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**TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 21, 2016**

DRAFT

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

ADMINISTRATION: Daryl Benoit, Town Planner / Zoning Board Staff.

OTHERS PRESENT: David Marshall, Chris Quinn, Tom Tiller, Ralph Brooker, Jenny Cole.

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.

SITE VISITS:

6:00 PM 16-123-CU – 362 Holmes Road, Charlotte, VT

6:30 PM 16-128-CU – 1362 Ethan Allen Highway (US Route 7), Charlotte, VT

AGENDA:

- **16-123-CU Conditional Use Review for Thomas Tiller for a renovation and a small addition to an existing house (not removal and reconstruction) consistent with the requirements for setbacks from the Lake. The design was changed for a previous Conditional Use approval, which was granted for the demolition and replacement of the house. The property is located in the Shoreland District.**
- **16-128-CU Conditional Use Review for Ralph Brooker to build:**
 1. **A 28’X36’ garage, shop, and multi-use building on an existing concrete slab that was installed on the property in 1998.**
 2. **A 14’X28’ deck attached to the western side of the existing house.**

The property is located in the Rural District (Route 7 Scenic Overlay District)

CALL TO ORDER

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

16-123-CU CONDITIONAL USE REVIEW FOR THOMAS TILLER FOR A RENOVATION AND A SMALL ADDITION TO AN EXISTING HOUSE (NOT REMOVAL AND RECONSTRUCTION) CONSISTENT WITH THE REQUIREMENTS FOR SETBACKS FROM THE LAKE. THE DESIGN WAS CHANGED FOR A PREVIOUS CONDITIONAL USE APPROVAL, WHICH WAS GRANTED FOR THE DEMOLITION AND REPLACEMENT OF THE HOUSE. THE PROPERTY IS LOCATED IN THE SHORELAND DISTRICT.

Thomas Tiller, owner, David Marshall, Civil Engineering Inc, and Chris Quinn, contractor, appeared on behalf of the application.

STAFF NOTES

Mr. Tenney, Chair, reviewed staff notes.

48

49 David Marshall and Chris Quinn were sworn in.

50

51 APPLICANT COMMENTS

52 Mr. Marshall noted observations made during a site visit conducted this date that
53 included a driveway, existing house, shoreline setback distances of 150', an existing
54 screened-in porch and open deck. The porch and open deck will remain the same, and on
55 the same footprint. There will be material replacement only, said Mr. Marshall.

56

57 Mr. Marshall reviewed Site Plan C1.1, consisting of the house, proposed modifications to
58 the east side in-fill of the building, existing eave overhangs, porch, and west side house
59 encroachment of the 150' setback that triggers a Conditional Use application; Architect's
60 Plans, Sheet A1.3, existing footprint conditions, and Sheet A2.0, proposed conditions for
61 exterior modifications and westerly modifications of a screened porch and deck. A
62 garage-main house connector is being rebuilt on the same footprint. It would have some
63 improved interior functionality, explained Mr. Marshall.

64

65 ZBA QUESTIONS/COMMENTS

66 Mr. Fisher suggested replacing the words "Sleeping Porch" with "Screened Porch" on the
67 plans.

68

69 Mr. Marshall reviewed Sheet A2.1 related to the upper levels of the building, deck and
70 area on the east side, which is a total rebuild/redesign.

71

72 Mr. Swayze asked for clarification of the window design on the west side of the house.
73 Mr. Quinn replied that all the windows and doors will be new. The windows may not be
74 exactly the same. The net amount of glazing is about the same, said Mr. Quinn. Mr.
75 Marshall noted that the first floor west side has a large amount of glazing to enjoy the
76 views.

77

78 Mr. Fisher asked if the sleeper porch is a single story and a deck on top. Mr. Marshall
79 said that the deck already exists.

80

81 Mr. Swayze asked if the first and second floor west elevation is fixed. Mr. Quinn
82 explained that the current elevation is a 1980's style "farm house" and is changing to a
83 more traditional "coastal" house style.

84

85 Mr. Bennett asked what the lake shore setback is. Mr. Benoit replied that it is 150',
86 except for a 128' measurement at a portion of the house.

87

88 Mr. Benoit asked if the height of the structure is recorded on the application. Mr. Tiller
89 replied is a roof height of 33' and that will not change. He will get the actual number,
90 said Mr. Tiller.

91

92 Thomas Tiller was sworn in.

93

94 Mr. Marshall said that the existing roof line is staying as is except for the connector roof
95 line between the garage and main house.

96

97 Mr. Tenney read a previous application decision that stated "...as measured from the
98 existing grade to the roof line of 28'10". Mr. Marshall reiterated that the roof line will
99 stay at the existing height.

