

DENIED

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Attest [Signature] Town Clerk

**Town of Charlotte
Zoning Board of Adjustment**

In Re: ZBA-18-109-CU Conditional Use Review for Maureen Valade Revocable Trust to Remove Detached Garage and Replace It with Two-Bedroom Accessory Dwelling located at 208 Wings Point Road

I. Introduction and Procedural History

On June 20, 2018, on behalf of Mark and Maureen ("Molly") Valade, Stephen Revell of Lincoln Applied Geology submitted an application for conditional use review to remove a detached garage and replace it with a two-bedroom accessory dwelling, to be used as a guest house, located at 208 Wings Point Road in the Shoreland District.

Public notification was accomplished through the following outlets: posting of the notice on the Town website; publication in *The Citizen* newspaper July 12; and posting hardcopies of the notice at the Town Office, Brick Store, and Spear's Corner Store July 6. Adjoining property owners received a notice of the public hearing by mail postmarked July 9.

The Zoning Board of Adjustment (ZBA or Board) considered the application at a public hearing held August 1, 2018 after a site visit to the property that evening. Present at the visit and public hearing were ZBA members Frank Tenney (chair), Stuart Bennett, and Andrew Swayze. Consultant Stephen Revell and ZBA staff Aaron Brown were also present during the visit and public hearing.

II. Exhibits

The following exhibits were used for the decision:

1. An application included a signed application form, conditional use questionnaire, performance standards questionnaire, list of adjoining property owners, application fee, a site plan, and a photograph showing the proposed style of the guest house (carriage house). The application did not include a floor plan of the proposed guest house.
2. A letter from adjoining property owner Craig Sim dated July 25, 2018.

III. Standard of Review

The application requires review under the following sections of the Land Use Regulations for the Town of Charlotte adopted March 1, 2016:

1. **Chapter II, Section 2.3, Table 2.6 (D)** – Conditional Uses
2. **Chapter II, Section 2.5, Table 2.6(E)** – Application of District Standards; Shoreland District (SHR): Dimensional Standards

3. **Chapter III, Section 3.12 (A)** – Performance Standards
4. **Chapter III, Section 3.15(G)** – Lakeshore Buffers
5. **Chapter IV, Section 4.2** – Accessory Dwelling
6. **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. The applicant seeks to replace an existing 25' x 32' garage with a 26' x 36'¹ two-bedroom, two-story accessory dwelling guest house within the Shoreland District, which triggers Conditional Use Review under Section 4.2 of the Land Use Regulations.
2. **Chapter II, Section 2.6, Table 2.6 – Shoreland District (E) Dimensional Standards** requires the following:
 - a. **Minimum Side/Rear/Front Setback: 50'**
The proposed structure meets all setback requirements.
 - b. **Maximum Height 30' (Section 3.5):**
The proposed structure will be less than 30' in height.
 - c. **Maximum Building Coverage: 5% and Maximum Lot Coverage: 10%:**
The proposal will conform to building and lot coverage standards. The lot acreage is 5.02 acres. The existing dwelling footprint is an estimated 1,632 square feet. The proposed accessory structure footprint is 936 square feet. The resulting building coverage is approximately 1.2%.
 - d. **Minimum Density: 5 Acres/Unit**
The proposal does not affect the density requirement per Section 4.2(A)(1)(c) of the Land Use Regulations: "the accessory dwelling is not subject to district density requirements."
3. **Chapter III, Section 3.12 (A) – Performance Standards**: the Board finds no known performance standard concerns.
4. **Chapter III, Section 3.15 (G) – Lakeshore Buffers** requires a vegetated buffer zone within 100 feet of the shoreline of Lake Champlain.

¹ The application stated a 26' x 32' guest house, but consultant Stephen Revell corrected this dimension to 26' x 36' during the hearing.

The applicant proposes no cutting or removal of trees or shrubs within 100 feet of the shoreline. The proposed accessory dwelling will not be located within 100 feet of the shoreline.

5. **Chapter IV, Section 4.2 – Accessory Dwelling (A)** requires the following:

1. The accessory dwelling must meet *all* of the following requirements:

- a. *The single family dwelling or accessory dwelling must be occupied by the owner.*

The existing three-bedroom dwelling is listed as a “Guest House” on Lot 1 of the submitted site plan. The site plan shows “House” listed on Lot 2. The Board does not have evidence that either the existing guest house or proposed accessory dwelling will be owner-occupied.

There was also no evidence that the proposed guest house is “established in conjunction with and clearly subordinate to a single-family dwelling” on Lot 1 as required by the definition of “Accessory Dwelling,” Section 10.2.

- b. *If a designated building envelope has been approved for the parcel, the accessory dwelling must be located within the building envelope.*

The proposed structure falls within the building envelope found in Map 128, page 4 (Bridgeman Lands) of the Town Land Use Records.

- c. *The accessory dwelling is not subject to district density requirements. It must, however, meet all applicable setback and coverage requirements specified in [the Land Use] regulations and, for nonconforming structures, shall not increase the degree of noncompliance in accordance with Section 3.8.*

The proposed structure meets all setback requirements.

