TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT
NOVEMBER 4, 2015

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MEMBERS PRESENT: Frank Tenney, Chair; Jonathan Fisher, Andrew Swayze.
Absent: Stuart Bennett, Matt Zucker.
ADMINISTRATION: Britney Tenney, Zoning Clerk.
OTHERS PRESENT: Michael Minadeo, Scott Hammond, Rebecca Abbott, Liam Murphy, Dorothy Pellett, Michael Harris, Chad Clark, Kim Clark, Gaston Gaujac, Jill Gorman, Richard Weed, William Dickerson, Carrie Fenn, Peter Fenn, Alison Wolverton, Adrian Wolverton, Steve Denton, Dorothy Hill, Moe Harvey, Mary Mead, Peter Denton, Martha Perkins, Peter Trono, Nancy Wood, Rowan Beck, Monica Marshall, Michael Russell, Vince Crockenberg, Susan Crockenberg, Robin Reid, Tim Hunt, David Marshall, G. Ligon, Eric Franchdagia, Karen Franchdagia, Patty Horsford, Peggy Sharpe, Jill Spell, Jill Lowery, Adam Spell, Stephen Brooks, Shanley Hinge, Marilyn Richardson, Julia Gilbert, Mary Pat Roche, Claudia Mucklow, Ruth Gibbs Nye, Lisa Gaujac, Roland Gaujac, Shawn Coyle, Tricia Coyle, 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:
6:30 PM - CONTINUATION: ZBA-15-10: Conditional Use Review for an alteration/expansion of an existing non-conforming structure. The property is located at 719 Hills Point Road and is owned by Revocable Living Trust of John Winton.
7:00 p.m. - ZBA-15-09 Appeal of the Zoning Administrator's determination regarding the status of the pre-existing nonconforming use of the Old Lantern Barn. The property is located at 3260 Greenbush Road and is owned by Roland & Lisa Gaujac. The property is sited in the West Charlotte Village District.

CALL TO ORDER
Mr. Tenney, Chair, called the meeting to order at 6:30 p.m.

CONTINUATION: ZBA-15-10 CONDITIONAL USE REVIEW FOR AN ALTERATION/EXPANSION OF AN EXISTING NON-CONFORMING STRUCTURE. THE PROPERTY IS LOCATED AT 719 HILLS POINT ROAD AND IS OWNED BY REVOCABLE LIVING TRUST OF JOHN WINTON.
Michael Minadeo, architect, and Scott Hammond, contractor, appeared on behalf of the application.

STAFF NOTES
Mr. Tenney reviewed staff notes.

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Mr. Tenney reported on a site visit, Sunday, November 1, 2015. Attending were ZBA members Mr. Tenney, Mr. Fisher and Mr. Swayze. It was noted that the 98' high water mark location and the change in location of a garage as per the site plan, revised 11/03/2015, were staked out, said Mr. Tenney.

EXHIBIT A: revised site plan, dated 11/03/2015 was accepted and marked as Exhibit A.

APPLICANT COMMENTS

Mr. Hammond said that on October 31st the estimated average lake mean water line was at 94.4' and the 98' high water mark was calculated. The distance from the 98' high water mark to the nearest proposed 10'x10' screened porch location was 64'9". The property line setback was 31'10" from the garage corners to the south and east boundary lines. If the breezeway was shortened in length to 20' then that would improve the setback of the proposed 24 square foot garage. Distances were measured as 16' from the northeast corner to the boundary line and 17' at the northwest corner, said Mr. Hammond.

ZBA QUESTIONS/COMMENTS

Mr. Fisher suggested changing the entry into the garage facing the east and using the existing asphalt as an entry way. That would bring the garage 8' further from the boundary. Turning radius issues were a concern, said Mr. Fisher.

Mr. Minadeo said the garage was designed so that as you approached from the south side you wouldn't see the garage doors from the road. That made for a more discrete approach to the house. A new approach from the east could be done, said Mr. Minadeo.

