

## ZONING BOARD OF ADJUSTMENT

**In Re: Conditional Use Review of 690 Flat Rock Road**

**ZBA-15-04**

### OPINION

#### **I. Introduction and Issues Presented**

On August 10, 2015, Arthur and Cynthia Curtis submitted an application for Conditional Use review to expand an existing set of stairs, which extend from North Shore Road to their camp. The applicants also wish to add a railing to the existing stone steps that are used to enter the cabin. The applicants assigned their contractor, Stephen Rose, as their designated co-applicant. The camp is located at 690 North Shore Road. Public notice of the application was achieved by distributing the notice of hearing via The Citizen on August 20, 2015; posting the notice of hearing at the Town Hall, The Brick Store and Spear Street Store; and mailing a notice of the hearing to adjoining property owners. Notices were mailed to Donald Harrington (00024-0660), Mathew Baker (00024-0650) and Deidre Joyce (00025-0730).

The application was considered by the Zoning Board of Adjustment at a public hearing on September 9, 2015. The Zoning Board reviewed the application under the Charlotte Town Plan, 2013 and the Charlotte Land Use Regulations, 2010. Present at the hearing were the following members of the ZBA: Frank Tenney, Chair; Andrew Swayze, Vice Chair; Jonathan Fisher; and Stuart Bennett.

#### **II. Site Visit**

A site visit was conducted at the property on September 9, 2015. The following people were present: Frank Tenney, Jonathan Fisher, Stuart Bennett, Andrew Swayze, and Stephen Rose.

#### **III. Hearing Attendance**

The following participated in the hearing: Stephen Rose, the designated co-applicant.

#### **IV. Evidence**

During the course of the hearing, sworn testimony was taken from Stephen Rose, and the following exhibits were entered into the record:

- A completed conditional use application form, submitted August 10, 2015
- Building lot and lot coverage calculations
- Site plan depicting stair location and distance from property lines

- A letter from the co-lessees approving the application

**V. Findings of Fact**

1. Arthur and Cynthia Curtis are the leaseholders of Thompson's Point Lot #173 located at 690 North Shore Road. The lot is owned by the Town of Charlotte. The leaseholders have authorized Stephen Rose to represent them in this application.
2. Thompson Point Lots 172 and 173 are considered one lot. The State determined that lots 172 & 173 were not legally subdivided, and therefore, could not be leased as two separate lots. To circumvent this issue, the town has the owners of lots 172 and 173 as co-lessees of the two lots.
3. The applicant has provided setback distances and lot coverage for both the single lot and the combined leasehold.
4. The co-lessee, Donald Harrington, has submitted a letter in support of the application.
5. The parcel is located in the Seasonal Home Management District.
6. The applicant proposes to add 197 square feet of stairs to an existing set of stairs that are used to access the camp from North Shore Road. The existing and proposed stairs will be raised on piers. Three landings between the additional stair sections will be added.
7. The applicant submitted photographs depicting the approximate location and size of the proposed stair addition.
8. The existing and proposed stairs do not conform to the 50ft setbacks required in the Seasonal Home Management District. The proposed addition to the stairs will begin 25ft from North Shore Road. The Road Commissioner, Hugh Lewis Jr., confirmed that this would not impact road maintenance.
9. Permission to submit the application to the Zoning Board of Adjustment was granted by the Selectboard on August 10, 2015.
10. The applicants contacted the State Shoreline Permit Division and were advised that the project did not require a state permit or registration.

**VI. Conclusions of Law**

This application must comply with Table 2.7 and Sections 3.8, 3.12, and 5.4. The provisions of these tables and sections not specifically addressed below are either

inapplicable to this application or were unnecessary for the Zoning Board to reach its decision.

Table 2.7 Seasonal Shoreland Management District:

**Setbacks.** Stairs are considered an accessory structure as defined in Chapter X of the Charlotte Land Use Regulations. Accessory structures are considered a Conditional Use per Table 2.7 (D)(1). The current stairs do not meet the 50ft required side setback on the south west side (they are currently approximately 45ft from the property line). The existing and proposed stairs are located approximately 135ft from the north east boundary of the combined leasehold. The setback from the stairs to the road is proposed to be reduced to 25ft. The Road Commissioner, Hugh Lewis Jr., reviewed the application and determined that the infringement on the road setback will have no negative impact from a road maintenance perspective. The existing setback from the lake is not being reduced, as the stair addition will stop approximately 17ft from the front of the cabin. There are no proposed changes to the lake side of the camp.

**Lot Coverage.** The addition of the 197 square feet of stairs will bring the lot coverage of the combined leasehold up to approximately 9%, which is just shy of the 10% allowed in the Seasonal Home Management District. It is noteworthy that the State Shoreland Division did not consider adding the stairs over an existing footpath as an increase in impermeable surface.

Section 3.8 Existing Non-Conforming Structures

Non-conforming structures may only be modified or moved in a manner that will not increase the degree of non-compliance, unless approved by the Board of Adjustment in association with this Conditional Use review process.

Section 3.12 Performance Standards

The Zoning Board has reviewed the application under the performance standards described in Section 3.12 and has determined that the project will not violate any of these standards.

Section 5.4 Conditional Use Review

The Zoning Board has reviewed the application under the Conditional Use Standards prescribed in Section 5.4 and has determined that the project will not violate any of these standards.

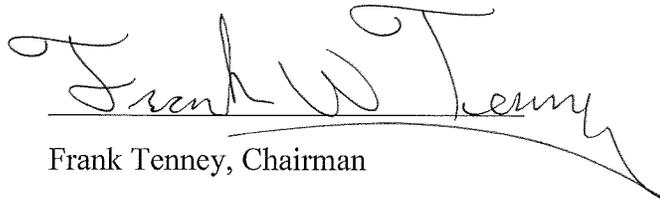
**VII. Decision**

**Subject to the conditions set forth below**, the Zoning Board of Adjustment **approves** this application as documented in the building plans and presented to the Board.

1. The proposed stair addition shall be no closer to the edge of North Shore Road than 25ft.
2. When applying for the building permit, the applicant shall submit a plan showing the design of the metal railing that is proposed for the existing stone portion of the stairs. The railing shall be painted in an earth tone to match the natural environment.
3. The stair addition shall be stained or painted to match the existing stairs and the natural surroundings.
4. Pursuant to Section 2.7(F)(6) no construction activity shall occur between July 1st and Labor Day.
5. Pursuant to Section 2.7 (F)(4), there shall be no cutting of the trees or shrub without the consent of the Charlotte Tree Warden.
6. Pursuant to Section 9.9(E)(5) this approval shall expire two years from the date of issuance if development has not commenced within that time.
7. It is the applicant's responsibility to adhere to all local and State regulations, including, but not limited to, the Vermont Shoreland Protection Act.

**Vote: 4 Ayes; 1 Abstention**

Dated at Charlotte, Vermont, this 15<sup>th</sup> day of September, 2015.



Frank Tenney, 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.*