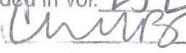


This 29th day of March A.D. 20 18

at 11 o'clock 0 minutes A m and

recorded in vol. 257 on page 423-427

Attest:  Town Clerk

**CHARLOTTE ZONING BOARD OF ADJUSTMENT
CONDITIONAL USE REVIEW
FINDINGS OF FACT AND DECISION**

In Re: ZBA-17-184-CU Conditional Use Review application for Dean Freeman and Leslie Tucker to construct additions, expanding the primary structure, and to modify impervious surfaces of the property within the lakeshore and side setbacks on the property located at 345 Hills Point Road in the Town of Charlotte (M32B50L05).

I. Introduction and Procedural History

On December 5, 2017, Dean Freeman and Leslie Tucker submitted an application for conditional use review to undertake the construction additions on a house and modify the impervious surfaces within the setbacks on the property located at 345 Hills Point Road, which is within the Shoreland (SHR) Zoning District.

The proposed improvements include; **1.** Expansion of the second story of the house to enclose part of the existing deck into the current living space, increasing volume (but not the impervious surface) within the Lakeshore setback; **2.** Expansion of the garage on the ground floor (by ~130 sq. ft.), converting it into a two-car garage, increasing both volume and impervious surface within the Lakeshore setback; **3.** Expansion of the deck structure on the ground floor (by an unknown amount) and the second story (by ~40 sq. ft.), increasing both volume and impervious surface within the Lakeshore setback; **4.** Shift the western end of the current gravel driveway northward (not the curb cut), and add a new two-car parking area off of its northern side within the side yard setback. This improvement will include reallocation of some of the graveled area at the property-line (around the shed) to the two-car parking area and the removal of the existing concrete boat-ramp, thereby reducing impervious surface within the side yard and lakeshore setbacks, and encroachment toward the lakeshore; **5.** Installation of evergreen plantings along the southern property-line to serve as screening.

Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper on January 25, 2018; posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on January 26, 2018; and by direct correspondence to adjoining property owners on that same date.

Prior to the public hearing site visit was conducted at the property by the Zoning Board of Adjustment (ZBA) on February 14, 2018 at 6:00 PM, prior to the public hearing. Present at the site visit were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, and Stuart Bennett. Also in attendance were Daryl Benoit (ZBA staff), and the applicants Dean Freeman and Leslie Tucker. During the site visit, the ZBA was shown the layout of the proposed improvements for the second floor of the house and the garage area. The ZBA was shown the existing boat ramp and the driveway.

The public hearing took place on February 14, 2018 at 7:15 PM at the Town Offices at 159 Ferry Road in the Town of Charlotte, Vermont. Present at the public hearing were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, and Stuart Bennett. ZBA staff, the applicants Dean Freeman and Leslie Tucker, and their representative Liam Murphy also participated in the hearing.

II. Exhibits

The following exhibits were marked and considered:

1. Survey map;
2. East, West, North, and South side elevations;
3. Floor plan and proof plan with additions (*indicating the change of the structure*);
4. Upper Plan View, Upper Floor Plan, Lower Floor Plan, Lower Plan View, and Photographs of the site, and;
5. Landscaping & Driveway plan;
6. Town of Charlotte 2016 Lister Card;
7. Zoning Board of Adjustment (ZBA) Minutes from the meeting held on February 14, 2018.

III. 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), hereafter referred to as the Regulations:

1. Chapter II, Section 2.3, Table 2.5 (E) - Application of District Standards; Rural District (RUR);
2. Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards

IV. Findings

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

1. According to the 2016 Lister Card, the house is currently a 1,248 sq. ft. (x2 levels = 2,496 sq. ft.) split-level house, with a 483 sq. ft. deck that wraps around the house, primarily on the lakeside. The applicant states that the shed is 118 sq. ft. (which is not indicated on the Lister Card).
2. The existing house was built in 1962, and it is entirely within the 150 foot Lakeshore set back.
3. The proposed improvements on the second floor will not encroach further into the north, west, or east side yard setbacks (see the Proposed Site Plan).
4. The improvements to the second floor on the south will stop at the 50 foot south side yard setback (see the Proposed Site Plan).
5. The gravel driveway currently encroaches into the south side yard setback. It will be moved several feet to the north, reducing the area of the driveway and its encroachment into the south side yard setback.
6. The garage will be expanded to accommodate two cars. The expansion will stop at the 50 foot south side yard setback.
7. The existing concrete walkway on the east side of the house shall be removed.
8. The proposed walk and steps to the second floor will increase the house volume within the 150 foot Lakeshore set back, however this is off set by the reduction in the size of the driveway and by grassing over of the boat ramp.

