

Town of Charlotte Zoning Board of Adjustment
Application for Conditional Use Review

Findings and Decision

In the matter regarding: Carol Conard, 260 North Shore Road
Application Number: ZBA-14-01

INTRODUCTION & PROCEDURAL HISTORY

On Feb 27, 2014, Carol Conard submitted an application for Conditional Use Review for alteration of an existing structure to the Planning & Zoning Office. The applicant is seeking to change the use of a garage outbuilding to serve as a guestroom with a half bathroom and offset this new bedroom by repurposing a bedroom in the primary structure. The applicant also wants a deck and stairs (already attached to the outbuilding) to be approved as part of this application.

The application was considered by the Zoning Board of Adjustment (ZBA) at a public hearing on Apr 16, 2014. The ZBA reviewed the application under the Charlotte Town Plan, 2013; Charlotte Land Use Regulations, 2010; State of Vermont Wastewater System and Potable Water Supply Rules, 2007; and the Thompson's Point Wastewater System Ordinance, 2001.

During the course of the hearing the following numbered exhibits were entered into the record:

1. A copy of the Town of Charlotte, Wastewater Facilities Record Drawing, Line H Station 20+50 to 31+00 prepared by Trudell Consulting Engineers, date uncertain
2. A copy of a portion of the tax map showing the subject lot
3. A sketch plan of the property prepared by the applicant
4. A proposed interior plan of the outbuilding/garage entitled "Proposed half bath Conard Camp Garage 260 North Shore Road" from the applicant
5. A proposed interior plan of the camp entitled "Camp at 260 North Shore Road" and prepared by applicant
6. A certification letter from the applicant dated February 19, 2014 indicating her intent to keep the occupancy of the lot at 2 bedrooms
7. A picture of "Garage from N. Shore Rd."
8. A picture of the garage "From Williams Property"
9. A picture of "Garage from path to Conard Camp"
10. A picture of "View to Lake from Garage Steps"
11. A list of abutters with addresses

12. An email from Jeannine McCrumb, Planner/Zoning Administrator to Gloria Warden, Zoning Clerk dated Mar 7, 2014 re: Response from J. Akielaszek, VTANR DEC Indirect Discharge Program Manager
13. A more detailed sketch plan of the property including water and sewer lines and pump station locations, not dated
14. A staff report prepared by Jeannine McCrumb, Planner/Zoning Administrator
15. A completed application form

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Zoning Board of Adjustment makes the following findings:

1. The applicant seeks a conditional use permit to alter an outbuilding (garage) by adding a 4'x6' half bathroom and changing the use of a previously finished 12'x16' portion of the building to a sleeping space / guestroom. The subject property is a 0.3 acre parcel located at 260 North Shore Road in the Town of Charlotte (tax map parcel no. 00024-0260).
2. During the site visit and subsequent record of the site visit at the hearing, it was discovered that a small deck (~4'x7') and stairs had been constructed using pressure treated lumber on the west side of the garage in the fall of 2013. A door was also installed on the west side of the garage (served by deck and stairs). The applicant stated that the previous Zoning Administrator was aware of the deck and stairs addition and had indicated a permit was not necessary for the project.
3. The deck and stairs referred to above are considered a structure under Chapter X of the Land Use Regulations and the addition of said structure is considered an alteration under Chapter X of the Land Use Regulations.
4. In an effort to consolidate the number of applications and hearings necessary to bring the subject parcel into compliance and to consider the proposed improvements as submitted, the ZBA offered to allow the applicant to amend the application on the record to include the addition of the already constructed deck and stairs. The applicant concurred with this recommendation and asked that the deck and stairs on the west side of the garage be included in this application and review.
5. The property is located in the Shoreland Seasonal Home Management District as described on the Town of Charlotte Zoning Map on record at the Town of Charlotte municipal office and in Section 2.1 of the Land Use Regulations.

6. Conditional use approval is requested for the project as an alteration as that term is defined in Chapter X of the Land Use Regulations. The application requires review under the following sections of the Town of Charlotte Land Use Regulations:
 - a. Section 2.3 Application of District Standards
 - b. Section 3.8 Nonconforming Uses of Land & Structures
 - c. Section 5.4 Conditional Use Review
7. The garage / storage shed accessory structure is considered a nonconforming structure for the following reasons:
 - a. It is located within 50' of the property line to the south (side setback). Note: the exact location of this boundary line is uncertain; however, given that the overall width of the lot is 100', the Board finds the approximate location sufficient to make this determination. It is also located within 50' of the setback to the right-of-way of North Shore Road (front setback).
 - b. Table 2.7(F)(2) of the Charlotte Land Use Regulations provides for a maximum width, length and height of an accessory structure as 8', 12', and 12', respectively. The garage structure not including the new deck and stairs is 16' wide x 20' long x height unknown.
8. Section 3.8(B)(2) states that a nonconforming structure "may only be structurally modified or moved in a manner that will not increase the degree of noncompliance, unless approved by the Board of Adjustment in association with conditional use review under Section 5.4." The addition of the deck and stairs adds ~4 feet to the length of the structure increasing its degree of noncompliance. This addition may, however, be considered by the Board of Adjustment during this conditional use review.
9. Table 2.7(F)(7) states the following: "The alteration or expansion of an existing principal structure may be approved by the Board of Adjustment subject to conditional use review under Section 5.4, provided that:
 - a. the building footprint which is covered by a roof (including covered porches and decks) does not exceed seven percent (7%) of the area of the leasehold it occupies; and
 - b. the alteration or expansion is not for the purpose of increasing occupancy; and
 - c. the applicant can demonstrate that all municipal and state regulations for sewage disposal are met for each structure altered or expanded including, where applicable, the Thompson's Point Wastewater System Sewer Ordinance."

