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Attest [Signature] Town Clerk

Town of Charlotte
Zoning Board of Adjustment

In Re: ZBA-16-127-CU Conditional Use Review for Proutt-Finney-Turtle Moon, LLC for the construction of a seawall intended to control erosion and preserve trees at the property's lake shoreline located at 350 Turtle Moon Road, in the Town of Charlotte (M36B50L13).

I. Introduction and Procedural History

On August 22, 2016, Charlie Proutt of Distinctive Landscaping, Inc., on the behalf of Turtle Moon, LLC (the property owner) submitted an application for conditional use review for the installation of a 159' long by 2' wide seawall along the lake shoreline of the property. The seawall will be constructed out of Pantan Stone Block with a concrete leveling base. The property is located within the Shoreland District on Turtle Moon Road.

Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper for the week of September 5th; and by posting hardcopies of the notice at the Town Office, the Old Brick Store, and Spear's Corner Store on September 2, 2016. Further notification was issued to the adjoining property owners regarding the public hearing by direct correspondence at least 15 days prior to the public hearing held on September 28 at the Town offices at 159 Ferry Road in the Town of Charlotte.

The application was considered by the Zoning Board of Adjustment (ZBA) at the public hearing held on September 28, after a site visit to the property was conducted beforehand at 6pm. Present at the visit were the following members of the ZBA; Jonathan Fisher, Stuart Bennett, and Frank Tenney (Chair), David Finney (Owner of Turtle Moon, LLC), Charlie Proutt of Distinctive Landscaping (Property owner representative), Elizabeth Proutt (Assistant representative), and Daryl Benoit (Charlotte Town staff) were also present during the visit.

The ZBA reviewed the application under the Charlotte Land Use Regulations, 2016. Application materials included; a signed application form, application fee, list of adjoining property owners, an overall site plan for property.

All application materials relevant to the project are posted on the Town of Charlotte Planning & Zoning Office website at the following link: <http://bit.do/cwtjZ>.

II. Standard of Review

The application requires review under the following sections of the Land Use Regulations for the Town of Charlotte (Approved March 1, 2016):

1. Chapter II, Section 2.3, Table 2.6(F)(6) – Application of District Standards; Shoreland District (SHR); District Standards
2. Chapter III, Section 3.15 (G) Lakeshore Buffers

III. Findings

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

1. The applicant seeks conditional use approval for the installation of a 159' long by 2' wide seawall along the lake shoreline of the property located at 350 Turtle Moon Road.
2. The applicant may need to remove one tree to accomplish the project. Wherever the applicant intends to do so, they have agreed to contact the Zoning Administrator for review and approval. The Zoning Administrator shall consult with the Town Tree Warden.
3. The back fill sections behind the wall will be composed of a layer of shot fill, which is shall be covered by filter fabric that is then covered by a layer of top soil intended to cover the currently exposed tree roots.
4. The wall's drainage will be left exposed so that high water level waves would wash out under the wall.
5. The wall would stand one block high above the currently known high water mark of 102.8'.
6. The seawall shall be built with a Pantan stone, which is structurally and aesthetically compatible to that of the neighboring seawall to the south of property and uses colors that blend into the background from the viewshed of the lake.
7. The existing wooden stairs shall be replaced by Pantan stone stairs within the same location and indented into the seawall.
8. The lakeshore setback will remain unchanged after completion of the proposed project.

IV. Conclusions of Law

1. **Chapter II, Section 2.3, Table 2.6 (F)(6)** requires the following standards:
Shoreline improvements are exempt from shoreline setback requirements, but shall be sited and designed to avoid wetlands, designated wildlife habitat, and other sensitive shoreline features; shall minimize surface runoff, channeling and soil erosion; and shall avoid adverse impacts and obstructions to adjoining shoreland areas.
2. **Chapter III, Section 3.15 (G) Lakeshore Buffers** states: *"A vegetative buffer zone shall be maintained within 100 feet of the shoreline of Lake Champlain in order to minimize runoff and pollution, and to maintain bank stability and environmental quality. Within 100 feet of the shoreline, the following shall apply."*
 - (1) There shall be no cutting or removal of trees or shrubs except with administrative review and approval by the Zoning Administrator such review will determine whether the proposed cutting or removal is in conformation with any approved wildlife habitat plan or shoreland management plan.

- (2) Limited pruning of branches of trees and shrubs is allowed to maintain cleared openings or views legally in existence as of the effective date of these regulations, such views or opening should not be enlarged except herein.
- (3) Nothing in this section shall prohibit the cutting and removal of storm-damaged, diseased or dead trees which pose a hazard as determined by the Zoning Administrator
- (4) There shall be no dredging, draining or filling of land along the shoreline, or in wetland areas, and no cutting or removal of wetland vegetation shall be permitted, except in conformance with a shoreland management plan approved by the Board of Adjustment.

V. Decision and Conditions

Subject to the conditions set forth below, the Zoning Board of Adjustment **approves** Proutt-Finney-Turtle Moon, LLC application ([ZBA-16-127-CU](#)) for the construction of a seawall intended to control erosion and preserve trees at the property's lake shoreline located at 350 Turtle Moon Road as documented in the site plans and presented to the Board.

1. Construction of this project shall be completed in accordance with the site plan sheets submitted by Distinctive Landscaping Inc.
2. The proposed backfill shall be seeded and planted in accordance with a landscaping plan approved by the State Shoreland Division in association with the Vermont Shoreland Permit.
3. Erosion control measures are to be taken before, during, and after the work is completed.
4. It is the Applicant's responsibility to adhere to all local and State regulations, including, but not limited to, the DEC Shoreland Permit, the Vermont Shoreland Protection Act, and to Chapter III, Section 3.15 (G) Lakeshore Buffers and Chapter II, Section 2.3, Table 2.6 (F)(6) of the Charlotte Land Use Regulations.
5. All evidence of machinery travel to and from the lakeshore related to this application shall be removed so that the lakeshore shall be restored to its pre-construction condition.
6. The applicant may need to remove one tree to accomplish the project. Wherever the applicant intends to do so, they have agreed to contact the Zoning Administrator for review and approval. The Zoning Administrator shall consult with the Town Tree Warden.
7. The back fill sections behind the wall shall be composed of a layer of shot fill, which shall be covered by filter fabric that is then covered by a layer of top soil intended to cover the currently exposed tree roots.
8. The wall's drainage shall be left exposed so that high water level waves would wash out under the wall.

9. The top wall elevation will align approximately with the top of the existing shoreline @ 105+/- as specified in the DEC Shoreland Permit.
10. The seawall shall be built with a Panton stone, which is structurally and aesthetically compatible to that of the neighboring seawall to the south of property and uses colors that blend into the background from the viewshed of the lake.
11. The existing wooden stairs shall be replaced by Panton stone stairs within the same location and indented into the seawall.
12. The lakeshore setback will remain unchanged after completion of the proposed project.

Vote: 4 Yeas. 1 Absent.

Dated at Charlotte, Vermont this 21st day of Oct, 2016.



Frank Tenney, Chairman

This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the latest date of signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Additional Regulations and Permitting

The owner and his/her representatives shall abide by the practices in the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control (2006) as necessary to ensure that sediment and sediment laden water does not leave the project parcel. Contact 802.540.1748 for a hard copy or you may visit: <http://dec.vermont.gov/watershed/stormwater>.

There may be additional State of Vermont and / or federal permits or approvals needed for the proposed development or use. The applicant may contact the Agency of Natural Resources Permit Specialist at 802.477.2241 for further information.