ZONING BOARD OF ADJUSTMENT - APPLICATION

TOWN OF CHARLOTTE
Planning & Zoning
P.O. Box 119
159 Ferry Road
Charlotte, VT 05445
Phone: 802-425-3533
E-Mail: Gloria@townofcharlotte.com

Office Use Only #ZBA-____-____
Date Received:

Note: Decisions of the Zoning Board of Adjustment may be appealed to the Vermont Environmental Court within 30 days of the date of the Board's written decision. Zoning Permits will not be issued so as to become effective prior to the end of that appeal period.

Hearing Date: _____

Receipt #_____ **Application Fee $500** _____ **Appeal Fee $~~500~~ 250**_____ **Telecommunications Facilities Fee $2,000**_____

***APPLICANT/REPRESENTATIVE** (if different from owner)

Name_____ Name _____

Address _____ Address _____

_____ _____

Phone _____ Phone _____

*Representative must submit a letter from the owner of the property authorizing him/her to represent them for permits, hearings, etc.

Map ____ Block ____ Lot ____ Parcel ID #_____ Thompsons Point Lot #_____

Property address _____

Zoning District _____ Lot size _____ Lot frontage _____ % of Lot coverage (building)____ (overall)____ Building height _____

Existing front yard setback _____ Existing side yard setbacks 1. _____ 2. _____ Existing rear yard setback _____

This application references Zoning Bylaw section(s) _____

____ Plot Plan (a plot plan must be submitted showing the lot, existing structures and setbacks, easements, right-of-ways on **or** abutting the lot, septic primary and replacement areas, well, streams and any other information significant to this application) Submittals no larger than 11" x 17". All measurements must be accurate.

____Use attached sheet to list all abutting property owners. Include those across any street, private road or right-of-way .

____ Applicant will be required to notify adjoining property owners, by certified mail or certificate of service, after a hearing date has been set.

____Submit (1) original and (5) copies of complete application.

Application is for: (please check all that apply)

Conditional Use: ___ Variance: ___ Thompson's Point Seasonal Dist:____ Appeal: ___ Other: describe)_____

Describe your request: (*When appropriate, make reference to attached documents, letters, photographs, etc.)*

_____

_____

_____

APPLICATION MUST BE RECEIVED AT LEAST 23 DAYS PRIOR TO THE HEARING DATE.
BE SURE TO COMPLETE ALL SECTIONS OF THE NECESSARY FORMS AND ATTACHMENTS. ONLY COMPLETE APPLICATIONS WILL BE ACCEPTED.

Signature of applicant(s)_____Date _____

Information available from Tax Maps Include all names of owners

Name_____ Address_____ _____ Parcel ID # _____ Map_____ Block _____ Lot _____	Name_____ Address_____ _____ Parcel ID # _____ Map_____ Block _____ Lot _____
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(C) **Public Notice.**

(1) In accordance with the Act [§4464], a warned public hearing shall be required for conditional use review (Section 5.4), appeals and variances (Sections 9.6 and 9.7), and preliminary and final subdivision approval (Sections 6.4 and 6.5). Any notice for a public hearing required under these proceedings shall be given at least 15 days prior to the date of the hearing by *all* of the following:

(a) publication of the date, place and purpose of the hearing in a newspaper of general circulation in the town;
(b) posting of the same information in three (3) or more public places within the town in conformance with the requirements of state statute [1 V.S.A. §312(c)(2)], including the posting of a hearing notice within view from the public right-of-way nearest to the property for which the application is being made;
(c) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public or private rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the proceeding is a prerequisite to the right to take any subsequent appeal;
(d) for hearings required in association with the review of subdivision plats located within 500 feet of a municipal boundary, to the clerk of the adjoining municipality; and

(2) Public notice of all other types of quasi-judicial proceedings, including site plan review hearings under Section 5.5, shall be given not less than seven (7) days prior to the date of the public hearing, and at minimum shall include the following:

(a) Posting of the date, place and purpose of the hearing in three (3) or more public places within the municipality in conformance with the requirements of state statutes [1 V.S.A. §312 (c)(2)], and
(b) written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to public or private rights-of-way, which includes a description of the proposed project, information that clearly informs the recipient where additional information may be obtained, and that participation in the proceeding is a prerequisite to the right to take any subsequent appeal.

(3) The applicant shall be required to bear the cost of the public warning and the cost and responsibility of notifying adjoining property owners. The applicant shall be required to demonstrate proof of delivery to adjoining property owners either by certified mail, return receipt requested, or by notice hand delivered or mailed to the last known address supported by a sworn certificate of service.

(4) In accordance with the Act [§4464(a)(5)], no defect in the form or substance of a notice under Subsections (C)(1) or (C)(2) shall invalidate an action of the Board of Adjustment or Planning Commission where reasonable efforts have been made to provide adequate posting and notice. An action will be invalid when the defective posting or notice was materially misleading in content.