100

101 Mr. Fisher asked if any trees will be removed. Mr. Marshall said that the trees are
102 staying.

103

104 Mr. Fisher asked if there have been any changes to the septic design. Mr. Marshall
105 explained there is no increase to the number of bedrooms. The state has issued a 5-
106 bedroom septic design waste water permit. The waste water site is located on the west
107 side of the house and relocated 500' from the lake. A bathroom is proposed in the
108 barn/shop. It is not a "bedroom" so there will be no increase in the design flow
109 considered by the state. There are no increases in the number of fixtures, said Mr.
110 Marshall.

111

112 Mr. Tenney asked if the exterior structure will be compatible to the "character of the
113 neighborhood". Mr. Quinn said that the exterior siding will be traditional painted wood
114 clapboards and painted shingles in the upper gable ends in a grayish color. Currently the
115 exterior siding is vertical shiplap, and that will be removed. The roof is asphalt, the porch
116 and garage roofing will be standing seam metal. The gross square footage is currently
117 about 6,000 square feet and will increase another 150 square feet. The existing stairway
118 from the second floor to the third floor is a narrow 28" and it will be wider, said Mr.
119 Quinn.

120

121 Mr. Marshall said that the applicant is looking to move forward as quickly as possible to
122 avoid the winter season.

123

124 PUBLIC COMMENTS

125 None.

126

127 **MOTION by Mr. Bennett, seconded by Mr. Swayze, to close the hearing for 16-123-**
128 **CU, a Conditional Use Review for Thomas Tiller for a renovation and a small**
129 **addition to an existing house (not removal and reconstruction as per a previous CU**
130 **application) consistent with the requirements for setbacks from the Lake.**

131 **VOTE: 4 ayes, 1 absent (Mr. Zucker); motion carried.**

132

133 **16-128-CU CONDITIONAL USE REVIEW FOR RALPH BROOKER TO BUILD:**

134

1. A 28'X36' GARAGE, SHOP, AND MULTI-USE BUILDING ON AN
135 **EXISTING CONCRETE SLAB THAT WAS INSTALLED ON THE**
136 **PROPERTY IN 1998.**

137

2. A 14'X28' DECK ATTACHED TO THE WESTERN SIDE OF THE
138 **EXISTING HOUSE.**

139 **THE PROPERTY IS LOCATED IN THE RURAL DISTRICT (ROUTE 7 SCENIC**
140 **OVERLAY DISTRICT)**

141 Ralph Brooker, owner, appeared on behalf of the application.

142

143 **STAFF NOTES**

144 Mr. Tenney, Chair, reviewed staff notes.

145

146 Ralph Brooker was sworn in.

147

148 **APPLICANT COMMENTS**

149 Mr. Brooker explained an application to build a 28'X36' multipurpose garage/shop and a
150 14'X28' deck on the west side of an existing house. The garage will be built on an
151 existing slab that was permitted in 1998, said Mr. Brooker.

152

153 **ZBA QUESTIONS/COMMENTS**

154 Mr. Fisher said he thought that Route 7 is a 6-rod road. Six feet of the deck will be within
155 the setback, said Mr. Fisher. Mr. Brooker replied that he measured the setback from the
156 edge of the pavement to the house at 41'. Mr. Benoit explained that from the right-of-way
157 boundary it is 20'. He measured the setback from the Route 7 center line, said Mr.
158 Benoit. Mr. Brooker pointed out two cement markers on the site map that he had used to
159 measure from.

160

161 Mr. Brooker said that the proposal would have no impact on his leach field.

162

163 Mr. Tenney asked if there is a permit for the garage. Mr. Brooker said that he has a copy
164 of the old permit and could find it if necessary.

165

166 There was discussion regarding a prior permit from 1998, which was only good for one
167 year and a possible one year extension before expiring.

168

169 Mr. Tenney read the Land Use Regulations related to permits. Is the permit null and void,
170 is the wording "substantially commenced" applicable – it has to have a foundation, and is
171 the permit usable since the slab is poured. Those are the questions. The plan for a 22'
172 height two-bay garage has no issues with any boundaries. The property is in the Route 7
173 Scenic Overlay District and there are no impacts regarding screening, said Mr. Tenney.

174

175 In response to a question regarding a doorway showing on the site drawing, Mr. Brooker
176 explained that it is an existing non-functional door on the gable end of the house. There
177 was a wooden addition to the house that was removed before he purchased the property.
178 The door was left in place. He will use the door to access the proposed deck. The deck
179 with a railing will be built to code, said Mr. Brooker.

180

181 Mr. Bennett asked if there is a foundation under the part that was ripped off. Mr. Brooker
182 said that there was a stone foundation. When he purchased the property there were
183 mounds of dirt and the stones from the foundation and he had it leveled off. The stone
184 foundation is gone, said Mr. Brooker.

