

**TOWN OF CHARLOTTE  
ZONING BOARD OF ADJUSTMENT**

**In Re: Conditional Use Review of 2668 Thompson's Point Road**

**ZBA-15-13**

**OPINION**

**I. Introduction and Issues Presented**

On November 16, 2015 Steven Schenker, on behalf of John Illick Jr., submitted an application for Conditional Use review for a proposed expansion of an existing gazebo on Thompson's Point. The property is located at 2668 Thompson's Point Road. Public notice of the application was achieved by distributing the notice of hearing via The Citizen on November 9, 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 1) Stanley Monk (00037-2654) and BCS Real Estate Holdings Inc., (00037-2696).

The application was considered by the Zoning Board of Adjustment (ZBA) at a public hearing on December 9, 2015. The ZBA reviewed the application under the Charlotte Town Plan, 2013; Charlotte Land Use Regulations, 2010; and the Thompson's Point Wastewater System Ordinance, 2001. Present at the hearing were the following members of the ZBA: Frank Tenney, Chair; Andrew Swayze, Vice Chair; Jonathan Fisher, and Mathew Zucker.

**II. Evidence**

During the course of the hearing sworn testimony was taken from Steven Schenker and the following exhibits were entered into the record:

- A completed conditional use application form, dated November 5, 2015.
- A set of building plans (S2, S3, & S4).
- Approved Shoreland Project Registration, effective 10/28/2015.
- Email from Steven Schenker confirming that Mark Dillenbeck (Deputy Tree Warden) approved the removal of four trees located the proposed footprint of expanded gazebo.

**III. Findings of Fact**

1. The property is located at 2668 Thompson's Point Road (M42B50L27 on the Charlotte Tax Map) and is leased by Edith Illick and John Illick Jr.

2. The property is sited in the Shoreland Seasonal Home Management District.
3. The Applicants are proposing to remove the existing 10' x 10' gazebo and replace it with a 14'-6"x14'-6" gazebo. The proposed gazebo will have a 12" overhang to match the existing overhang.
4. The existing gazebo is setback 23' from the lake. As per the State Registration Approval, the new gazebo will be setback 25' from the lake.
5. Four trees located in the proposed footprint will be removed. The trees were reviewed by the Deputy Tree Warden and approved for removal.
6. The Applicants will remove 98 square foot of driveway area to offset the increase in building lot coverage. The total lot coverage will remain at 10%.
7. The proposed gazebo will be approximately 11'-6" to the ridge.
8. The Applicant's received Zoning Board approval to complete extensive alterations to the principal structure on January 21, 2015.

#### **IV. Conclusions of Law**

##### Table 2.7 Shoreland Seasonal Home Management District

The proposed gazebo reconstruction/expansion will result in a 2ft increase in the existing lake setback of the structure. The eastern setback will be decreased slightly by the expansion of the gazebo, but will still conform to the 50' setback requirements of the district. The height of the gazebo will increase slightly, from 10'-6" to 11'-6", but will still fall well below the 30ft height maximum for the district.

##### Section 3.12 Performance Standards:

The Zoning Board of Adjustment has reviewed the application under Performance Standards described in Section 3.12 and has determined that the project would not violate any of these standards.

##### Section 5.4 Conditional Use Review:

The Zoning Board of Adjustment has reviewed the application under the five criteria provided in Section 5.4 and finds that the Applicant's proposal conforms to these standards.

**V. Decision**

Subject to the conditions set forth below, the Zoning Board of Adjustment **approves** this application as documented in the building plans (S2, S3 & S4) and presented to the Board.

1. The proposed gazebo shall be constructed of materials similar in style and color of the existing gazebo (i.e. dark colored shingle roof and gray/ white exterior).
2. No construction shall take place between July 1<sup>st</sup> and Labor Day.
3. Pursuant to Section 3.1(B), immediately following any demolition, all materials shall be disposed of according to the Chittenden Solid Waste District Standards, the site shall be restored to a normal grade, and ground cover shall be established, sufficient to prevent erosion.
4. There shall be no cutting of trees or shrubs without the consent of the Town of Charlotte Tree Warden.
5. Use of heavy equipment shall be limited to driveway areas so as to not damage natural vegetation unless first receiving written approval from the Town of Charlotte Tree Warden.
6. 98ft of impermeable driveway surface shall be removed and converted back to vegetation to offset the additions to the building lot coverage.
7. The reconstructed gazebo shall be no closer to the lake than 25', as measured from the average natural grade.
8. 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 Absent.**

Dated at Charlotte, Vermont, this <sup>23<sup>rd</sup></sup> day of December, 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.*