TABLE 5.1 DEVELOPMENT REVIEW APPLICATION MATERIALS			
Required Information (unless waived)		**Conditional Use Review**	**Applicant's checklist**
1. Names, addresses of property owner(s) of record and persons preparing the application		✔	
2. Names, addresses of the owner(s) of record of adjoining and facing properties; proof of notification		✔	
3. Project description [maximum one page summary]		✔	
4. Site location map showing project location in relation to town roads, surface drainage and adjoining and facing parcels		✔	
5. Legal deeds, decisions, and all recorded plats relative to the property/application		✔	
6. Town data overlay map (provided by the town) with a sketch of the project footprint(s)		✔	
7. Site plan, drawn to scale, prepared by a registered land surveyor, civil engineer, architect, landscape architect and/or other person(s) approved by the Board or Commission, showing as applicable:		✔	
a. Date, scale, north arrow, title block, preparer information		✔	
b. Legal property boundaries		✔	
c. Zoning district boundaries (inc. designated flood hazard areas)		✔	
d. Required setbacks and designated building envelope, if any		✔	
e. Site features and vegetation in the vicinity of the project: prime agricultural soils, active agricultural areas, surface waters, wetlands, shorelines and associated setback and buffer areas, critical wildlife habitat areas, prominent ridgelines and hill tops, steep slopes (15% to 25%, 25%+); structures (e.g., buildings, walls, fence lines, signs), including known historic sites and structures; existing parking, loading and service areas, roads and driveways, utility corridors, water supply and wastewater system locations; rights-of-way and easements.		✔	
f. Proposed structures (footprints); land use; roads, driveways, and pedestrian walkways; parking, loading and service areas; utility corridors; water supply and wastewater system locations; rights-of-way and easements		✔	
g. Proposed site grading and drainage		✔	
h. Proposed landscaping, screening, lighting and signage		✔	
i. Channel, floodway and base elevations			
8. Photographs of the site		✔	
9. Preliminary architectural elevations (for new structures, additions)			
10. Draft legal documents (e.g., proposed easements, improvement or maintenance agreements)		✔	
11. Construction schedule, including the sequence and timing of proposed site development and related improvements		✔	
12. The following information, as applicable for a particular use or zoning district, or as requested by the Board or Commission to determine conformance with these regulations:			
a. Landscaping plan (including landscaping material specifications)		✔	
b. Lighting plan (including lighting fixture specifications)		✔	
c. Shoreland management plan		✔	
d. Stormwater management and erosion control plan		✔	
e. Traffic impact analysis (current and proposed traffic volumes, capacities, levels of service, proposed improvements)		✔	
f. Environmental impact analysis (analysis of potential environmental impacts, proposed mitigation measures)		✔	
g. Visual impact analysis (analysis of potential visual impacts, proposed mitigation measures)		✔	
h. FEMA Elevation Certificate			
i. FEMA Floodproofing Certificate [nonresidential buildings]			
j. Hydraulic analysis [for development located within the floodway]			
k. Description of any proposed watercourse alterations or relocations			

CHAPTER V. DEVELOPMENT REVIEW

Section 5.1 Coordination of Review

(A) **Subdivision Review.** Subdivision review under Chapter VI, where required, will precede site plan, conditional use or flood hazard area review. In the event that a condition of site plan, conditional use or flood hazard area approval is inconsistent with the conditions of subdivision approval, the more restrictive shall apply. A subdivision amendment may be required as appropriate.

(B) **Site Plan & Conditional Use Review.** For development that requires both conditional use and site plan approval, the Board of Adjustment and the Planning Commissions will conduct joint hearings if practical. Otherwise, conditional use review by the Board of Adjustment under Section 5.4 will normally precede site plan review by the Planning Commission under Section 5.5.

(C) **Flood Hazard Area Review.** For development that requires both conditional use review under Section 5.4 and flood hazard area review under Section 5.6, the Board of Adjustment may combine conditional use and flood hazard area review into one conditional use review process, as long as applicable notice, hearing, review standards and recording requirements under each are met. For development that requires both site plan review under Section 5.5 and flood hazard area review, flood hazard area review shall precede site plan review, and the Planning Commission shall incorporate applicable conditions of flood hazard area review under site plan review.

Section 5.2 Development Review Application

(A) An applicant for site plan, conditional use and/or flood hazard area review must submit the appropriate application form, the required fee, and the information specified in Table 5.1. An application may not be considered complete until all necessary materials have been submitted.

(B) The Planning Commission or Board of Adjustment may waive one or more required application materials if they determine that such information is unnecessary for a comprehensive review of the application.

(C) In accordance with the Act [§4440(d)], the Commission or Board may request additional information as needed, including independent technical analyses to be paid for by the applicant, to determine conformance with these regulations.

Section 5.3 Appeals and Reconsideration

An applicant or interested party may request that the Board of Adjustment or Planning Commission reconsider any decision issued under this chapter by reopening the hearing in accordance with Section 9.9(E). The Board or Commission may also reopen a hearing on their own motion.

Section 5.4 Conditional Use Review

(A) **Applicability.** Any use or structure requiring conditional use approval shall not be issued a zoning permit by the Zoning Administrator until the Board of Adjustment grants such approval in accordance with the Act [§4414(3)], and the following standards and procedures.

