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Town of Charlotte
 Zoning Board of Adjustment

In Re: ZBA-17-43-CU Conditional Use Review for Kathryn Milillo and Robert Stein for the alteration of an existing structure at 117 Lane's Lane on Thompson's Point.

I. Introduction and Procedural History

On April 17, 2017, Kathryn Millilo submitted an application for conditional use review to undertake alterations on the existing structure and impervious surfaces of their seasonal camp on Thompson's Point. The project is located at 117 Lane's Lane 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 May 4, 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 May 24, 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 4:30 PM on Monday, May 8, 2017 at the property. Present at the meeting were DRC Commissioners Robin Coleburn and Jane Kiley, and the applicants Kathryn Milillo and Robert Stein. The Committee's report (received May 11, 2017) indicated general support for the application.

A site visit to the property was conducted for the Zoning Board of Adjustment (ZBA) on May 24, 2017 at 6:00 PM. Present at the visit were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, and Stuart Bennett, as well as Daryl Benoit (ZBA Staff) and the applicants Kathryn Milillo and Robert Stein.

The application was considered by the ZBA on May 24, 2017 at 7:10 PM. Present at the hearing(s) were the following members of the ZBA: Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, and Stuart Bennett. ZBA staff and the applicants Kathryn Milillo and Robert Stein were 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 proposed and existing elevation plans with photo mockups of the proposed improvements, site maps of existing and proposed modifications of structures upon the property, and an application fee.

II. Exhibits

The following exhibits were utilized for the decision:

1. Zoning Board of Adjustment minutes from the meeting held on May 24, 2017

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 Dimensional 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 exterior alterations that increase the impervious surface and the volume on a structure within the setback area within the *Shoreland Seasonal Home Management (SHM)*. This elicits 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 east, the road frontage to the north, and the shore setback. The primary structure has;

- * ~48' Frontage/Shore setback (to the south),
- * ~32' Frontage/Road setback (to the north),
- * ~52' Side setback from the adjacent lot to the west,
- * ~18' Side setback from the adjacent lot to the east

2. Maximum Height 30' (Section 3.5):

The Town has no records of the building height. The current height of the primary structure has been stated by the applicant to be 12'. The height of the building conforms to the district standard.

3. Maximum Building Coverage (7%) / Lot Coverage (10%):

The existing coverage on the property includes a 1,008 sq. ft. house with a 432 sq. ft. deck, a 96 sq. ft. shed, and a 32 sq. ft. firewood storage structure. The **Total Building Coverage** is 1,568 sq. ft. (or 0.036 acres), which composes about **11.6%** of the 0.31 acre parcel. The proposed project would not increase the current footprint upon the lot. The driveway has an estimated area of 1,500 sq. ft. The **Total Lot Coverage** is 3,068 sq. ft. (0.070435 acres), which composes about **22.7%** of the parcel. Therefore, the Building and Lot Coverage do not conform with the **SHM District** standard.

Chapter II, Section 2.3, Table 2.7 (F)(2) District Standards:

"Accessory structures to allowed residential uses within this district are limited to one structure per leasehold (e.g., a utility shed) that does not exceed eight (8) feet in width, 12 feet in length, or 12 feet in height..."

1. There are two accessory structures on the property (i.e. the shed and firewood storage

edifice). The application seeks to create an accessory structure that exceeds the district dimensional standard by their consolidation.

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

“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. The application does not propose to have any trees cut down.
2. The application proposes to plant a clump birch and cedar hedges for screening.

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

“the alteration or expansion (of an existing structure) is not for the purpose of increasing occupancy...”

1. The application does not propose to have any bedrooms added to the dwelling.

Chapter II, Section 2.3, Table 2.7 (G) District Design Review Standards: 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-17-43-CU concluded:

“The house is a single story bungalow at road level set about 30 feet from the road. There are few distinguishing features on the road-side of camp. Landscape vegetation is also minimal. A short rail fence sits close to the building.

The owners are proposing to change the existing windows on the road-side to be taller, narrower windows with true divided lights. The result will be to reduce the horizontally linear impression of the camp. The committee heartily agreed that this would be an improvement to the appearance from the road. The owners also propose adding a clump birch tree and a grouping of three cedar trees to provide screening and interest. We approve of this as well. They have not decided what to do about the fencing, but the committee had no strong feeling one way or the other on that matter.

The owners also want to change a screen door on the east side of the camp to a fixed French door with divided lights. We approve of that change.