Mr. Fisher said that there would be some trade off of permeable surface versus impervious surface.

Mr. Swayze asked if there were any design changes to the house on the lake side. Mr. Hammond replied that a location for a 10'x10' patio was confirmed on the northwest corner of the property.

Mr. Fisher asked if a 6' pathway to the lake was for rolling boats down to the water. Mr. Minadeo replied that it was just a pathway. The state allowed for a 6' wide path to the lake, noted Mr. Minadeo.

In response to questions, Mr. Minadeo said that the bay window bump-out on the second floor was still in the plans. Color samples for the cedar shingle siding would be either a natural finish, or an earth tone gray wash on the whole house, said Mr. Minadeo.

Mr. Swayze asked if the tree status had been settled. Ms. Tenney said that the Charlotte Tree Warden would go on Saturday to look at the tree.

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Mr. Fisher reiterated that the applicant could propose an either/or option on the garage entry design on the east and retain more of the asphalt for a turning radius. Was it possible to shorten the breezeway to 10' between the house and garage to improve the setbacks even further, asked Mr. Fisher. Ms. Abbott said that the breezeway has already been shortened from 40' to 20'. She was concerned that there would be enough space at 20'. It would be an enclosed glass breezeway/mudroom, said Ms. Abbott.

Mr. Fisher said that at the site visit it was pointed out that the current garage entry design didn't leave enough room for turning radius. Coming in on the east was an easier solution. The issue was limiting the setback encroachment, said Mr. Fisher. Mr. Minadeo said he could rethink the design, and change the entry elevation so that the two garage doors would face the road.

MOTION by Mr. Swayze, seconded by Mr. Fisher, to close the hearing regarding ZBA-15-10, Conditional Use Review for an alteration/expansion of an existing non-conforming structure for the property located at 719 Hills Point Road owned by the Revocable Living Trust of John Winton, and to take up the application in Deliberative Session.
VOTE: 3 ayes, 2 absent (Mr. Bennett, Mr. Zucker); motion carried.

Mr. Tenney explained the 45 day period to render a decision, which may contain conditions. The Tree Warden's report would be incorporated into the decision regarding the cedar tree on the north side, said Mr. Tenney. Ms. Abbott said that the property sale contract was contingent upon approval, with a date as of yesterday. However, there was no 'drop dead' date due to other unmet sale conditions. A decision rendered the sooner, the better, said Ms. Abbott.

ZBA-15-09 APPEAL OF THE ZONING ADMINISTRATOR'S DETERMINATION REGARDING THE STATUS OF THE PRE-EXISTING NONCONFORMING USE OF THE OLD LANTERN BARN. THE PROPERTY IS LOCATED AT 3260 GREENBUSH ROAD AND IS OWNED BY ROLAND & LISA GAUJAC. THE PROPERTY IS SITED IN THE WEST CHARLOTTE VILLAGE DISTRICT.
Michael Harris, appellant's attorney, and Allison Wolverton and Adrian Wolverton, appellants, appeared on behalf of the appeal.

STAFF NOTES
Mr. Tenney reviewed staff notes, and explained that the ZBA's role was to determine if the Zoning Administrator had made a correct decision. The ZBA may uphold that decision in whole, in part, or not at all, said Mr. Tenney.

The following attendees were sworn in:
Roland Gaujac, Lisa Gaujac, Liam Murphy, Michael Harris, Alison Wolverton, Adrian Wolverton, Dorothy Hill, Justin Wgman, David Miskell, Michael Frost, Jack Clark, Jim Dickerson, (?) Lamphere, Jill Lowery, Peter Trono, Claudia Mucklow, Dick Weed, Robin Ried, Gascon Gaugac, Rowan Beck, Judy Olson, Adam Spell, Ruth Nye, Pat

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Coyle, Peggy Sharpe, Patty Horsford, Nancy Wood, Monica Marshall, Ed Merritt, Susan Crockenberg, Martha Perkins.