(B) **Review Process.** Upon determination that an application is complete, a public hearing will be warned in accordance with Section 9.9(C). In accordance with the Act [§4464(b)] and Section 9.9(E), the Board shall act to approve, approve with conditions, or disapprove on each matter of an application for conditional use review; and shall issue a written decision within 45 days of the date of the final public hearing to include findings, conditions of approval, and provisions for appeal to Environmental Court. Failure to act within the 45 day period shall be deemed approval, effective on the 46th day.

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(C) **General Standards**. In accordance with the Act [§4414(3)], the Board shall determine that the proposed conditional use shall not result in an undue adverse effect on any of the following:

(1) **The capacity of existing or planned community facilities and services.** The Board shall consider the demand for community facilities and services that will result from the proposed development in relation to the existing and planned capacity of such services and facilities, and the adopted municipal capital budget and program currently in effect. The Board may request information or testimony from appropriate local officials to help evaluate potential project impacts on existing and proposed community facilities and services. Conditions may be imposed regarding the provision of services and facilities, and/or the timing and phasing of development in relation to anticipated municipal capital expenditures or improvements, to minimize any adverse impacts to community facilities and services.

(2) **Character of the area affected.** The Board shall consider the design, location, scale, and intensity of the proposed development in relation to the character of adjoining and other properties likely to be affected by the proposed use. Conditions may be imposed as appropriate to ensure that the proposed development is compatible with the character of the area, as defined by zoning district purpose statements, and specifically stated policies and standards of the municipal plan. Conditions may be imposed as necessary to eliminate or mitigate adverse impacts, including but not limited to conditions on the design, scale, intensity or operation of the proposed use.

(3) **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of traffic generated by the proposed development on the capacity, safety, efficiency, and maintenance of roads, highways, intersections, and bridges in the vicinity. A traffic impact assessment may be required. Conditions may be imposed as necessary to ensure that a proposed development will not result in unsafe conditions for pedestrians or motorists, including but not limited to physical improvements on or off site, or the use of accepted traffic management strategies.

(4) **Bylaws in effect.** The Board shall determine whether the proposed development conforms to other municipal bylaws and ordinances currently in effect, including but not limited to road, water or wastewater ordinances. The Board shall not approve a proposed development that does not meet the requirements of other bylaws and ordinances in effect at the time of application.

(5) **The use of renewable energy resources.** The Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources by either diminishing their future availability on the subject parcel, or by interfering with neighboring property owners' access to such resources (e.g., for solar or wind power). Conditions may be imposed as appropriate to ensure access to and the long-term availability of renewable energy resources.

(D) **Specific Review Standards.** In addition to general standards under subsection 5.4(C), the Board may also consider the following and impose conditions as appropriate to reduce or mitigate the adverse impacts of a proposed development:

(1) **Conformance with the Town Plan.** Whether applications conform to policies and objectives of the *Charlotte Town Plan,* and do not adversely affect significant natural, cultural or scenic features identified in the town plan, including natural areas, wildlife habitat, productive forests and farmland, surface waters, wetlands, water supplies and aquifers, historic sites, and scenic views or vistas in the vicinity of the proposed development.

(2) **Additional Restrictions.** All conditional uses shall comply with the dimensional, density, siting and associated standards for the district(s) in which the use or development is located, including overlay districts, however the Board may require increased setbacks and buffers, or reduced lot coverage or densities of development to avoid or mitigate adverse impacts to adjoining properties or significant natural, cultural or scenic features in the vicinity of the site.

(3) **Performance Standards.** The Board shall consider whether the proposed development will meet applicable performance standards under Section 3.12, and may impose conditions on the installation, operation, storage or maintenance of devices or materials necessary to meet these standards. In determining appropriate performance standards, the Board may consult with state officials, and consider accepted industry standards. In addition, the Board may limit hours of operation so that the use shall be consistent with the character of the area. Evening or night operations shall be permitted only if noise levels, lighting and traffic will not unreasonably interfere with surrounding uses.

Section 3.12 Performance Standards

(A) The following performance standards must be met and maintained for uses in all districts, except for agriculture and forestry, as measured at the property line. In determining compliance, the burden of proof shall fall on the applicant. The Town or a complainant shall be required to provide reasonable proof if challenging compliance after a permit has been issued. The Planning Commission or Board of Adjustment may require periodic reporting as a permit condition to confirm ongoing compliance. No use, under normal conditions, shall cause or result in:

(1) noise in excess of 70 decibels, or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or within the Commercial/ Light Industrial District, noise in excess of 75 decibels;

(2) clearly apparent vibration which, when transmitted through the ground, is discernable at property lines without the aid of instruments;

(3) smoke, dust, noxious gases, or other forms of air pollution which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

(4) releases of heat, cold, moisture, mist, fog or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;

(5) **electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare, except from facilities which are specifically licensed and regulated through the Federal Communications Commission (FCC).

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(6) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;

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(7) **liquid or solid waste or refuse** which cannot be disposed of by available methods without undue burden to municipal or public disposal facilities, which pollutes surface or ground waters, or which is otherwise detrimental to public health, safety and welfare; or

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(8) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties, or which results in a significantly increased burden on municipal facilities and services.

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