

This 5th day of July A.D. 20 17
 at 1 o'clock 2 minutes 0 m and
 recorded in vol. 229 on page 211-214
 Attest [Signature] Town Clerk

Town of Charlotte
 Zoning Board of Adjustment

In Re: ZBA-16-150-CU Conditional Use Review for Robbie and Susan Hall to expand a deck on a pre-existing nonconforming structure that is within the setback area located at 4206 Mt. Philo Road within the Rural District in the Town of Charlotte (M09B02L13).

I. Introduction and Procedural History

On October 13, 2016, Robbie Hall (one of the property owners) submitted an application for conditional use review to construct a wrap-around deck that would connect their existing screened porch on the back of their house to an existing deck on the southern side of their house.

The site visit to the property and the first public hearing were conducted on November 16, 2016. During the proceedings it was determined that the hearing would need to be continued on November 30, 2016 due to the absence of an adequate survey or any found monumentation necessary to determine the true property lines, which would be required to determine setbacks to the house. During the November 30th meeting the hearing was continued until February 15, 2017 where it was again continued until May 24, 2017. At this meeting the applicant proposed a revised design of the deck.

The site visit of November 16, 2016 was attended by the following members of the Zoning Board of Adjustment (ZBA); Frank Tenney (Chair), Stuart Bennett, Matt Zucker, and Jonathan Fisher. Property owners Robbie and Susan Hall and the ZBA staffer Daryl Benoit were also present. The application was considered by the ZBA at 7:30pm at their public hearing after the site visit. Present at that hearing were Frank Tenney (Chair), Stuart Bennett, Matt Zucker, Jonathan Fisher, and Andrew Swayze. Present at the May 24, 2017 public hearing were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, and Stuart Bennett. Property owners Robbie and Susan Hall, and ZBA staffer Daryl Benoit were present during both public hearings.

Public notification was originally accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper on November 3, 2017; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on October 28, 2016. Further notification was issued to the adjoining property owners by direct correspondence on the same date. Both of the aforementioned public hearings that addressed the project were held at the Town offices at 159 Ferry Road in the Town of Charlotte.

The ZBA reviewed the application under the Charlotte Land Use Regulations, 2016. Application materials included a signed application form; an application fee; and a set of penciled floor plans and a side elevation drawn by the applicant.

II. Exhibits

The following exhibits were utilized for the decision:

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1. Zoning Board of Adjustment minutes from meetings held on November 16, 2016 and on May 24, 2017
2. Revised plan for the R.Hall Deck Project (dated May 10, 2017), Attachment 1 (Rev A); Submitted by the applicant for the May 24, 2017 Zoning Board of Adjustment meeting.
3. Charlotte Land Records – *Volume 107, Page 64* (May 26, 1999) Utility easement; *Volume 63, Page 546-47* (September 28, 1990) Conveyance to Robbie & Susan Hall; *Volume 32, Page 16* (June 8, 1972) Reference to deed & survey in Volume 30, and right-of-way of July 31, 1967; *Volume 30, Page 19-A* (May 8, 1968) Partial survey of the property.
4. 2017 Lister File for 4206 Mt. Philo Road.

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 2.5(E) – Application of District Standards; Rural District (RUR); Dimensional Standards
2. Chapter III, Section 3.8 (B)(2) – Nonconforming Structures
3. Chapter III, Section 3.9 (B) - Outdoor Lighting; General Standards
4. Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards
5. Chapter V, Section 5.4 (D) – Specific Review Standards

III. Findings

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

1. The applicant originally sought conditional use approval to construct a 984 sq. ft. wrap-around deck that would connect the existing screened porch on the back of their house to an existing 80 sq. ft. deck on the southern side of the house.
2. The proposed improvement would occur within the 50 ft. setback area of 4206 Mt. Philo Road within the **Rural District (RUR)**, which triggers a Conditional Use review. However, the project may overshoot the property line (on to the abutting Wheeler property to the west) according to the unsurveyed Charlotte tax maps.
3. Since the November 16, 2016 public hearing, the applicants had not obtained a full survey for the property, nor found any monumentation demarking for the western property line.
4. The proposed project was revised to be a 280' square foot deck to be constructed only along the southern side of the house, which would enlarge the current 8'x10' side deck (see Exhibit 2 above). The proposed deck enhancement would include a 3' high railing with lattice work, but does not propose to add a roof to the structure.
5. The house was built in 1972. The 256 square foot deck on the rear of the house was converted into enclosed porch in 1995. A second story and an 8'x10' side deck were

added in 1999. The current house is listed as a 3 bedroom, 2,456 square foot structure with an attached 576 square foot garage.

IV. Conclusions of Law

1. **Chapter II, Section 2.3, Table 2.5 – Rural District (E)** requires the following dimensional standards:
 - a. Minimum Side/Rear/Front Setback: 50':
The proposed improvement does not conform to the rear setback requirements of the *Rural District (RUR)* district standard.
 - b. Maximum Height 30' (Section 3.5):
The proposed improvement does not propose to increase the height of the structure.
 - c. Maximum Building Coverage: 20% and Maximum Lot Coverage: 30%:
The existing coverage is 0.058 acres (including the house & the side deck), or 2.29% of the ~2 acre property. The proposed project would increase the building coverage an additional 280 square feet (0.0064 acres) for a total of 0.0644 acres or 3.22% of the ~2 acre property. Both the Building and Lot Coverage would conform to the district standard.
2. **Chapter III, Section 3.8 (B)(2) – Nonconforming Structures**
The proposed improvement would increase the footprint of the structure within the 50' setback of the property and therefore increases the degree of noncompliance.
3. **Chapter III, Section 3.9 (B) – Outdoor Lighting; General Standards** require the following:
 - a. All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood in which it is located.
 - b. Permanent outdoor lighting fixtures shall be designed to minimize glare, and shall not direct light upward or onto adjacent properties, roads, or public waters, or result in excessive lighting levels that are uncharacteristic of the surrounding neighborhood or area.
4. **Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards** stipulates that a proposed conditional use shall not result in an undue adverse effect on any of the following:
 - a. The capacity of existing or planned community facilities and services:
 - There is no known undue adverse effect.
 - b. Character of the area affected:
 - The style of the proposed structural alterations are within the character of neighborhood.
 - c. Traffic on roads and highways in the vicinity:
 - There is no known undue adverse effect.
 - d. Bylaws in effect:

- There are no known non-conformance issues with other Town Bylaws.
- e. The use of renewable energy resources;
 - There is no undue adverse effect on renewable energy resources.

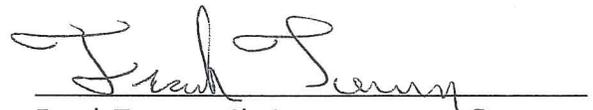
V. Decision and Conditions

Motion to approve Hall application as revised on May 24, 2017 (see Finding 4 above; ZBA-16-150-CU) subject to the following conditions:

1. The proposed deck shall not be enclosed.
2. The proposed deck (as revised) shall not exceed 280 square feet (plus 80 square feet of the existing deck).
3. Any permanent outdoor lighting fixtures shall be downward-shielded and will not direct light upward or onto adjacent properties.

Vote: 4 Ayes. 1 Absent.

Dated at Charlotte, Vermont this 5th day of July, 2017.



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.