APPELLANT COMMENTS

In response to questioning by Mr. Harris, Ms. Wolverton explained the following:

- She had moved to Charlotte in November of 2014.
- (Appellant's Exhibit 1) was a site map from a prior subdivision permit that showed Ms. Wolverton's house location in relation to the Old Lantern property.
- (Appellant's Exhibits 2 and 3) appeal of the ZA letter/decision, dated September 11, 2015, of a restaurant use as per the Charlotte zoning bylaws and state permits as per the Vermont Public Safety Department. The appeal was based on the operation of the Old Lantern as a restaurant and a full scale commercial kitchen supported by a plumbing permit, dated June and July, 2009, for a for a 3-bay sink, dishwater and a 1,500 cfm 4'x6' industrial duct vent system for kitchen use required a . Zoning allowed, obtained
- (Appellant's Exhibits 4 and 5) submitted state permits required for on-site food preparation, and licensing to have a kitchen issued in 2009. The Old Lantern didn't have those permits or licenses before 2009.

ZBA QUESTIONS/COMMENTS

Mr. Tenney asked if a license was required when the Old Lantern was established Mr. Murphy, attorney for Roland and Lisa Gaujac, replied yes. There were licenses going back to 1996 and 1987.

Mr. Harris pointed out that the licenses the Gaujac's had were for a business they had in New Haven. The prior owners had no licenses. In 1994 Marvin Gardens had a license for one year and that wasn't renewed. It now is a commercial kitchen with food preparation on the premises. There are dual uses going on: as an event facility and a new use as a licensed food preparation/service that charges. The new use is a change expansion and alteration of a commercial kitchen, said Mr. Harris.

Mr. Swayze asked exactly when was Mr. Harris saying a change of use happened. Mr. Harris replied in 2009. It was now a dual use as a restaurant and event facility, stated Mr. Harris.

In response to a question by Mr. Harris regarding steps taken by the Gaujac's to obtain a Vermont State Liquor license, Ms. Wolverton said she went online and spoke to a department person to verify the information, which she then put into a spreadsheet as Appellant's Exhibit 6. In July 14 and 15, 2009, Gaujac's received a First class and Third Class liquor license, a catering license and an on-premises license, said Ms. Wolverton.

Ms. Wolverton reviewed the following:

- (Appellant's Exhibit 7) copies of an on-line order menu, buffet menu, per person prices, a dessert menu, etc., from the on-line Old Lantern website in support of a change of use.

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- (Appellant's Exhibit 8) showing a series of wine and food tastings. The next wine tasting was scheduled for November 20 with a dinner and wine tasting, which was not a private event. There were picture of a full scale commercial kitchen on the website.
- (Appellant's Exhibit 9) the Old Lantern website references for pricing of dinners and pubic events that are held at the Old Lantern.

Mr. Tenney asked for clarification of the appellant's submittals. Mr. Harris stated the operation was for a fully licensed commercial kitchen that could fully prep food with a fixed menu with charges that was one of the dual uses. Food was prepared there for profit, and that is a restaurant. It was a change/alteration that was new and different from before, said Mr. Harris.

Mr. Tenney clarified that Mr. Harris was explaining to the ZBA the differences of the Old Lantern kitchen before and as a commercial kitchen. Mr. Harris replied that it was a change to service and on-site food preparation and a revenue generating facility.

Mr. Tenney asked if the kitchen was kept as it was, no renovations, and licensed by the state prior to 2009, does that make it a use change. Mr. Harris replied the Gaujac's were not just hosting events with outside caterers. The use was on the premises food preparation under the jurisdiction of the Health Department, serving alcohol and generating direct revenue, said Mr. Harris.

