

**Town of Charlotte
Zoning Board of Adjustment**

In Re: 16-23-CU Conditional Use Review for John & Pamela Kerr for expansion of a nonconforming structure at 2706 Dorset Street

I. Introduction and Procedural History

On February 17, 2016, John and Pamela Kerr, submitted an application for conditional use review for the addition of a sunporch to their dwelling. The dwelling is located at 2706 Dorset Street in the Rural Zoning District. Public notice of the application was achieved by posting of the notice at The Brick Store, Town Hall and Spear Street Store on March 17, 2016; mailing to adjoining property owners on March 25, 2016; and publishing in The Citizen on March 24, 2016¹. Notices were mailed to the applicant, Gardner (00013-2678), Davis (00250-0250), Spell (00003-3027) and Carroll (00013-2725).

The application was considered by the Zoning Board of Adjustment (ZBA) on April 6, 2016. A site visit to the property occurred before the hearing. Present at the hearing(s) were the following members of the ZBA: Frank Tenney, Chair; Andrew Swayze; and Stuart Bennett. Property owners John and Pamela Kerr participated in the hearing as did their neighbor Jon Davis.

The ZBA reviewed the application under the Charlotte Town Plan, 2016 and the Charlotte Land Use Regulations, 2016. Application materials included a signed application form; list of adjoining property owners; an undated sketch plan; and an application fee.

During the course of the hearing(s) the following exhibits were submitted to the ZBA:

- Sketch plan of Jonathan Davis' property
- Letter of support from Jonathan Davis dated April 6, 2016

These exhibits are available at the Charlotte Planning & Zoning Office.

II. Findings

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

- a. The applicant seeks conditional use approval to add a 12'x14' sunporch to the western side of the dwelling. The sunporch will be constructed over an existing raised patio. The subject property is a 2.2-acre parcel located at 2706 Dorset Street in the Town of Charlotte (M06B02L21).
- b. The property is located in the Rural District as described on the Town of Charlotte Zoning Map and in the Town of Charlotte Land Use Regulations, 2016.

¹ Due to a publishing error, the initial request for legal notice was not advertised March 17, 2016. A subsequent notice was published on March 24, 2016 and there were no concerns raised during the hearing.

- c. Conditional use approval is requested for the project as a nonconforming structure as that term is defined in Chapter X of the Land Use Regulations. The application requires review under the following sections of the Regulations:
 - Section 2.3 / Table 2.5 Rural District
 - Section 3.8(B)(2) – Nonconforming structures
 - Section 5.4 (C) Conditional Use Review General Standards
 - Section 5.4 (D) Conditional Use Review Specific Standards
- d. Chapter II, Section 2.3, Table 2.5 (E) requires a minimum rear setback of 50 feet. Portions of the existing dwelling and all of the patio are within the rear setback. The newly proposed sunporch will be located entirely within the rear setback area and will be 36 feet from the rear property line.
- e. Chapter III, Section 3.8(B)(2) allows for the structural modification and / or movement of a nonconforming structure subject to approval by the ZBA in association with conditional use review under Section 5.4 of the Regulations.
- f. Chapter V, Section 5.4 (C) stipulates that a proposed conditional use shall not result in an undue adverse effect on any of the following:
 - i. The capacity of existing or planned community facilities and services.
 - ii. Character of the area affected.
 - iii. Traffic on roads and highways in the vicinity.
 - iv. Bylaws in effect.
 - v. The use of renewable energy resources.
- g. Chapter V, Section 5.4 (D) states that the Board may consider the following and impose conditions as appropriate to reduce or mitigate any adverse impacts from the proposed development:
 - i. Conformance with the Town Plan.
 - ii. Additional restrictions – for example, increased buffers and setbacks or reduced lot coverage, to avoid or mitigate impacts to adjoining property owners or significant natural, cultural or scenic features in the vicinity of a project.
 - iii. Performance Standards (Section 3.12) – noise; vibration; smoke, dust, noxious gases or other forms of air pollution; releases of heat, cold, moisture, mist, fog or condensation; electromagnetic disturbances or electronic transmissions or signals; glare, lumen, light or reflection; liquid or solid waste or refuse; or undue fire, safety, explosive, radioactive emission or other hazard.

III. Conclusions of Law

The proposed development meets the requirements of Sections 2.3 / Table 2.5 Rural District (excepting nonconformance), 3.8(B)(2) – Nonconforming structures, 5.4 (C) Conditional Use Review General Standards and Section 5.4 (D) Conditional Use Review Specific Standards.

- a. The project will not result in the need for additional facilities or services as it will not increase the occupancy of the dwelling.
- b. The project will not have an adverse impact on the character of the area. The new sunporch will be in the same location as an existing outdoor patio and will be similar

- in design to the existing house – it will be a single story with a roof pitch similar to that of the existing dwelling and it will be lower in height than the existing dwelling.
- c. The project will not result in additional traffic as it will not increase the occupancy of the dwelling.
 - d. The project is in conformance with municipal bylaws and ordinances currently in effect.
 - e. The project does not interfere with the sustainable use of renewable energy resources on the applicant's parcel or on adjoining parcels. The project will incorporate passive solar design with minimal obstructions to the south and west.
 - f. The project is in conformance with the Town Plan.
 - g. The project will not impact significant natural, cultural or scenic features and thus, no additional restrictions are required.
 - h. The use of the property for a single-family dwelling will not change and thus, consideration of the performance standards is unnecessary for this project.

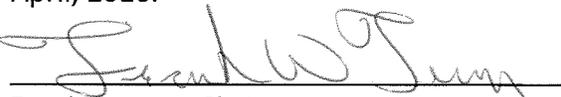
IV. Decision and Conditions

Based on the foregoing Findings of Fact and Conclusions, the Zoning Board of Adjustment approves the application for expansion of a nonconforming structure at 2706 Dorset Street subject to the following conditions:

- a. Pursuant to Section 3.1(B), immediately following demolition, all materials shall be disposed of according to solid waste district standards.
- b. Outdoor lighting shall be kept to a minimum and permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties – cutoff fixtures are recommended as per Section 3.9 of the Regulations.
- c. 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 go to the web: http://vtwaterquality.org/stormwater/htm/sw_cgp.htm.
- d. There may be State of Vermont and / or federal permits or approvals needed for the proposed development or use. Please contact the Agency of Natural Resources Permit Specialist at 802-477-2241 for more information.

Vote: 3 Ayes. 2 Absent.

Dated at Charlotte, Vermont this 19th day of April, 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.