- d. *The accessory dwelling must be clearly subordinate to the single family dwelling. The total floor area of the accessory dwelling shall not exceed 30% of the total habitable floor area of the single family dwelling, or 1,000 square feet, whichever is larger.*

The proposed footprint of the building is 26' x 36' (936 square feet) and the building will include two stories. The principal structure is 2,582 square feet. Therefore, the proposed accessory dwelling will exceed 1,000 square feet.

- e. *The accessory dwelling shall share the same road access as the single family dwelling. Additional off-street parking shall be provided for residents of the accessory dwelling in accordance with Section 3.11.*

The proposed accessory dwelling will share the same road access.

- f. There must be sufficient water and wastewater system capacities to serve both the single family dwelling and the accessory dwelling in accordance with Section 3.16.*

The proposed structure will have its own drilled well and will share access (with the existing three-bedroom dwelling) to an existing mound septic system approved for six bedrooms.

6. **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:*

The Board finds no known adverse impacts with planned facilities or services.

- b. Character of the area affected:*

The Board finds no known adverse impacts to the character of the area. The proposed structure will not be visible from any adjacent property, Wing's Point Road, or the lake.

- c. Traffic on roads and highways in the vicinity:*

The Board finds no known adverse impacts on traffic.

- d. Bylaws in effect:*

The Board finds no known non-conformance issues with other Town Bylaws.

- e. The use of renewable energy resources:*

The Board finds no undue adverse effect on renewable energy resources.

V. Conclusions of Law

1. Chapter IV, Section 4.2 – Accessory Dwelling (A) requires the following:

2. The accessory dwelling must meet *all* of the following requirements:

- a. The single family dwelling or accessory dwelling must be occupied by the owner.*

The existing three-bedroom dwelling is listed as a "guest house" on Lot 1 of the submitted site plan. The site plan shows "House" listed on Lot 2. The Board does not have evidence that either the existing guest house on Lot 1 or proposed accessory dwelling on Lot 1 will be owner-occupied.

The proposed guest house is not established in conjunction with and clearly subordinate to a single-family dwelling on Lot 1 as required by the definition of "Accessory Dwelling," Section 10.2.

- b. If a designated building envelope has been approved for the parcel, the accessory dwelling must be located within the building envelope.*

The proposed structure falls within the building envelope found in Map 128, page 4 (Bridgeman Lands) of the Town Land Use Records.

- c. The accessory dwelling is not subject to district density requirements. It must, however, meet all applicable setback and coverage requirements specified in [the Land Use] regulations and, for nonconforming structures, shall not increase the degree of noncompliance in accordance with Section 3.8.*

The proposed structure meets all setback requirements.

- d. The accessory dwelling must be clearly subordinate to the single family dwelling. The total floor area of the accessory dwelling shall not exceed 30% of the total habitable floor area of the single family dwelling, or 1,000 square feet, whichever is larger.*

The proposed footprint of the building is 26' x 36' (936 square feet) and the building will include two stories. The principal structure is 2,582 square feet. Therefore, the proposed accessory dwelling will exceed 1,000 square feet.

- e. The accessory dwelling shall share the same road access as the single family dwelling. Additional off-street parking shall be provided for residents of the accessory dwelling in accordance with Section 3.11.*

The proposal will share the same road access.

- f. There must be sufficient water and wastewater system capacities to serve both the single family dwelling and the accessory dwelling in accordance with Section 3.16.*

The proposed structure will have its own drilled well and will share access (with the existing three-bedroom dwelling) to an existing mound septic system approved for six bedrooms.

Conclusion: the Board finds that the application does not comply with Section 4.2(A)(1)(a) and Section 4.2(A)(1)(d) of the Land Use Regulations.

Decision and Conditions

Motion to approve the Valade application as presented (ZBA-17-180-CU):

Vote: 0 Ayes, 3 Nays, 2 Absent.

The Zoning Board of Adjustment hereby denies the application on two counts:

- (1) The proposed accessory dwelling fails to meet the 1,000 square-foot limit on accessory dwellings.
- (2) The application does not indicate the proposed accessory or the existing primary dwelling will be owner-occupied and that the proposed accessory structure is established in conjunction with and clearly subordinate to a single-family dwelling on Lot 1.

Dated at Charlotte, Vermont this 5th day of September, 2018


Frank Tenney, Chairman

At the request of the applicant or interested parties, or on its own motion, the Board of Adjustment 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). To reopen a hearing on its own motion, the Board of Adjustment must approve such a motion with the 30-day appeal period.

In order to reopen a public hearing the Board must find new evidence can be presented that could not have previously been presented which indicates a substantial change of conditions or

circumstances, or that the prior decision was induced by fraud, surprise, error or oversight, or that an unintended negative consequence will result.

The reopened hearing will be warned in accordance with Section 9.9 (C)

The submission of a request for reconsideration will terminate the running of the 30-day appeal period. A new 30-day appeal period will start after the Board either (1) decides not to reopen the hearing or (2) votes to reopen and issues a reconsidered decision on the application.

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.