Ms. Wolverton said the Vermont Department of Health required the installation of a 3-bay sink to approve on-site food preparing. She spoke with caterers that prior to 2009 that the kitchen there was so horrible that they brought in their own warm food. The kitchen has been altered and changed to provide and prepare food on site, stated Ms. Wolverton.

Mr. Harris asked if testimony regarding impacts of the Old Lantern on neighbors could be discussed. Mr. Murphy said he would object to issues on impacts. The issue of impacts was not under appeal. The issue was if a change of use was sufficient that the Old Lantern would need another permit. Any other issue was not before the ZBA, stressed Mr. Murphy.

Ms. Wolverton said impacts were an outcome of a change of use. She could describe what those were, said Ms. Wolverton. Mr. Tenney clarified that the ZBA was only looking at the ZA decision. Any changes of use as per the zoning bylaws could be described, said Mr. Tenney.

Ms. Wolverton said that as per the zoning bylaws, the change was the 1,500 cfm commercial kitchen fan that blows smoke, odor and fumes into the air that was detectable from 1,000' away. That didn't happen when it was catering enterprise, said Ms. Wolverton. Mr. Tenney pointed out that the fan was a requirement by the state for any kitchen.

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Mr. Swayze said in the interest of time, the appellant's core contention was that at a certain time a use changed around the kitchen and now subjects the Old Lantern to Conditional Use review, and that the ZA erred in not bringing this to the ZBA.

Mr. Harris summarized that the ZBA should consider conditions that should be imposed:

- The Old Lantern is licensed to serve alcohol for revenue,
- Food preparation was on-site, food and liquor was sold;
- There was an extensive menu for prepared and served food on-site, which is a material change/alteration versus food and liquor brought in by caterers.

Mr. Tenney clarified that the appellant was saying that the preparation of food at the location was the expansion of use. Has there been changes in traffic flow or attendance whether it was catered, no not, asked Mr. Tenney. Mr. Harris said there has been an increase in the number of events. The restaurant helps and supports the facility. No caterers were being hired. The owners have their own menu, own food on-site – it was a dual facility. It is now operating as a for profit operation on the premises, stated Mr. Harris.

Mr. Swayze asked if the contention was that it was a pure restaurant function versus serving food at an event. Mr. Harris said that previously there were outside caterers. Now they have an on-line menu. That is the change, said Mr. Harris.

Mr. Murphy as Gaujac's representative, addressed the appellants' statements:

- The property been an event facility since 1962. The barn was brought to Charlotte by Mr. Burns from Underhill and reconstructed it her. Pictures from 1994 covered the time that it was a campground in the summers and used on a daily basis. Meals were provided in the kitchen in that facility there.
- In 1999 the prior owner retired and the property was operated to the early 2000s.
- The Gaujac's signed a contract to purchase the property in April, 2006, and bought it in August, 2006. There were a number of events on-going. The contention that for six months in 2006 the property's pre-existing non-conforming use was lost was not true. There were 35 or more reserved weekends in 2006, 2007 and 2008. The Gaujac's had to provide 55 events as part of the purchase and sale contract in 2006.
- The kitchen was there when it was a campground, a community events hall, and for hired events. Caterers used the kitchen there. Today the kitchen is the same size.

Ms. Gaujac explained that when she purchased the Old Lantern the existing equipment included a commercial stove, a grill that she replaced with a new grill, a dish washer and a 2-bay sink. She wanted to have the event hall officially licensed and permitted. The Health Department said she had to have a deeper sink with a trap. In 2006 the kitchen was used to cook for events. The capacity of the kitchen was not changed in the 2009 renovation. The fire safety upgrades did not change the capacity, said Ms. Gaujac.

