would live in the accessory
115 dwelling when it became necessary, said Mr. Coleman.

116

117 **EXHIBIT A: site plans, noted as Sheet A20-1 with elevations, dated 09/29/2015,**
118 **were reviewed and accepted as Exhibit A.**

119

120 Mr. Coleman clarified that the property was owned by his mother, Ms. Coyle. The
121 existing driveway to the house would be shared with the new accessory dwelling. The
122 new accessory dwelling drive would pass near a proposed drilled well site as noted on the
123 site plan. There were two existing curb cuts. The second curb cut would not be used. The
124 second curb cut went to a mobile home where his parents lived while the house was built,
125 explained Mr. Coleman.

126

127 ZBA QUESTIONS/COMMENTS

128 Mr. Swayze asked if the accessory dwelling would be visible from Church Hill Road. Mr.
129 Coleman said that he had removed a dead tree that was covered in vines recently and that
130 opened the view somewhat. He did not plan on opening a view to the road, stated Mr.
131 Coleman. Ms. Coyle said that she had lost about 100 trees along Church Hill Road during
132 the 1998 ice storm.

133

134 There was discussion regarding calculations based on 30 percent of the existing main
135 house of 3,500 square feet as per regulations to arrive at a 1,040 square foot accessory
136 dwelling; no additional parking spaces were required; a proposed attached garage to the
137 main house would allow Ms. Coyle to park inside and was designed slightly oversized to

138 allow for a handicap ramp; and questions regarding the boundaries as shown on the
139 submitted site plan.

140

141 PUBLIC COMMENTS

142 Mr. Pinney, an abutting neighbor on the east, explained that the Coyle property sat in the
143 middle of a Charlotte historic district. The Town did not put a lot of weight put on that
144 regarding applications. There was a concern was that the project should have the least
145 impact on his mother's property next door, said Mr. Pinney.

146

147 Mr. Pinney explained that the lot was originally 14 acres and that was split. In 1965 his
148 father and Frank Potter walked the property and set the new boundaries. He was a child
149 when the lot was split and he had carried the tools and stakes for his father. The survey
150 referenced is not the way the properties were laid out. The lots were a parallelogram that
151 followed the curve on Church Hill Road. The west side of his parent's property had a line
152 of cedar trees that angled more away from Church Hill Road. The submitted survey did
153 not mention that. The proposed garage is shown as 100' from the east property line and
154 that may not really be 100'. The lot boundary discrepancy may not have a bearing on the
155 application, said Mr. Pinney.

156

157 Mr. Bennett asked if there was a survey in the Town records. Ms. Tenney replied that one
158 was not found.

159

160 Mr. Coleman said that he was aware that they were working with a small area and gave
161 him a buffer. Mr. Zucker said a question was whether the site plans were drawn
162 accurately. It is a 'best guess' since no survey was found, said Mr. Zucker.

163

164 Mr. Pinney said that for clarification, the property was surveyed, which has not been
165 found. There are new markers in the deeds that did not have information to back them up.
166 His purpose was not to object to the proposal. He understands Mr. Coleman's situation.
167 However, once the application was approved then that would be one more layer that says
168 that is the way the property is, and that is not the way it is, stated Mr. Pinney.

169

170 Ms. Coyle said that Stuart Morrow, Surveyor, worked off what pins he found. She did
171 find some letters to a surveyor, who could not find it in his records, said Ms. Coyle.

172

173 Mr. Zucker asked if the ZBA could approve the application based on the information
174 submitted. Mr. Fisher said that if the boundary information was not accurate then Ms.
175 Coyle may have a bigger setback than she thought. How close was the proposed structure
176 to the west boundary, asked Mr. Fisher. Mr. Coleman replied that the Parsonage is 80'
177 from the property line and there is a cedar tree line which was 80' from the corner of the
178 proposed garage.

179

180 Mr. Swayze said that there was nothing in the regulations regarding accessory dwellings
181 that suggests that the project could not go forward. This was a Conditional Use Review.
182 One standard was the character of the area. It was a historical part of Town and a
183 question was if the proposal compromised that character of the area. Was Mr. Pinney

184 comfortable with the project as a long standing neighbor, asked Mr. Swayze. Mr. Pinney
185 reiterated that he didn't object to the project as long as the existing driveway was used
186 and it didn't impact his mother's property.