9. The roof is 21' 25" high. It will be 2 feet taller at the stairwell, and the foyer (see the west side elevation).
10. The current number of bedrooms is three (3). The number of bedrooms will not be increased by the proposed improvements.
11. The brick chimney will be removed.
12. The exterior will be a dark grey color.
13. The applicants architect calculated that on the west side of the house the area of glass will be 39% of the total area of the west side of the house.
14. Any tree removal shall be approved by the Tree Warden.
15. All new plantings shall be as presented on the Proposed Landscaping Plan.

V. Conclusions of Law

1. **Chapter II, Section 2.3, Table 2.5 – Rural District (E) Dimensional Standards:** requires the following dimensional standards:

- a. Minimum Side/Rear/Front Setback: 50' / Lakeshore Setback 150' (from MHW):

The house and the shed are all entirely within the lakeshore setback of the house.

The proposed improvements to the house do not fall within the side yard setbacks.

However, the proposed improvements to the driveway do fall within the side yard setbacks, but reduce their encroachment toward the property line.

- b. Maximum Height – Lesser of 30' or 2 stories:

21' 25" is the height to the roof-line. An additional 2 feet of height in the area of the stair well and foyer will still meet the district standard.

- c. Maximum Building Coverage: 5% and Maximum Lot Coverage: 10%:

The lot is about 1.0 acres with a single family dwelling & a shed (plus a gravel driveway). The improvement proposes to increase the building footprint to about **1,849 sq. ft.** The proposed structure(s) would abide the district standard at 4.375% *Maximum Building Coverage*.

The current amount of impervious surface exceeds 0.2 acres, already exceeding the *Maximum Lot Coverage*. However, a significant portion of the gravel driveway, and the entire boat ramp would be removed. Whereas the house would moderately increase in size and volume. The applicant reports that there would be an overall 557.6 sq. ft. decrease in the non-conforming Lot Coverage.

2. **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 are no known adverse impacts with planned facilities or services.

- b. Character of the area affected;
 - There are no known adverse impacts.
- c. Traffic on roads and highways in the vicinity;
 - There are no known adverse impacts.
- 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

VI. Decision and Conditions

Based on the foregoing Findings of Fact and Conclusions of Law, Motion to approve the application as presented (ZBA-17-184-CU) was made, subject to the following conditions:

1. There shall only be 3 bedrooms.
2. The brick chimney shall be removed.
3. Approval of the Tree Warden is required for any tree removal.
4. All new plantings shall be as presented on the Proposed Landscaping Plan.
5. The exterior will be a dark grey color.
6. The design and amount of glass coverage of the west side of the house shall be consistent with the proposed plans as originally submitted.
7. The existing concrete walkway on the east side of the house shall be removed.
8. The proposed improvements on the second floor will not encroach further into the north, west, or east side yard setbacks (See the Proposed Site Plan).
9. The improvements to the second floor on the south side will stop at the 50 foot south side yard setback (See the Proposed Site Plan).
10. The garage will be expanded to accommodate 2 cars. The expansion will stop at the 50 foot south side yard setback.
11. The gravel driveway currently encroaches into the south side yard setback. It will be moved several feet to the north, reducing the area of the driveway and its encroachment into the south side yard setback.
12. The improvements shall conform to all of the Exhibits.

Vote: 3 Ayes. 2 Absent.

Dated at Charlotte, Vermont this 28th day of March, 2018.



Frank Tenney, Chairman

Reconsideration: At the request of the applicant or interested parties, or on its own motion, the Board of Adjustment or Planning Commission may reopen a public hearing for reconsideration of findings, conclusions, or conditions of the decision. A request by the applicant or interested parties must be submitted to the Planning and Zoning Office within the 30-day appeal period in accordance with Section 9.6(B).

Appeals: Decisions of the Zoning Board of Adjustment and Planning Commission may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeals must be taken within 30 days of the date that the permit is issued, 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.