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**TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT
OCTOBER 12, 2016**

DRAFT

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

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

OTHERS PRESENT: Charlie Nancy Milliken, Chris VonTrapp, Andrew Milliken, Courtney Roman, Todd Roman, Scott Hardy, Lila Sunderland, Richard Junge, 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.

SITE VISITS:

6:00 PM 16-131-CU – 1946 Greenbush Road, Charlotte, VT

6:30 PM 16-133-CU – 783 Mt. Philo Road, Charlotte, VT

AGENDA:

- ZBA 16-131-CU: Conditional Use application for Nancy & Andrew Milliken to replace and upgrade a pre-existing nonconforming and damaged garage that is within a setback area. The property is located in the Rural District.
- ZBA 16-133-CU: Conditional Use/Adaptive Reuse Review for Courtney Roman (representative for Scott Hardy) to reuse the historic barn at 783 Mt. Philo Road for weddings and other events, which would total no more than 60 events per year, and no more than 2 events in a one-week period from May-October. The property is located in the Rural District.

CALL TO ORDER

Mr. Tenney, Chair, called the meeting to order at 7:13 p.m.

ZBA 16-131-CU: CONDITIONAL USE APPLICATION FOR NANCY & ANDREW MILLIKEN TO REPLACE AND UPGRADE A PRE-EXISTING NONCONFORMING AND DAMAGED GARAGE THAT IS WITHIN A SETBACK AREA. THE PROPERTY IS LOCATED IN THE RURAL DISTRICT.

Nancy Milliken and Andrew Milliken, owners, appeared on behalf of the application.

STAFF NOTES

Mr. Tenney, Chair, reviewed staff notes.

Nancy Milliken and Andrew Milliken were sworn in.

SITE VISIT:

Mr. Tenney reported that the following ZBA members attended a site visit conducted this date: Jonathan Fisher, Andrew Swayze, Matt Zucker, and Frank Tenney. Daryl Benoit, Town Planner, Nancy Milliken, Andrew Milliken, owners, and two abutting neighbors

48 were also present. The neighbors spoke in favor of the project. The ZBA members
49 observed the existing structure, staked out location of the proposed new garage and
50 addition, and stakes at the existing setback.

51

52 APPLICANT COMMENTS

53 Ms. Milliken reviewed a proposal to replace the existing garage that has damage with a
54 new garage, a 12' addition along the north side of the house would create a more gracious
55 entrance, and improvements to the existing house. The building height will not increase.
56 There is a steep slope behind the house and there is no way to move the garage in either
57 direction. The house improvements would bring the quality up to the neighborhood. A
58 permit will be applied for later, said Ms. Milliken.

59

60 Mr. Milliken said that the new garage coverage will be 3.4 percent of the lot. Neighbors
61 are Renee Donahue, and Peter and Diana Rosenfeld.

62

63 Ms. Milliken said that she was told that a variance was required.

64

65 Mr. Benoit explained the differences between a Variance and a Conditional Use as per
66 the Charlotte Land Use Regulations. A Variance would be required if he structure was in
67 conformance and a change make it nonconforming. The Milliken structure is already out
68 of conformance, said Mr. Benoit.

69

70 Ms. Milliken said that the project will not be any closer to the right-of-way.

71

72 ZBA QUESTIONS/COMMENTS

73 Mr. Tenney asked how many bedrooms were in the existing house. Ms. Milliken
74 explained that there were three bedrooms and would remain at three bedrooms. The
75 septic is designed for 4 bedrooms, said Ms. Milliken.

76

77 Mr. Tenney asked if the structure will continue the same roof line as exists. Ms. Milliken
78 replied yes.

79

80 Mr. Tenney asked if any trees would be removed. Mr. Milliken replied no. There were
81 two white pine trees that came down. The trees had retained water and created the issues
82 with the garage, explained Ms. Milliken.

83

84 Mr. Fisher clarified that the application is for a Conditional Use and not a Variance. Mr.
85 Tenney replied correct.

86

87 Mr. Benoit explained that the setback is 25' from the edge of the right-of-way. Mr. Fisher
88 asked if the road was a 3-rod, or 4-rod road. Mr. Benoit displayed a parcel map noting
89 that it is a 3-rod road, and pointed out a setback line of 25'.