The garage/shed is not considered a principal structure and as such, does not appear to be subject to the above requirements. Understanding the intent of Table

2.7(F)(7)(b) and (c), and knowing the historical context of sewage disposal in this district, however, the Board will review this information under the General Standards of Section 5.4 Conditional Use Review.

10. The Board finds that the newly constructed deck and stairs seem reasonable given the width of the lot (~100') and the resulting limited locations for improvements to ingress and egress for the accessory structure.
11. Table 2.7(E) Dimensional Standards allows for a maximum building coverage of 7 percent and maximum lot coverage of 10 percent. The current building coverage is 9.2 percent $[(882 \text{ camp} + 320 \text{ garage})/13,068 \text{ lot} * 100]$. The current lot coverage is unknown as the dimensions of the stairs between the camp and the accessory structure were not provided. There is 105 square feet of area remaining on the lot for structures and other man-made improvements such as stairs, walkways, and other impermeable surfaces which prevent the infiltration of stormwater. The area of the previously constructed deck and stairs proposed as part of this application is 44 square feet (Exhibit 4).
12. The Board finds that the outbuilding's use as a guestroom and half bathroom does not meet the definition of an accessory dwelling as defined in the Land Use Regulations
13. Section 5.4 Conditional Use (C) General Standards (1) The capacity of existing or planned community facilities and services, notes that the Board shall consider the demand for existing or planned community facilities and services when reviewing an application.
 - a. The property at 260 North Shore Road is served by the Town of Charlotte's Thompson's Point Wastewater Facility. This facility is subject to an Indirect Discharge Permit [enter permit number] issued by the State of Vermont, Agency of Natural Resources, Department of Environmental Conservation. This permit limits the amount of wastewater that can be treated at the TPWWF based on existing conditions and the design of the system. To insure the long-term viability of this facility, the Town has limited the occupancy (measured through the number of bedrooms) of camp properties, # of buildings, and the number of connections to the system.
 - b. The applicant is proposing to use the existing finished space in the accessory structure (12'x16') as a guest room/sleeping cottage (Exhibit 4). The applicant is also proposing to change the use of one of the bedrooms in the camp (8'x9') to a TV room/playroom (Exhibit 5). By removing one bedroom from the camp and adding a bedroom to the accessory structure, the applicant is certifying that there will be no increase to the occupancy of the camp property (Exhibit 6).
 - c. Wastewater from the new half bath in the accessory structure will exit the building and tie into the 4 inch line of the camp building prior to the pump

station tank (Exhibit 13). No new connection is required based on this design. The project will require a State of Vermont Wastewater System and Potable Water Supply permit and the applicant is working with a consultant to obtain this permit.

14. Section 5.4 Conditional Use (C) General Standards (4) Bylaws in Effect states that the Board shall determine whether the proposed project conforms to other municipal bylaws and ordinances in effect at the time of application.
 - a. The property is subject to the Thompson's Point Wastewater System Ordinance, 2001. Per the ordinance, 260 North Shore Road (Lot 154) is allotted one connection.
 - b. Completion of the project would result in the coverage of two buildings on this lot; however, there would be no increase in occupancy and no additional connection to the system.

DECISION AND CONDITIONS

Based upon these findings, the Zoning Board of Adjustment approves the application with the following conditions:

1. As stipulated in Table 2.7(6), no construction activity shall occur between July 1 and Labor Day.
2. In order to help prevent the leeching of chemicals from the pressure treated lumber (used in the outbuilding stairs), and in order for this structure to better blend into the character of the neighborhood, the stairs shall be sealed with an opaque stain or paint sealer of a color consistent with other colors used on the primary camp structure or outbuilding.
3. To comply with the dimensional standards of the Shoreland Seasonal Home Management District:
 - a. No more than 105 square feet of additional lot coverage (not including buildings) is permitted.
 - b. Prior to the issuance of a zoning permit, the applicant shall provide an as-built drawing of all existing and proposed structures and other man-made improvements including decks, stairs and improved walkways which will be used to certify adherence to condition 2.a. above.
4. Erosion control measures are to be taken as needed before, during and after the work is completed and will remain in place until stabilization has taken place. Any construction or demolition debris will not be stored on-site for more than 30-days

and shall be removed from site and disposed of appropriately prior to completion of the project.

5. The outbuilding with guestroom and half bathroom portion of this application is being approved as an alteration and modified use of an Accessory Structure. It is not being approved as an Accessory Dwelling.
6. To avoid undue adverse impact on existing or planned community facilities:
 - a. There shall be no additional occupancy (measured as no more than 2 bedrooms) of the camp property. In order to ensure the conversion of the current bedroom to a TV room/playroom as intended, the outbuilding bathroom septic connection may not be made until the Zoning Administrator certifies that the current door and door jamb to said room has been removed and replaced by an open frame without mortises for door hinges. A temporary child or pet gate may be used, but no other gate, door or curtain may subsequently be used in the entryway of this room.
 - b. No food preparation or food storage facilities or appliances are allowed in the outbuilding.
 - c. There shall be no additional direct connections to the Thompson's Point Wastewater Treatment System.
 - d. The applicant shall obtain a State of Vermont Wastewater System and Potable Supply permit. Furthermore, this project must comply with all state and municipal septic/wastewater rules and regulations and determined to be in compliance with the Thompson's Point Wastewater System Sewer Ordinance by the Zoning Administrator.

Vote: 4 in favor, 0 opposed, 1 abstained

Dated at Charlotte, Vermont, this 28th day of May, 2014.



Benjamin Pualwan, Chairman

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.