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 Attest [Signature] Town Clerk

**Town of Charlotte  
Zoning Board of Adjustment**

**In Re: ZBA-17-09-CU Conditional Use Review for Ruth Defreest and Richard Tonino for the alteration of an existing structure at 1060 North Shore Road.**

**I. Introduction and Procedural History**

On January 23, 2017, Ruth Defreest and Richard Tonino submitted an application for conditional use review to undertake renovations on their camp at Thompson's Point that include the replacement of a dormer on the western side of the house, and the installation of a dormer on the eastern side. The project property is located at 1060 North Shore Road in the Shoreland Seasonal Home Management (SHM) Zoning District.

Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper for the week of February 2, 2017; and by posting hardcopies of the notice at the Town Offices, the Brick Store, and Spear's Corner Store on during that week. Further notification was issued to the adjoining property owners and the applicant by direct correspondence at least 15 days prior to the public hearing scheduled for March 22, 2017 at 7:00 PM at the Town Offices at 159 Ferry Road in the Town of Charlotte, Vermont.

The Thompson's Point Design Review Committee (DRC) met at 9:00 AM on Saturday, February 4, 2017 at 1060 North Shore Road. Present at the meeting were Robin Coleburn, Jane Kiley, Robin Pierce, and the applicants Richard Tonino and Ruth Defreest. The Committee's report (dated February 5, 2017) indicated approval of the application.

A site visit to the property was conducted February 22, 2017 at 6:00 PM. Present at the visit were the following members of the Zoning Board of Adjustment (ZBA); Frank Tenney (Chair) and Stuart Bennett, as well as the applicants Ruth Defreest and Richard Tonino.

The application was considered by the ZBA on March 22, 2017. Present at the hearing(s) were the following members of the ZBA: Frank Tenney (Chair), Jonathan Fisher, Stuart Bennett, and Andrew Swayze. The applicant Ruth Defreest was present during the hearing. The ZBA reviewed the application under the Charlotte Land Use Regulations, 2016. Application materials included a signed application form, a set of elevation plans and photo mockups of the proposed improvements, site maps of structures upon the property, and an application fee.

**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 2.7 – Application of District Standards; Shoreland Seasonal Home Management (SHM)
2. Chapter III, Section 3.8 (B)(2) Nonconforming Structures
3. Chapter III, Section 3.9 (B) Outdoor Lighting; General Standards
4. Chapter III, Section 3.12 (A) Performance Standards
5. Chapter III, Section 3.15 (G) Lakeshore Buffers

6. Chapter V, Section 5.4 (C) General Standards

**III. Findings**

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

The applicant seeks to undertake renovations that increase the volume within the setback area on a structure within the *Shoreland Seasonal Home Management (SHM)*, which triggers a Conditional Use review.

**Chapter II, Section 2.3, Table 2.7 (E) Dimensional Standards:**

1. Minimum Side/Rear/Front/Shore Setback: 50':

The proposed project does not conform to the **SHM District** standards because it falls within the 50' setback area of the abutting property to the northeast and the road frontage to the southeast. The primary structure has;

- \* ~70' Frontage/Shore setback (to the northwest),
- \* ~40' Frontage/Road setback (to the southeast),
- \* ~40' Side setback from the adjacent lot to the northeast,
- \* ~110' Side setback from the adjacent lot to the southwest

2. Maximum Height 30' (Section 3.5):

The current height of the primary structure has been stated by the applicant to be 12'. The Town has no records of the building height. The height of the proposed dormers would not exceed the maximum building height and would therefore conform to the district standard.

3. Maximum Building Coverage (20%) / Lot Coverage (30%):

The existing coverage on the property includes an 864 sq. ft. garage and a 1,282 sq. ft. house, which is comprised of the primary camp structure (876 sq. ft.), a large open deck (370 sq. ft.), a small porch (36 sq. ft.). The total building coverage is 2,146 sq. ft. (or 0.04926 acres), which composes about **6.7%** of the 0.74 acre parcel. The proposed project would not increase the current footprint upon the lot. Both the Building and Lot Coverage therefore conforms to the district standard.

**IV. Conclusions of Law**

**Chapter II, Section 2.3, Table 2.7 (F)(4):**

*"existing native woody vegetation between the shoreline and a structure shall be preserved and maintained. No existing or proposed use or activity shall result in soil erosion or adversely impact designated wildlife habitat areas. All trees on leased lots are owned by the Town, and permission from the Tree Warden shall be required for cutting and pruning within the district..."*

1. No trees will be cut down.
2. No other woody vegetation will be removed.

**Chapter II, Section 2.3, Table 2.7 (F)(7)(b):**

*"the alteration or expansion (of an existing structure) is not for the purpose of increasing*

occupancy...”