90

91 Ms. Milliken explained that the house improvements included new windows, exterior
92 doors, and exterior siding.

93

94 Mr. Fisher asked if the project will impact the well. Ms. Milliken said no, and pointed out
95 the location of the existing well and septic on the site map.

96
97 There were no further questions.

98
99 PUBLIC COMMENTS

100 None.

101

102 **MOTION by Mr. Swayze, seconded by Mr. Zucker, to close the hearing for 16-131-**
103 **CU, a Conditional Use Review request by Nancy Milliken and Andrew Milliken, for**
104 **an application to replace and upgrade a pre-existing nonconforming and damaged**
105 **garage that is within the setback, the property, 1946 Greenbush Road, is located in**
106 **the Rural District.**

107 **VOTE: 4 ayes, 1 absent (Mr. Bennett); motion carried.**

108

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

113

114 **ZBA 16-133-CU: CONDITIONAL USE/ADAPTIVE REUSE REVIEW FOR**
115 **COURTNEY ROMAN (REPRESENTATIVE FOR SCOTT HARDY) TO REUSE**
116 **THE HISTORIC BARN AT 783 MT. PHILO ROAD FOR WEDDINGS AND**
117 **OTHER EVENTS, WHICH WOULD TOTAL NO MORE THAN 60 EVENTS PER**
118 **YEAR, AND NO MORE THAN 2 EVENTS IN A ONE-WEEK PERIOD FROM**
119 **MAY-OCTOBER. THE PROPERTY IS LOCATED IN THE RURAL DISTRICT.**

120 Courtney Roman, authorized agent, appeared on behalf of the application.

121

122 STAFF NOTES

123 Mr. Tenney, Chair, reviewed staff notes.

124

125 Mr. Swayze asked if the applicant is submitting an application to the Planning
126 Commission. Mr. Benoit explained that the Planning Commission is hearing the
127 application on Thursday, October 20, 2016. The property owner, Scott Hardy, has
128 submitted a written and signed statement authorizing Courtney Roman to represent him at
129 this hearing, said Mr. Benoit.

130

131 Courtney Roman and Todd Roman were sworn in.

132

133 SITE VISIT:

134 Mr. Tenney reported that the following ZBA members attended a site visit conducted this
135 date: Jonathan Fisher, Andrew Swayze, Matt Zucker, and Frank Tenney. Daryl Benoit,
136 Town Planner, Courtney Roman, Todd Roman, Scott Hardy, owner, and Lila Sunderland,
137 Richard Junge, neighbors, were also present. The exterior and interior of the existing barn
138 were inspected, said Mr. Tenney.

139

140 APPLICANT COMMENTS

141 Mr. Roman explained that the proposal is to renovate the existing barn inside and outside
142 in order to hold events such as weddings, retirement parties, office parties or birthday
143 parties. The venue will be seasonal May through October. In the future it may go year
144 round. The number of events will stay the same 60 events per year maximum, said Ms.
145 Roman.

146
147 ZBA QUESTIONS/COMMENTS

148 Mr. Tenney asked if the events will be held inside the barn only. Ms. Roman replied that
149 there will be no music, eating or dancing outside. There may be photo-ops outside to
150 take advantage of the beautiful grounds and surroundings. There will be a maximum of
151 60 events per year. They currently own a restaurant and want to start a family. An event
152 venue is their personal preference, said Ms. Roman.

153
154 Mr. Zucker asked if a septic study has been done to show that there is enough septic for
155 public events. Ms. Roman said that Mr. Hardy has done a residential septic study and
156 design already. It has not been installed. She would seek an amendment to the permit,
157 said Ms. Roman. Mr. Benoit clarified that a septic permit has been issued and the permit
158 will be amended for a commercial use.

159
160 Scott Hardy, Lila Sunderland, and Richard Junge were sworn in.

161
162 Mr. Hardy said that a wastewater permit has been issued for flow rates for two 4-
163 bedroom residential systems. The property consists of 10 acres that has been subdivided
164 into two 5-acre lots. A commercial use is a different use from residential. An event uses a
165 larger quantity of septic in a shorter time space. He looked at the septic capacity for a 4-
166 bedroom gpd calculation for use by 150-160 people, said Mr. Hardy.

167
168 Mr. Tenney pointed out criteria for listing a structure on the Vermont Historic Sites list
169 regarding an adaptive reuse, and asked if the barn fit those criteria. Mr. Benoit explained
170 that the barn fit the criteria. It was not on the state Historic register. It has been surveyed,
171 said Mr. Benoit.