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Mr. Murphy said that the appellant's argument was it was a restaurant was not true. Could anyone walk in, ask to see a menu and order a meal to be served, asked Mr. Murphy. Ms. Gaujac replied no. If that happened they could not be served. It is a private event hall for weddings, other events, and 4-5 times a year wedding couples were invited to come to try wind and food for their events. The November 20th wine tasting was not public; it was a marketing tool. Four wine tastings were done this year. Ninety-five to 99 percent of the couples come to the tastings. She had made a donation of a tasting for 10 people and those outside public people came to one of the private tasting events, said Ms. Gaujac.

Mr. Murphy said that the appeal raised two issues: 1. in 2006, the use was abandoned for 6 months and had to be re-permitted. The Gaujac's have records to prove that was not true. 2. That it was a restaurant. The Old Lantern is an event facility that offers some wine events for future weddings/events, and occasionally there are a few people included that were not connected to a private event, said Mr. Murphy.

Mr. Murphy read restaurant use for the service of food at tables as per the Charlotte Zoning Bylaws. This is not what this is, said Mr. Murphy.

Ms. Gaujac explained that she has menu and prices posted on-line for couples. IT was not a 'call in for a meal'. She doesn't have paper menus, said Ms. Gaujac.

Mr. Tenney noted that the state permit form says 'restaurant' as a food and lodging establishment for 200 people, or more. That may be why people were saying the Old Lantern was a restaurant. It was the only choice on the form, said Mr. Tenney. Mr. Murphy said a restaurant use was a conditional use in this area. The Old Lantern as a pre-existing event facility was entitled to continue. The use hasn't changed. The issue was what has been the use. The use of the kitchen and facility has been the same for a long time, said Mr. Murphy.

Mr. Swayze asked Mr. Murphy, as per the Charlotte Land Use Regulations, was it an expansion of use, or a difference in the kind of use that would trigger a change in use. Mr. Murphy replied that the word in the bylaws was 'altered', was the use altered.

Mr. Harris said 1.3(b) and 1.2(e) talks about changes, alterations and expansions of uses. Mr. Murphy said that it was under the non-conforming uses sections for alterations, or changes of uses.

Mr. Swayze asked Mr. Harris if moving from the use of external catering services to an internal kitchen was the issue. Mr. Harris replied that it was for a dual use of food preparation and service for profit. It was a public facility open to the public, although people do hire the hall for events. The serving of liquor and revenue generated out strips the food service revenues, said Mr. Harris.

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Mr. Murphy pointed out the Old Lantern has always been a facility that cooked food on site, or was catered by outside caterers. Now events were catered by the owners, said Mr. Murphy.

Mr. Wolverton said that he can't speak to the last 50 years as he has only been in Charlotte for eleven months. At night there was the sound of music, and the DJ's were so loud that the house windows shake. He asked the Town how the noise and intrusion could be allowed. Ms. McCrumb said that the Old Lantern was grand fathered in and couldn't do anything. According to Mr. Murphy's letter the increase of use was not enough to trigger a non-conforming Conditional Use. The law doesn't provide for noise impacts. If there has been a change of use of a property and it was non-conforming then a conditional use was required. The Old Lantern was not operating legally as per the Vermont Department of Health. Permits for food prep were required for it to be a legal operation, said Mr. Wolverton. Mr. Wolverton read permit requirements as per Vermont state law.

Mr. Wolverton said that on Friday afternoons in late summer the wind came out of the west southwest. The ventilation system sent clouds of 300 burning steaks up to his house. His windows were open and his clothes reeked of burning steak smoke, stated Mr. Wolverton.

Mr. Wolverton said that at a restaurant people could order 3-4 steaks that are cooked to order, which was different from 300 steaks. It was a change of use that didn't legally exist before. His issues were sounds, smells, odors and smoke, stated Mr. Wolverton. Mr. Murphy says that no one had complained before. The Old lantern is a community asset for local weddings, or less expensive venues. It does affect the neighbors. He has no problem with them making money, said Mr. Wolverton.