185

186 Mr. Brooker said that the garage roof will have a 6/12 pitch and a height of 22'.

187

188 Mr. Tenney noted that the elevation dropped 5'-6' lower than at Route 7.

189

190 Mr. Fisher asked if there were any comments from neighbors. Mr. Brooker replied no. He
191 talked with Clark Hinsdale and Sue Smith and there were no comments.

192

193 Mr. Tenney asked if there will be stairs off the deck. Mr. Brooker explained that he will
194 install an incline off the south side of the deck. He has a lame dog, said Mr. Brooker. Mr.
195 Fisher said that a handicapped ramp should be added to the site drawing.

196

197 Mr. Fisher asked if the applicant had submitted sufficiently drawings, from an esthetics
198 viewpoint. Are the drawings done to scale, asked Mr. Fisher. Mr. Brooker replied no.

199

200 Mr. Brooker said that the garage siding will be vertical board. The roof will be plain
201 silver screw-down metal roofing. It is not standing seam metal roofing and not colored.
202 The 14' deck side will be against the existing house and extend out 28'. The drop off
203 where it connects to the house is about 7' and is the same as the deck goes out. The
204 ground is leveled off under the proposed deck. The deck will be just about level with the
205 door way. There will be no step down onto the deck, said Mr. Brooker.

206

207 Mr. Bennett noted that an e-mail from the Town Attorney was received at 6:00 p.m. this
208 evening. He is trying to read the e-mail now via his mobile phone without success. The
209 information is related to a question if the application is a Conditional Use, or a Variance.
210 Part of the new deck will be 6' within the setback. He would like to read and understand
211 the email before making a decision, said Mr. Bennett.

212

213 Mr. Brooker explained that a problem is that the house is within the setback. The house
214 predates zoning and Town regulations and has been "there", said Mr. Brooker. Mr.
215 Bennett reiterated that this is an application for a new deck, and there is a question on
216 how to classify it – either as a Conditional Use, or as a Variance. The 6' encroachment
217 makes it non-compliant, said Mr. Bennett.

218

219 Mr. Benoit stated that it is a variance. The hardship is not created by the applicant. The
220 key sentence regarding "undue hardship" is found in Section 9.7 of the Land Use
221 Regulations, said Mr. Benoit.

222

223 Mr. Benoit read the regulations related to a variance and five criteria into the record, and
224 noted #5, "the minimum that will afford relief". The application hits all five criteria, said
225 Mr. Benoit. Mr. Swayze said that represents to him that, #5, in the event of a hardship,
226 what the ZBA could allow is a minimum of that hardship. Does that point toward a 28'
227 long deck as a minimum of hardship. Can the ZBA waive the Land Use Regulations if it
228 is a non-conforming structure, asked Mr. Swayze.

229

230 Mr. Fisher asked if the garage structure will have windows. He would like to see the
231 drawings depict more detail, for example:

- 232 • Side view of the house and deck dimensions showing the 28'
- 233 • The proposed entrance to the deck
- 234 • Handicapped ramp location
- 235 • Number and location of windows and doors on the proposed garage/shop
- 236 • Exterior lighting locations
- 237 • What is planned for underneath the deck – open or enclosed
- 238 • Show the 100' setback in relation to the road and building – where is the 6'
239 encroachment

240

241 There was discussion regarding the setback as measured from the center line of the
242 roadway versus from the two cement markers west of the pavement. Mr. Benoit said that
243 he would give a Town map to Mr. Brooker to use as a measuring reference.

244

245 PUBLIC COMMENTS

246 Jenny Cole, Charlotte Park and Wildlife Refuge representative, was sworn in.

247

248 Ms. Cole said that the Park abuts the applicant's property. The Park Oversight Committee
249 has no concerns regarding the application. There was a foundation as noted by Mr.
250 Brooker in the past. There are some aerial photographs in the Town from 1960 that would
251 show the foundation, said Ms. Cole. Mr. Brooker said that it was there until the early
252 1980's.

253

254 **MOTION by Mr. Bennett, seconded by Mr. Swayze, to continue the hearing for 16-**
255 **128-CU Conditional Use Review for Ralph Brooker to build a 28'X36' garage, shop,**
256 **and multi-use building on an existing concrete slab that was installed on the**
257 **property in 1998, and a 14'X28' deck attached to the western side of the existing**
258 **house, to Wednesday, September 28, 2016, at 7:00 p.m.**

259 DISCUSSION:

260 Mr. Bennett said that he would review the Town Attorney email, dated September
261 21, 2016.

262 **VOTE: 4 ayes, 1 absent (Mr. Zucker); motion carried.**

263

264 ADJOURNMENT

265 **MOTION by Mr. Fisher, seconded by Mr. Bennett, to adjourn the meeting.**

266 **VOTE: 4 ayes, 1 absent (Mr. Zucker); motion carried.**

267

268 The ZBA meeting was adjourned at 8:10 p.m.

269

270 Minutes respectfully submitted, Kathlyn Furr, Recording Secretary.

271

272