172
173 Mr. Hardy said that he had explored rehabbing the barn. It is a big structure. He had
174 people approach him to buy the barn for removal to a different site and use elsewhere. It
175 is a well known barn in the area and is 93 years old, said Mr. Hardy. Mr. Benoit stated
176 that the age of the barn is not in the survey.

177
178 Ms. Roman said that the family of a neighbor of Bill Bissonette's had built the barn. That
179 person said the barn is 93 years old, said Ms. Roman.

180
181 PUBLIC COMMENTS

182 Ms. Sunderland said that Robert Marble stated that he had helped to build the barn from
183 wood cut in a wood lot up in the back of the farm.

184

185 Mr. Tenney asked if the plan is to add windows. Ms. Roman said that there will be eye-
186 let windows only. The left barn door will be wood, and the right barn door will have glass
187 added to let in light. The hay door will be glass. There will be no added windows, said
188 Ms. Roman.

189
190 Mr. Tenney asked if the barn doors will look like barn doors. Ms. Roman explained that
191 she is attempting to have the look of old barn slider doors.

192
193 Mr. Fisher asked if the Vermont Land Trust is involved. Ms. Roman replied not that she
194 is aware of.

195
196 Mr. Swayze asked if there will be flaggers to monitor traffic during an event. Ms. Roman
197 explained a proposal to use flaggers in the roadway and in the parking area to direct cars.

198
199 Mr. Zucker asked if there is more parking proposed than the one parking lot. Ms. Roman
200 replied no. The number of people will be capped at 150 people, which translates into 75-
201 80 cars maximum per event. The proposed 1-acre parking lot will hold that many cars
202 easily. An existing access will be used, and there is an approved curb cut further north if
203 it is needed. The driveway would go in front of the barn toward the other shed to the
204 proposed parking lot, explained Ms. Roman.

205
206 Mr. Swayze asked if all the abutting neighbors were noticed of the application. Mr.
207 Benoit replied yes.

208
209 Mr. Swayze asked if there are any comments from neighbors. Mr. Benoit replied no.

210
211 Ms. Sunderland pointed out that the property consists of two 5-acre lots. Is there any
212 stipulation to say that the barn is the cap and no other buildings can be built, asked Ms.
213 Sunderland. Ms. Roman replied no. She wants to keep the property open and beautiful.
214 There is a horse farm behind the property and open views all around, said Ms. Roman.
215 Mr. Benoit explained that any new proposal will come before the ZBA and/or Planning
216 Commission.

217
218 Ms. Sunderland noted that the septic for the subject property came from two mound
219 systems located on her property, and asked if the applicant used up all the septic capacity
220 located on her property for events, would the applicant need to ask her permission to
221 expand the septic. Ms. Roman stated that there is no proposal for any more septic.

222
223 Mr. Fisher asked if the applicant has conducted a sound study. Will the barn be un-
224 insulated, asked Mr. Fisher. Ms. Roman replied no. She talked to Top Hat, a DJ, and the
225 DJ visited the site. They said that there should be no more than 70 dBs, said Ms. Roman.

226
227 There was further discussion regarding an engineer sound study; a typical wedding that
228 produces 80-90 dBs as per a sound study done by Edgewater Center, LLC; differences in
229 sound that would carry from a structure to a property's boundary edge; and concerns
230 related to impacts to neighboring properties.

231

232 Ms. Roman said that insulating the barn is not proposed for the first year due to the
233 expense. A Phase II plan is to build a deck on the back of the barn to use as the entrance,
234 which would lessen the impact on the neighbor across the road, said Ms. Roman.

235

236 Mr. Tenney read Land Use Regulations related to noise in excess of 70 dBs and use that
237 is incompatible with the surrounding area. Noise can include birds, dogs, tractors, and
238 traffic, noted Mr. Tenney.

239

240 Mr. Tenney said that at the site visit he had suggested an entrance away from the
241 neighbor across the street. Ms. Roman said that she agreed that keeping the road side
242 open and an entrance off a deck at the back of the barn was preferable. People at a
243 wedding are there for conversation and communicating with family members. Music
244 levels have to allow for that conversation to happen, said Ms. Roman.