1. The project as proposed will not result in any additional bedrooms.

**Chapter II, Section 2.3, Table 2.7 (G)** states that the recommendation of the DRC will be sought with respect to the following design criteria:

1. The size, scale, style, design and materials of the structural alteration are consistent and harmonious with existing structures and with the overall historic and aesthetic character of the area.
2. No natural features will be impacted by the alteration.
3. The alterations will not impact the historic appearance of the structure nor its historic integrity.
4. The alterations are compatible with the visual elements of surrounding historic structures and the overall historic and aesthetic character of the area.
5. There will be no demolition of any structures on the property.

The DRC’s Design Review report for application ZBA-17-09-CU concluded:

*“It is proposed that each end (east and west) of the structure receive a new dormer for practical terms; people can gain access to the property without hitting their head, and also to make the bathroom more practical on the west end of the building. The new dormers will be below the height of the structures existing ridge level and will introduce a very modest change to the structure in a way that is sensitive to the existing architecture. The view from the Lake will be essentially unchanged. There is no change to the footprint of the Camp structure, or the number of rooms within the structure. This is the sort of renovation and modest change to buildings on Thompson’s Point that help retain the essential character of the area, and is fully supported by the Design Review Committee.”* (- Thompson’s Point DRC, February 5, 2017)

**Chapter III, Section 3.8 (B)(2) Nonconforming Structures:**

*“May only be structurally modified or moved in a manner that will not increase the degree of noncompliance, unless approved by the Board of Adjustment in association with conditional use review under Section 5.4. For purposes of these regulations, any structural alteration which extends the footprint, height or volume of a structure within any required setback or above the required maximum height (i.e., the amount of encroachment), shall be considered to increase the degree of noncompliance. Any structural alteration of a nonconforming structure which extends the footprint, height or volume of a structure outside of any required setback or below the required maximum height shall not be considered to increase the degree of noncompliance.”*

1. The current proposal seeks to replace two dormers of the house to allow for adequate headroom for the bathroom on the west end of the house, and the entrance on the east end that would remove an obstacle to the main entrance.
2. Although the house is currently within the setback area, the proposed increase in volume of the non-conforming structure is negligible.
3. There will be no increase to the footprint of the house.

**Chapter III, Section 3.9 (B) Outdoor Lighting; General Standards**

1. 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.
2. 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.

**Chapter III, Section 3.12 (A) Performance Standards:**

1. No issues of concern have been identified regarding performance standards.

**Chapter III, Section 3.15 (G) Lakeshore Buffers:** requires the maintenance of a minimum 100 foot vegetated buffer zone along Lake Champlain to minimize runoff and pollution, and to maintain bank stability and environmental quality.

1. There will be no dredging, draining, or filling of land on the property.

**Chapter V, Section 5.4 (C)(2) Character of the area affected:**

*"The Board shall consider the design, location, scale, and intensity of the proposed development in relation to the character of adjoining and other properties likely to be affected by the proposed use."*

1. The house on the property currently stands below the roadway frontage. The proposed increase in the height of the dormers will not increase the overall height of the structure and will not impact the current viewshed to the lake from the roadway.

**V. Decision and Conditions**

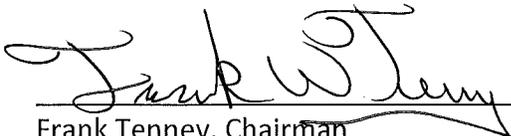
Motion to approve Tonino-Defreest application as presented (ZBA-17-09-CU) for 1060 North Shore Road.

**Vote: 4 Yeas. 1 Absent.**

Based on the foregoing Findings of Fact and Conclusions, the Zoning Board of Adjustment approves the application for alteration of an existing structure (seasonal dwelling) at 1060 North Shore Road subject to the following conditions:

1. The applicant must obtain a zoning permit prior to construction.
2. No construction activity other than routine maintenance shall occur within the **SHM District** between July 1 and Labor Day.
3. Immediately following demolition, all materials shall be disposed of according to solid waste district standards.

Dated at Charlotte, Vermont this 5<sup>th</sup> day of April, 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.

