

This 15th day of June A.D. 20 18
 at 11 o'clock 0 minutes A m and
 recorded in vol. 233 on page 409-11
 Attest [Signature] Ass't. Town Clerk

**Town of Charlotte
Zoning Board of Adjustment**

In Re: ZBA-18-59-CU Conditional Use Review application for Grandview Cemetery to expand pre-existing burial grounds at 401 Church Hill Road in the Town of Charlotte (M05B02L30).

I. Introduction and Procedural History

On April 16, 2018, Paul Lawrence on behalf of the Grandview Cemetery Association submitted an application for conditional use review to undertake an expansion of existing burial grounds at 401 Church Hill Road. The property is located within the Rural (RUR) Zoning District. Cemeteries are a conditional use within the RUR. Changes, alterations, or expansions to pre-existing conditional uses are subject to review.

The public hearing took place on May 23, 2018 at 7:00 PM at the Town Offices at 159 Ferry Road in the Town of Charlotte, Vermont. Public notification was originally accomplished via electronic posting of the notice on the Town website; publication in *The Citizen* newspaper on May 3, 2018; posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store April 30; and by direct correspondence to adjoining property owners at least 15 days prior to the hearing.

A site visit was conducted at the property by the Zoning Board of Adjustment (ZBA) at 6:30 PM, just prior to the public hearing. Present at the site visit were ZBA members Frank Tenney (Chair) and Jonathan Fisher. Also in attendance were Town Planner Daryl Benoit and ZBA staff Aaron Brown.

Present at the May 23rd public hearing were the following members of the ZBA: Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, and Andrew Swayze. Town staff included Aaron Brown and Daryl Benoit. Grandview Cemetery Association representatives included Paul Lawrence, Loretta Lawrence, John Kerr, and David Schemerhorn.

II. Exhibits

The following exhibits were used for the decision:

1. One site sketch includes a rough footprint of the addition of new fill material on the southwesterly side of the property. The site sketch shows the distance of the current and proposed burial space from the neighboring home (313 Church Hill Road) as well as road frontage and dimensions of existing burial grounds.

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), hereafter referred to as the Regulations:

1. **Chapter II, Section 2.3, Table 2.5 (D)** – Application of District Standards - Rural District (RUR) – Conditional Uses
2. **Chapter III, Section 3.12(A)** – Performance Standards
3. **Chapter III, Section 3.14** – Steep Slopes

4. **Chapter V, Section 5.4 (C)** – Conditional Use Review; General Standards
5. **Chapter X, Section 10.2** – Definitions: Land Development

III. Findings

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

1. The applicant represented that the burial grounds have already been expanded by approximately 300 cubic yards and proposes to expand up to 600 cubic yards in total.
2. The applicant represented no known impact on traffic or the capacity of existing or planned community facilities and services.
3. The proposed expanded burial grounds will not encroach into the minimum setbacks requirements, as depicted in the site plan submitted with the application.
4. The applicant will build a four-foot wall or use rock material to provide bank stabilization on the westerly side of the expanded burial grounds along the limit of the fill.

IV. Conclusions of Law

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

Minimum Side/Rear/Front Setback: 50' (from ROW):

The application complies with these setbacks.

Chapter III, Section 3.12 (A) – Performance Standards

The applicant poses no known performance standard concerns.

Chapter III, Section 3.14 – Steep Slopes

While slopes of 15% or great do exist on the northerly side of property, the proposed in-fill area does not contain known steep slopes.

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:

1. The capacity of existing or planned community facilities and services;
 - There are no known adverse impacts with planned facilities or services.
2. Character of the area affected;
 - There are no known adverse impacts.
3. Traffic on roads and highways in the vicinity;
 - There are no known adverse traffic impacts.
4. Bylaws in effect;
 - N/A

5. The use of renewable energy resources;
- N/A

V. Decision and Conditions

Subject to the conditions set forth below, the Zoning Board of Adjustment APPROVES application ZBA-18-59-CU as presented in the application and site plan:

1. The applicant shall expand the burial grounds by no more than 600 cubic yards of fill material total. Any additional fill material will require a zoning permit.
2. The proposed expansion shall be built as represented on the site plan sketch.
3. 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>.
4. No land development shall occur within ten feet of the southwesterly boundary.
5. Any retaining wall greater than six feet in height will require a zoning permit.

Vote: 4 Ayes. 0 Nays. 1 Absent.

Dated at Charlotte, Vermont this 15th day of June, 2018.


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.

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).*

Additional Regulations and Permitting

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.