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**TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 28, 2016**

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

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

OTHERS PRESENT: Charlie Proutt, Elizabeth Proutt, Ralph Brooker, Mel Huff.

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 16-127-CU – 350 Turtle Moon Lane, Charlotte, VT

AGENDA:

- CONTINUANCE: 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)
- 16-127-CU Conditional Use Review of Application to build a 159’ long X 2’ wide seawall intended to control erosion and preserve trees at the property’s lake shoreline. Property located at 350 Turtle Moon Lane.

CALL TO ORDER

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

16-127-CU CONDITIONAL USE REVIEW OF APPLICATION TO BUILD A 159’ LONG X 2’ WIDE SEAWALL INTENDED TO CONTROL EROSION AND PRESERVE TREES AT THE PROPERTY’S LAKE SHORELINE. PROPERTY LOCATED AT 350 TURTLE MOON LANE.

Charlie Proutt and Elizabeth Proutt, representatives, appeared on behalf of the application.

STAFF NOTES

Mr. Tenney, Chair, reviewed staff notes.

Charlie Proutt and Elizabeth Proutt were sworn in.

Mr. Tenney reported that the following ZBA members attended a site visit conducted this date: Jonathan Fisher, Stuart Bennett and Frank Tenney. Daryl Benoit, Town Planner, Charlie Proutt and Elizabeth Proutt, contractors, and David Finney, owner, were also present. The ZBA members observed the location where the project would take place.

48

49 APPLICANT COMMENTS

50 Mr. Proutt explained that a proposed Panton stone seawall would protect the shoreline
51 and trees on the bank above the water line. The retaining wall base included existing
52 ledge with a concrete base to level off the ledge where necessary. A 103' high water
53 event a few years ago caused damage to the shoreline and trees. There is a low water
54 situation now. One tree would be removed and there are three other trees in a precarious
55 position. The Charlotte Tree Warden would be consulted. The proposed seawall is 140' ±
56 long that follows the natural ledge that is fairly flat. Back fill is proposed as granular rock
57 backed with filter fabric and then top soil to cover exposed roots. A skid-steer excavator
58 and excavator would be used to bring rock to the site, said Mr. Proutt.

59

60 ZBA QUESTIONS/COMMENTS

61 Mr. Tenney asked if the site map shows an access route down to the lake shore. Mr.
62 Proutt relied that an access is not specified on the site map. During the site visit we
63 parked at an area on the south side of the camp and beyond the septic. That is the staging
64 area and where the equipment would go down to access the lakeshore, said Mr. Proutt.

65

66 Mr. Fisher asked if what a stone and wooden frame was. Mr. Proutt explained that the
67 stone structure is a three-bedroom septic designed system. It was previously permitted
68 when the camp was built, said Mr. Proutt.

69

70 Mr. Tenney asked that the following items be added to the site plan:

71

- 72 • An access plan to the lakeshore
- 73 • Erosion control plan for fixing any damage after project completion
- 74 • The number and location of trees that will be removed.
- 75 • Note trees on the other side that "may need to be removed to accomplish the
76 project"
- 77 • Contact the Charlotte Tree Warden regarding tree removal plans

77

78 Mr. Proutt said that a small tree might be removed if it is in the way of the trucks. If a
79 bobcat is used then the tree will not be removed.

80

81 Mr. Tenney asked if the wall foundation would be cemented and pinned to the underlying
82 ledge. Mr. Proutt replied yes. Cement would be used as a leveler. Most of the natural
83 ledge is level now. As per the state you can't use cement within 25' of high water, said
84 Mr. Proutt.

85

86 Mr. Fisher asked if the 98' high water mark is delineated on the site map. Mr. Proutt
87 replied no. He marked elevations on the bottom of wall. He got the elevations from
88 Burlington and put the numbers on the plan. The lowest is 98.8' to a high of 102.8', said
89 Mr. Proutt.

90

91 Mr. Fisher asked if the back fill sections would be topped with top soil. Mr. Proutt said
92 that the back fill is composed of shot fill, then filter fabric and then top soil to cover

93 roots. The drainage will be left exposed so that waves would wash out under the wall,
94 said Mr. Proutt.

95

96 Mr. Bennett said he would like to see the state application. Mr. Proutt said when he
97 talked to the state no permit was needed, until he mentioned concrete use, which is an
98 impervious material. That triggered a state application, said Mr. Proutt.

99

100 Ms. Swayze said he was not at the site visit. The seawall height and massiveness are
101 concerns related to Town standards that a project must fit into the characteristics of the
102 neighborhood. The wall should mimic stone and in colors that blend into the background,
103 explained Mr. Swayze. Mr. Proutt pointed out a high water mark of 102.8'. The wall
104 would be only one block high at that point and the engineer said it would create a weak
105 spot if the wall didn't continue on. The wall drops just beyond there, said Mr. Proutt.

106

107 Mr. Tenney explained that for projects in the lake shore buffer zone the Zoning
108 Administrator (ZA) reviews and approves tree cutting or removal. The ZA contacts the
109 Charlotte Tree Warden for advice. In Tables 2.6 and 2.7 it is the Charlotte Tree Warden
110 that reviews tree cutting or removal in the Seasonal Shoreline District, clarified Mr.
111 Tenney.

112

113 Mr. Benoit said that the Staff Report addressed both the ZA jurisdiction and Tables 2.6
114 and 2.7 regarding the Tree Warden.

115

116 Mr. Tenney asked if the existing stairs will be replaced. Mr. Proutt said yes. The proposal
117 would use the same Panton stone and indent the stone stairs within the same location. Mr.
118 Fisher asked to have the stair plan added to the site plan.