245

246 Mr. Tenney asked if the proposed parking lot is a grass lot. The Zoning Bylaws speak to
247 a gravel or paved lot, said Mr. Tenney. Ms. Roman said that she preferred a grass lot,
248 although a gravel lot is fine.

249

250 Mr. Tenney read Land Use Regulations related to parking area requirements for year
251 round use. Mr. Fisher said that if the venue is strictly a summer time use, May through
252 October, then the requirements might be different. The subject property has Vergennes
253 Clay and a parking lot might need some gravel, suggested Mr. Fisher.

254

255 Mr. Swayze asked if a Highway Access Permit is in place. Ms. Roman replied yes. Mr.
256 Hardy explained that the southerly lot has an approved access point near the barn and
257 there is a north approved curb cut. Most people arriving for an event would drive from
258 Shelburne and could enter the parking lot using that north access by the larger shed,
259 suggested Mr. Hardy.

260

261 Mr. Fisher asked to review the approved Hardy subdivision file.

262

263 Mr. Fisher asked Ms. Sunderland if her lot would show on the subdivision plat. Ms.
264 Sunderland reiterated that the two mound systems for the 2 barn lots were on her lot. Ms.
265 Hardy explained that the well locations and well shields are noted on the site plans.
266 Mansfield's property is to the south, said Mr. Hardy.

267

268 Mr. Fisher asked what the square footage of the barn is. Ms. Roman replied 4,000 square
269 feet.

270

271 Mr. Hardy pointed out the curb cuts, septic easement, wells and well shields, and barn on
272 his iPhone app.

273

274 Ms. Roman said the plan is to have one well on site.

275

276 Mr. Fisher asked for clarification of the Planning Commission application regarding
277 wastewater and water. Mr. Hardy explained that the state issued a wastewater permit for
278 the two 5-acre lots.

279
280 Mr. Fisher asked if the two 5-acre lots will be consolidated into one 10-acre lot. Mr.
281 Hardy replied yes.

282
283 Mr. Swayze asked if the number of events proposed will result in a viable operation. Ms.
284 Roman said that 10 events are a break even number, which is too low to make it
285 profitable.

286
287 Mr. Swayze noted that a Condition Use requires criteria related to the character of the
288 neighborhood. There is value in an adaptive reuse of the barn. If the use is changed a
289 question is how to balance that use change with the neighborhood, said Mr. Swayze. Ms.
290 Roman explained that her vision is to be a higher end elegant venue.

291
292 Mr. Fisher asked if a marketing analysis was done. Ms. Roman said that Vermont is
293 number 4 as a wedding destination. She has catered for 4 years and every bride wants a
294 barn venue, said Ms. Roman.

295
296 Mr. Zucker asked if the subject property is one whole property, or two. Mr. Hardy replied
297 that currently it is two lots. Mr. Zucker asked how the ZBA can make a decision if it is
298 still 2 properties. Mr. Benoit pointed out that on the Town tax map it is an aggregate of
299 both lots. Mr. Hardy said that he is on the Planning Commission agenda for Thursday,
300 October 20th. He is seeking to change the property back to one 10-acre lot, said Mr.
301 Hardy.

302
303 Mr. Tenney clarified that the Planning Commission needs to approve removal of a lot
304 line. Mr. Hardy said that a change will not impact anything other than the use of the two
305 septic systems. Mr. Tenney said a concern is that the ZBA is considering an application
306 as of "today" and there are two lots. Mr. Hardy said that the Roman's will have to
307 relinquish a building right on the south lot, which they don't own yet.

308
309 Ms. Roman said that the proposal is for a Conditional Use reuse of an existing barn on a
310 5-acre lot and they are purchasing the other southerly 5-acre lot contingent upon approval
311 of the application. There are no plans to do anything with the south lot, said Ms. Roman.
312 Mr. Benoit said that he looked at the application as one 10-acre lot as per the tax maps.

313
314 Mr. Benoit said that as a point of information it takes a while for the ZBA to draft a
315 decision. If the Planning Commission approves the proposed lot change that could play
316 into the 45 day window for issuing a ZBA decision, suggested Mr. Benoit.

317
318 Mr. Hardy pointed out that it is all contingent on the deal with the Roman's going
319 through.

320

321 Mr. Swayze asked if the Preservation Trust of Vermont is involved in the barn reuse. Mr.
322 Benoit said that the Preservation Trust could potentially have input on how the barn is
323 repaired and looks architecturally.