187

188 Mr. Fisher asked if there was a 100' well shield. Mr. Coleman replied that it was 200'
189 due to the elevation. The well was planned uphill from the septic. He had the septic done
190 first, said Mr. Coleman.

191

192 Mr. Tenney said that at the site visit Mr. Coleman mentioned the plan was changed due to
193 existing ledge. Would a foundation, or slab be attached to the ledge, asked Mr. Tenney.

194 Mr. Coleman explained that the foundation was moved over 10' and the dwelling layout
195 'flipped' to avoid the ledge.

196

197 Mr. Fisher suggested a condition that the property could not be clear cut to Church Hill
198 Road. Mr. Coleman said that there were no plans to clear cut the property. A cedar tree
199 line was left along the road as a screen. He did clear out some sumac and two dead trees,
200 said Mr. Coleman.

201

202 Mr. Fisher said that it would be best to keep the screening. Would it matter for the
203 Pinney's, asked Mr. Fisher. Mr. Pinney replied that keeping the cedar trees would
204 preserve his mother's privacy.

205

206 Mr. Coleman pointed out that Ms. Coyle's house was up on a hill. He couldn't guarantee
207 that his mother's house was not visible during the winter when the leaves were gone, said
208 Mr. Coleman.

209

210 Mr. Zucker asked if there should be a clarification on how far the dwelling was from the
211 east boundary line. Could the application be approved with a note that this was the 'best
212 information' and that the setback appears to be in 'the range', asked Mr. Zucker.

213

214 Mr. Tenney said that the surveyor took measurements from the existing cedar tree line.
215 He understood neighbor's concerns that 'use become part of ownership', said Mr.
216 Tenney.

217

218 Mr. Zucker said his concern was that if a survey was found that was different from what
219 the site plan shows. Ms. Tenney said that Stuart Morrow took his measurements from
220 pins he found. She couldn't find a survey in the Town records, reiterated Ms. Tenney.
221 Mr. Coleman suggested saying that the proposed structure was 50 plus feet from the east
222 boundary to address his neighbors' concern. Mr. Tenney said that would be in the
223 approval. Ms. Tenney suggested that another surveyor could be hired as a remedy to the
224 situation. Ms. Coyle said then that surveyor would have to do a title search all the way
225 back to the 1800s. Stuart did find pins and he worked off those, stated Ms. Coyle.

226

227 Mr. Fisher suggested that Stuart should return and walk the property with Mr. Pinney.

228 Mr. Pinney could point out where the corner was, said Mr. Fisher.

229

230 Mr. Bennett said that the project was not going to encroach in setbacks in any way. Some
231 day down the road if someone found that the survey lines were somewhere else then it
232 could that could cause problems for a future sale of the properties. Nail down the east
233 boundary to the Pinney property, said Mr. Bennett. Ms. Tenney pointed out that the
234 Coyle lot was 5.9 acres now.

235

236 Mr. Pinney said that approval with the inaccurate property lines would have an effect on
237 his mother's property on the west side. The line would be 40-50' off and more than that
238 at the top of the hill. The ZBA shouldn't rubber stamp an inaccuracy, said Mr. Pinney.
239 Mr. Fisher pointed out that his testimony was on the record.

240

241 Mr. Swayze suggested expressing the issue in the findings that 'the issue isn't the
242 setbacks, the issue is 'setting in stone' the boundaries.

243

244 **MOTION by Mr. Zucker, seconded by Mr. Fisher, to close the hearing for ZBA-15-**
245 **07, Conditional Use Review to construct a two-bedroom accessory dwelling with an**
246 **attached garage, property owned by Patricia Coyle and located at 529 Church Hill**
247 **Road and sited in the Rural District, and to take up the application in Deliberative**
248 **Session.**

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

250

251 Mr. Fisher said that he would do a site visit to Ms. Coyle's property.

252

253 **DELIBERATIVE SESSION**

254 The ZBA entered Deliberative Session at 8:00 p.m.

255

256 **ADJOURNMENT**

257 The ZBA adjourned the meeting at p.m.

258

259 Minutes respectfully submitted, Kathlyn L. Furr, Recording Secretary.