PUBLIC COMMENT

Mr. Dickerson, a former part owner auction business in the Old Lantern, said it was fundamentally erroneous suggestion that there was no kitchen use before. When Earl and Mary Burns owned the Old Lantern they did food for events of up to 200-300 people. When Mary died he hired caterers for his auctions, and had up to 200-300 people there. He always had food at the hall, said Mr. Dickerson.

Michael Frost said that the point was not what the Old Lantern had done over the years. Earl Burns had all kinds of stuff there. When Earl was there he had over 100 acres, owned land across the street, and the house the Wgman's live in now. A lot of things went on and didn't bother anyone because Earl owned all the property. Now the land has been subdivided and lots chopped off. There are houses are across the road, houses on the hill and the Old lantern property has been whittled down to 9 acres. How can you still do what was done on 150 acres, and allow the business to ramp up without conditions. A letter to Peter Coleman, dated 2004, from Dean Bloch says it was a Conditional Use, said Mr. Frost.

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Mr. Tenney said that staff would look into it. The ZBA was taking information regarding the ZA decision, said Mr. Tenney.

Mr. Wolverton read the ZA letter related to modifications to the wastewater system, kitchen renovations, and a shift to on-site food prep. He was contending that the kitchen renovations were a new use and a use impact. He was not saying what restrictions to apply. The different owners may have cooked there for 50 years. It was a change of use for a commercial kitchen, said Mr. Wolverton.

Mr. (Gacon) Gaujac, chef and Shelburne restaurant owner, said that the Town made his parents spend $40,000 on the renovations to make the Town happy.

Mr. Spell, a caterer, said that all caterers are required by the Vermont Department of Health to have the proper permits. He has done catering there prior to the Gaujac's ownership. He had his own license, permits, and equipment to cook food. The business that all catered there are licensed, said Mr. Spell.

Ms. Lowery, a 25 year Charlotte resident, said she has been hearing that the Gaujac's haven't changed a single thing, such as square footage. The kitchen had to be upgraded as per the state. They pay taxes. She has done fundraising events at the Old Lantern and always shuts down at 11:00 p.m. They do things the right way. Her neighbor burned leaves and smoke went to her property, but this is Vermont. She supported the Old Lantern, said Ms. Lowery.

Mr. Swayze explained that a change of use to trigger a Conditional Use review was a narrow issue. The appeal hearing regarding community impacts was not what we were here for, said Mr. Swayze. Mr. Tenney said that the focus was on the changes in the kitchen.

Ms. Perkins asked what does a Conditional Use mean for the Old Lantern owners. Mr. Tenney said as per the bylaws they would have to apply for Conditional Use, apply Performance Standards, and reestablish a non-conforming current use. They may not pass the Performance Standards, said Mr. Tenney.

Mr. Murphy explained that a Conditional Use permit must meet five criteria, such as undue adverse impacts, traffic, and character of the neighborhood. Neighbors who came to live around the Old Lantern could argue that the character of the area was now residential and the event hall shouldn't be permitted. There are Performance standards. The neighbors are trying to push the Old Lantern to apply for a permit, and it couldn't pass the tests, said Mr. Murphy.

Ms. Gaujac said she reached out to people/businesses that cooked meals at the Old Lantern over the last 50 years. She would submit a list of those people and include 55 e-mails regarding the kitchen, said Ms. Gaujac.

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Ms. Wood, Charlotte resident, welcomed the Wolverton's to Charlotte and applauded then in their attempt to make their life better. She went to many of the Old Lantern events over the years. Earl Burns put on huge buffets, such as Mac and cheese, beans, etc. A change of use argument doesn't make sense if the kitchen is the same size. It was only upgraded. Try to be neighborly; if the fan blows toward the Wolverton's then change the direction of the fan. She had attended a wine tasting and it was clearly for a bridal party. Vermont has just gone through a recession and we should applaud the few businesses in Charlotte. Work in a neighborly way, suggested Ms. Wood.