324
325 Mr. Fisher asked for clarification of any exterior lighting plans. Ms. Roman explained
326 that there will be four downward sconces mounted on each of the long sides of the barn.
327 There will be no flood lights pointing toward Ms. Sunderland's property or the horse
328 farm. The parking area will have non-permanent string lights. Ushers with lanterns will
329 escort people from the barn to the parking lot. She used the 10-acres in the parking
330 percentage calculation of 20-22 percent, said Ms. Roman.

331
332 Mr. Zucker suggested a conditional approval pending Planning Commission merging the
333 two lots. Mr. Fisher replied no; it is on a 5-acre lot. Are the drawings to scale, asked Mr.
334 Fisher. Mr. Benoit replied yes; the site map shows the barn, proposed grass/gravel
335 parking area, wells and well shields, and lot layouts.

336
337 Mr. Zucker asked if the two septic mounds can handle 150 people. Ms. Roman replied
338 yes. Mr. Hardy had it done already. The septic capacity would be sufficient for the
339 proposed use, said Ms. Roman. Mr. Zucker said that if it is equivalent capacity then a
340 structure could not be built on the other 5-acres.

341
342 Mr. Tenney said the ZBA could condition approval pending septic clarification and
343 acquiring the other 5-acre lot, or joining of the two parcels upon Planning Commission
344 approval.

345
346 Mr. Swayze said that there are concerns regarding noise and traffic. Has every abutting
347 neighbor been noticed, asked Mr. Swayze. Mr. Benoit replied yes. There are 4-5 abutting
348 neighbors and all have been noticed: the Sogoloff's, Nordic Holstein Farms, LLC, the
349 Cardimen's and Ms. Sunderland. There are 50 percent of the neighbors attending this
350 hearing now, said Mr. Benoit.

351
352 Mr. Fisher asked what the distances were from the Sogoloff's farm house to the barn. Mr.
353 Benoit replied that it is 1,030' from the barn to the Sogoloff's house.

354
355 Ms. Roman said that she is looking to be a positive landowner and would make the barn
356 as sound proof as possible.

357
358 Mr. Benoit said that he could get traffic and 85 percentile speed data from the Chittenden
359 County Regional Planning Commission.

360
361 Ms. Sunderland asked what happens if the Roman's sold the property, or needed to
362 expand the hours of operation from 9:00 p.m. to 11:30 p.m. Mr. Tenney replied that any
363 change of use, whether hours of operation or something else, would need to come before
364 the ZBA and/or Planning Commission again. A decision has conditions and to alter those
365 conditions the applicant would need to come back to the Town. If the property is sold
366 then the Conditional Use runs with the land, explained Mr. Tenney.

367

368 Mr. Zucker said that he has questions regarding sound, and what the dB levels would be
369 at the property lines. It might be helpful to have another site visit regarding sound, said
370 Mr. Zucker.

371

372 Following further discussion, Ms. Roman said that she would contact Top Hat for a
373 possible simulation of music and dB levels at the barn. A caveat: the barn is not insulated
374 and is empty and has broken windows. She will let Mr. Benoit know when Top Hat is
375 available, said Ms. Roman.

376

377 **MOTION by Mr. Swayze, seconded by Mr. Fisher, to continue the hearing**
378 **regarding ZBA 16-133-CU: Conditional Use/Adaptive Reuse Review request by**
379 **Courtney Roman (representative for Scott Hardy) to reuse the historic barn at 783**
380 **MT. Philo Road for weddings and other events, which would total no more than 60**
381 **events per year, and no more than 2 events in a one-week period from May-October,**
382 **to Wednesday, November 2, 2016 at 7:00 p.m.**

383 **VOTE: 4 ayes, 1 absent (Mr. Bennett); motion carried.**

384

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

389

390 **ADJOURNMENT and DELIBERATIVE SESSION**

391 **MOTION by Mr. Fisher, seconded by Mr. Zucker, to adjourn the meeting and enter**
392 **Deliberative Session.**

393 **VOTE: 4 ayes, 1 absent (Mr. Bennett); motion carried.**

394

395 The ZBA meeting was adjourned and the Board entered Deliberative Session at 8:52 p.m.

396

397 Minutes respectfully submitted, Kathlyn Furr, Recording Secretary.

398