The lake-side, or south-side of the house, is equally divided between a screened porch on the SW and an enclosed porch on the SE. The existing siding on the lake-side is T-111.

They plan to change it to the novelty cedar shake siding that exists on the east side. The owners plan to enlarge the size of the screen openings and add a door, effectively in the middle of the south face of the camp. This is a logical egress from the camp to the lake. We think this makes sense and will make the lake-side of the camp more attractive from the water. There is a 3 foot overhang on the south face. The effect is that it helps to prevent water from pouring into the screened porch during southerly rainstorms. The owners would like to add a wooden deck or platform, the whole width of the house, or 36 feet wide, level with the ground that would extend 4 feet beyond the existing drip edge of the roof. This would have the effect of increasing the impermeable coverings of the lot, and would extend the camp toward the lake. They also want to add vertical posts in the manner of the Thompson's Point Country Club porch. This would add visual interest from the lake, but would make sense only if they are allowed to make a wooden deck. They would also remove a screen door from the western side of the screened porch.

They would like to move one of the outbuildings closer to the lake. That seems to be logical, but again it is moving a structure closer to the lake. We talked about the impermeable surfaces of the lot. If the owners were willing to remove some of the existing cement walkway and part of the extensive packed driveway material, perhaps adding the deck would be of less consequence to the watershed.

In conclusion, the cosmetic and functional changes that are proposed are within the guidelines of the DRC. The extension of the camp toward the lake has formerly been prohibited by conservation zone rules. We leave this matter to others to determine."
(- Thompson's Point DRC, May 11, 2017)

Additional Items

The Zoning Board of Adjustment does not have authority with regard to the proposed alteration of the driveway or the proposed tree planting as the lot is Town-owned property.

IV. Conclusions of Law

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 install a wooden post and step structure over an existing gravel bed within the shore setback. The applicants had stated during the hearing that there is 2 feet of "impervious surface" (e.g. buried gravel) that currently extends beyond the drip edge of the house.

2. There would be a minor adjustment to the footprint of the house that includes the addition of the proposed 7' wide wooden step in the shore setback, the removal of two small concrete stoops on the west side and eastern side setback of the house, as well as a walkway and wooden planking along the eastern side setback. The applicants had stated during the hearing that there would be a resulting reduction in total impervious surface (*where the removed impervious surface area would total about 124 sq. ft., the proposed deck extension on the shore side of the house would total about 119 sq. ft.*).
3. The wood storage edifice located on the eastern side of the house is proposed to be moved and attached to the southern side of the shed along the southeast of the property within the shore setback (and hence closer toward the shoreline), thereby increasing its noncompliance with the District Standard (*see Section 2.3 above, and Section 3.15 below*).
4. The footprint of the gravel driveway is proposed to be modified within the eastern side setback.
5. The application proposes replace a number of exterior windows and doors on 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 known compliance 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. The proposed structure of the deck increases the non-compliance of the house and further reduces the setback to the lake. This structure should not be allowed to extend past the current roof overhang (i.e. the drip edge).
2. The move of the wood storage structure will not be allowed to encroach further toward the lake or increase the footprint of the 8'x12' shed.

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. Conditions may be imposed as appropriate to ensure that the proposed development is compatible with the character of the area, as defined by zoning district purpose

statements, and specifically stated policies and standards of the municipal plan. Conditions may be imposed as necessary to eliminate or mitigate adverse impacts, including but not limited to conditions on the design, scale, intensity or operation of the proposed use."

1. The proposed project will not significantly impact the current viewshed to the lake from the road as there is no increase in height.

V. Decision and Conditions

Motion to approve Milillo-Stein application (ZBA-17-43-CU) for 117 Lane's Lane.

Vote: 4 Yeas. 1 Absent.

Based on the foregoing Findings of Fact and Conclusions, the application for alteration of the existing structure (seasonal dwelling) at 117 Lane's Lane is subject to the following conditions:

1. The project will not further extend any structure toward the shoreline: A. The proposed decking on the shoreline side of the main structure will not extend beyond the current roof's drip edge. B. The existing wood storage structure will not be extended or moved any closer to the shoreline. C. The footprint of the existing shed will not be increased.
2. Any alterations to the driveway shall require the approval of the Selectboard.
3. Any tree or vegetation plantings shall require the approval of the Selectboard.
4. The applicant must obtain a zoning permit prior to construction.
5. No construction activity other than routine maintenance shall occur within the **SHM District** between July 1 and Labor Day.
6. Immediately following demolition, all materials shall be disposed of according to solid waste district standards.

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.