Mr. Wgman, abutting neighbor, said he has lived next door to the Old Lantern, and his house was part of the old campground. He wants to be good neighbor. He has reached out to the Gaujac's and gets nothing in return other than 'stay off the property'. Nine years ago there were 5 events in the summer and 4-5 events in the fall/winter. He is a business owner and knows how difficult it is to run a business. The noise levels should be reduced. He doesn't notice a smell. He has recorded noise at 84 dBs on his property as per his professional dB reader. As per the Town bylaws the noise levels at a property line should be 70 dB, and that would be reasonable, said Mr. Wgman.

Mr. Swayze noted that a 2004 ZA letter written by Tom Mansfield was submitted by Justin Wgman. The letter states that no permit was ever applied for, said Mr. Swayze.

Mr. Murphy reiterated that noise and smoke were not the issues before the ZBA. For the record:

- Mr. Wgman would come to the boundary line during an event and run a chain saw and try to disrupt an event.
- The Wgman's, Frost's, Gaujac's and others signed an agreement with the Town that dealt with a proposal for an Inn. The Gaujac's are in compliance with that order. That is a separate issue. The issue before the ZBA was the upgrade of the kitchen as ordered by the Department of Health.

Ms. Beck said that she has lived in Charlotte since. She understood that the Gaujac's did not increase the kitchen size, or space. It was the same footprint. She remembers coming to the Old Lantern as a teenager and hearing music and eating there. She authored a series of historic articles for the Charlotte News on the Old Lantern. Three barns were brought in by Earl Burns. Read the history. Food was served there. If the foot print didn't change and is the same size then there is no change. If someone bought a house next to the Old Lantern their realtor should have told them about the event hall, said Ms. Beck.

Ms. Spell, caterer from Waitsfield, said that she knew the previous owners and did multiple catering there. She prepared food on-site, washed dishes, and used the walk-in cooler and served liquor at the bar service. The kitchen looks just like it did 15 years ago, said Ms. Spell.

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Mr. Tenney stated that the ZBA was only considering if the kitchen renovations created a change in use. The ZBA was not taking information regarding sound, or music.

Mr. Dickerson said that the point Jill Spell made and he made was that there was no change of use in that building. He could produce documents – 200-300 people came to his auction sales, and for the famous French fries and famous hamburgers served out of the kitchen window. A new stove and sink was no change in use, said Mr. Dickerson.

Mr. (Gacon) Gaujac said he has been in the service industry for 22 years now. He has worked in restaurants, pubs, bars and halls. The Old Lantern has been an event hall and is still an event hall since it was bought by Gaujac's. The appellant says there are two different uses. It is an event hall and hasn't turned into a restaurant, said Mr. Gaujac.

Mr. Weed recalled having dinner at the Old Lantern with Barbara Snelling once. The food was good. The boy scouts put on breakfast and events. It is a community asset, said Mr. Weed.

Mr. Harris said that the physical renovation and change of use from using outside caterers to using food preparation on-site, a website with a menu, the service of food, required licenses and permits were changes/alterations of a primary focus. The appellants had asked the ZA to review the change of uses as per the Town bylaws; 1.3(b), uses of land and pre-existing uses, and non-conforming uses. Sections 37 and 38, 1.3(d), expansion of uses that would trigger performance standards. The expansion of the number of events from 5-9 per year to 55 events was an expansion of use as outlined in Section C of the appeal, said Mr. Harris.

Mr. Murphy said that the issues was there were 5-6 events and in 2006 there were 55 events. He has a list of 40 of those events. As per scope of use, in 1994 the property was continuously used as a campground on a daily basis from May-October and all sorts of activities, concerts and Boy Scout breakfasts. The facility was in compliance and has pre-existed zoning in Charlotte. Caterers and state license changes don't make it a lesser use. There have been serious kitchen fires in other restaurants, which triggered the state rules that said the Gaujac's needed hoods over the stove. That doesn't change the use, said Mr. Murphy.