119

120 Mr. Proutt drew in the requested revisions on the site map. Mr. Benoit copied the
121 reviewed site map for the applicant and ZBA members.

122

123 **EXHIBIT A: the ZBA reviewed and accepted the site plat, dated 08/22/2016, and**
124 **revised on 09/21/2016, and marked the revised site plat as Exhibit A.**

125

126 PUBLIC COMMENTS

127 None.

128

129 **MOTION by Mr. Swayze, seconded by Mr. Bennett, to close the hearing for 16-127-**
130 **CU, a Conditional Use Review request by David Finney, for an application to build**
131 **a 159' long x 2' wide seawall intended to control erosion and preserve trees at the**
132 **property's lake shoreline, property located at 350 Turtle Moon Lane.**

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

134

135 Mr. Tenney explained that the ZBA has 45 days to issue a decision, and a 30 day appeal
136 process once the ZBA signed a decision letter. If an applicant started a project before the
137 end of the 30 day appeal period the work could be halted until any appeal is resolved,
138 said Mr. Tenney.

139

140 **CONTINUATION: 16-128-CU CONDITIONAL USE REVIEW FOR RALPH**
141 **BROOKER TO BUILD:**

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

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

147 **THE PROPERTY IS LOCATED IN THE RURAL DISTRICT (ROUTE 7 SCENIC**
148 **OVERLAY DISTRICT)**

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

150

151 **STAFF NOTES**

152 Mr. Tenney, Chair, reviewed staff notes.

153

154 Ralph Brooker was sworn in.

155

156 **APPLICANT COMMENTS**

157 Mr. Brooker submitted revised site plans as requested at the 09/21/2016 ZBA hearing,
158 showing the number and location of windows and doors on a proposed garage, a 6' ramp
159 on the south side of the proposed deck with dimensions, an existing door into the house
160 from the deck, and grade elevations. The drawings are to scale, said Mr. Brooker.

161

162 Mr. Brooker said that the garage has an open floor plan. The windows are all salvaged
163 materials, said Mr. Brooker.

164

165 **ZBA QUESTIONS/COMMENTS**

166 In response to a questions regarding deck to ground elevations, Mr. Brooker explained
167 that it was where a part of the house was removed and where that door is. He was not
168 planning on any steps on the south side of the deck It will be a 6' wide ramp looking east
169 on the west side of the house view. The ramp width is just because he wants the room to
170 roll a hand cart up onto the deck, room for his lame dog, or for himself in future. The
171 entrance into the house off the deck is level, said Mr. Brooker.

172

173 Mr. Bennett explained that he has reviewed the Town Attorney's e-mail letter regarding
174 questions of a conditional use or variance. The existing house is a non-conforming
175 structure in a Scenic Overlay District, so it is a Condition Use application. According to
176 the Town Attorney, under Land Use Regulations, Variance, the non-compliance of a non-
177 conforming structure can't be increased unless it is a Conditional Use, as per Section
178 B(2). Under Conditional Use, the ZBA has the flexibility to grant a Conditional Use
179 under the non-conforming section. Not increasing the non-conformance is the issue.
180 Under Conditional Use you have to comply with the 5 criteria, Land Use Regulations,
181 page 70, and at that point use a Conditional Use analysis said Mr. Bennett.

182

183 Mr. Tenney said that a problem is Section 3.8 that states you can expand a non-
184 conforming structure. Following conditional use under the Land Use Regulations for

185 Conditional Use, it says the ZBA has the power to increase setback distances to make a
186 non-conforming structure even more conforming than it needs to be, so there are no
187 impacts on neighbors, said Mr. Tenney. Mr. Bennett said Section 3 and Section 5 cancel
188 each other out once you get to Conditional Use. It talks about setbacks. What does it
189 mean "appropriate degree of non-conformance" as a "judgment". A question is what do
190 you base that judgment on, asked Mr. Bennett.

191

192 Mr. Fisher asked if there were any neighbors expressing concerns. Mr. Brooker replied
193 no. Neither Ringgold nor Hinsdale have problems with his plan. Jenny Cole from the
194 Park Oversight Committee last week had no concerns. You can't see the house from the
195 road, said Mr. Brooker.

196

197 Mr. Bennett noted that this appears to be case law and is boiler plate. It is driven by state
198 statute and becomes standard fare in the Town regulations, said Mr. Bennett.

199

200 Mr. Swayze suggested closing the hearing and entering Deliberative Session to discuss
201 the application. He had no further questions, said Mr. Swayze.

202

203 **EXHIBIT A: the ZBA reviewed and accepted six revised drawings of the proposed**
204 **porch, garage and deck as submitted, and marked as Exhibit A.**

205

206 Mr. Tenney asked if the application should be looked at as a variance as well. Mr.
207 Bennett said to proceed as a Conditional Use.

208

209 Mr. Tenney explained that the ZBA has 45 days to issue a decision, and a 30 day appeal
210 process once the ZBA signed a decision letter. If an applicant started a project before the
211 end of the 30 day appeal period the work could be halted until any appeal is resolved,
212 said Mr. Tenney.

213

214 PUBLIC COMMENTS

215 None.

216

217 **MOTION by Mr. Bennett, seconded by Mr. Swayze, to close the hearing for 16-128-**
218 **CU Conditional Use Review for Ralph Brooker to build a 28'X36' garage, shop, and**
219 **multi-use building on an existing concrete slab that was installed on the property in**
220 **1998, and a 14'X28' deck attached to the western side of the existing house.**

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

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223 **ADJOURNMENT**

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

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

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227 The ZBA meeting was adjourned at 7:52 p.m.

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229 Minutes respectfully submitted, Kathlyn Furr, Recording Secretary.

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