Ms. Gaujac explained that the state fire marshal, and Chris Davis, Charlotte Fire Chief worked together on a sprinkler system and made me hire a national engineer to design it. The Town and state worked with me to make sure what was needed, said Ms. Gaujac.

Ms. Marshall read Charlotte regulations for 'restaurant/fast food' that included service, food and beverages, were three definitions for a restaurant. The Old Lantern was none of those, said Ms. Marshall. Mr. Harris said that a restaurant served beverages and food.

Ms. Wood said that many event halls post menus on websites with prices. Planning for a wedding you need a price per meal per person. A restaurant has hours of operation, have a menu they give you and you order from that, and are served a meal at a table. The Old

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Lantern owners were owner/caterers and they make a profit from it, which was the reason to have a business, said Ms. Wood.

Ms .Wolverton said that the state says it is a restaurant. Mr. Tenney pointed out the state's definition was different from Charlotte's and a 'restaurant' was the only choice on the state form.

Carrie Fenn was sworn in.

Ms. Fenn said that the state permit forms available were limited in language and 'restaurant' was the only classification. It doesn't mean that the Old Lantern was a restaurant, said Ms. Fenn.

Ms. Reid, an abutting neighbor to the south of the Old Lantern, reviewed a brief history of when the Gaujac's took over the event hall and asked her to try a music night. They tried to have an ala carte open mike night, but it was under attended. It costs money to have a restaurant versus events. It is the same old crappy kitchen, stated Ms. Ried.

Mr. Tenney said for the record that letters have been submitted and are posted on the Charlotte Town website for review and consist of the following:
Exhibit A - letter from Justin Wgman, dated 11/04/2015.
Exhibit B – letter from Karen Frost, dated 11/04/2015.
Exhibit C – letter from Josh Flore, dated 11/04/2015.
Exhibit D – letter from Michael Yantachka, dated 11/03/2015.
Exhibit E – letter from Elizabeth Clark, dated 11/04/2015.
Exhibit F - letter from Casey Ciserno, dated 11/04/2015.
Exhibit G – letter from Steve Denton, dated 11/03/2015.
Exhibit H – a list submitted by Lisa Gaujac regarding a history of events people attended at the Old Lantern.
Exhibit I – 1994 site map submitted by Liam Murphy showing the barn(s) and land of the Old Lantern.
Exhibit J – submittals from Michael Harris, as numbered by the appellants a #1-9.

Ms. Gaujac said that she would e-mail scanned copies of photographs and posters of events held at the Old Lantern over a 50 year time period to the ZBA.

Mr. Spell asked what does a 'change' constitute. The stove is new, but not larger. The sink may be 3" wider and deeper, the walls are the same, and it was the same footprint. What one thing did the Gaujac's do. He has been in the kitchen before and after the renovations and it is the same, said Mr. Spell.

Mr. Murphy suggested that the ZBA close the hearing and if more information was needed within the 45 day period the hearing could be re-opened.

Mr. Fisher said would be helpful if the ZBA had film or video/photographs of what the kitchen looked like before the renovations.

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Mr. Harris said it was not just the physical change it was the manner of preparing food on site, and changes required for the fire safety hood and licenses. It was not just the structure, said Mr. Harris.

MOTION by Mr. Swayze, seconded by Mr. Fisher, to close the hearing regarding ZBA-15-09, Appeal of the Zoning Administrator's determination regarding the status of the pre-existing nonconforming use of the Old Lantern Barn, located at 3260 Greenbush Road and owned by Roland & Lisa Gaujac; and to take the appeal up in Deliberative Session.
VOTE: 3 ayes, 2 absent (Mr. Bennett, Mr. Zucker); motion carried.

DELIBERATIVE SESSION
The ZBA entered Deliberative Session at 9:00 p.m.

ADJOURNMENT
The ZBA adjourned the meeting at p.m.

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

DRAFT