

ZONING BOARD OF ADJUSTMENT - APPLICATION

TOWN OF CHARLOTTE

Office Use Only #ZBA- 16-127

Planning & Zoning

Date Received:

P.O. Box 119

159 Ferry Road

Charlotte, VT 05445

Phone: 802-425-3533

Fax: 802-425-4241

E-Mail: pbenoit@townofcharlotte.com

Receipt #

Application Fee \$500

Appeal Fee \$500

Telecommunications Facilities Fee \$2,000

Note: Decisions of the Zoning Board of Adjustment may be appealed to the Vermont Environmental Court within 30 days of the date of the Board's written decision. Zoning Permits will not be issued so as to become effective prior to the end of that appeal period.

RECEIVED

AUG 22 2016

CHARLOTTE PLANNING & ZONING

\*APPLICANT/REPRESENTATIVE (if different from owner)

Name CHARLIE PROUTT - LANDSCAPING Name

Address 2111 GREENBUSH RD. CHARLOTTE, VT 05445 Address

Phone (800) 425-2811 Phone

\*Representative must submit a letter from the owner of the property authorizing him/her to represent them for permits, hearings, etc.

Map 36 Block 50 Lot 13 Parcel ID # 00058-0350 Thompsons Point Lot #

Property address 350 TURTLE MOON RD, CHARLOTTE, VT 05445

Zoning District SHR Lot size .9AC Lot frontage 185' % of Lot coverage (building) - (overall) - Building height -

Existing front yard setback 119' 1/2 Existing side yard setbacks 1. 70(S) 2. 50(N) Existing rear yard setback

This application references Zoning Bylaw section(s) 5.4 CONDITIONAL USE REVIEW

Plot Plan (a plot plan must be submitted showing the lot, existing structures and setbacks, easements, right-of-ways on or abutting the lot, septic primary and replacement areas, well, streams and any other information significant to this application) Submittals no larger than 11" x 17". All measurements must be accurate.

Use attached sheet to list all abutting property owners. Include those across any street, private road or right-of-way.

Applicant will be required to notify adjoining property owners, by certified mail or certificate of service, after a hearing date has been set.

Submit (1) original and (5) copies of complete application.

Application is for: (please check all that apply)

Conditional Use:  Variance:  Thompson's Point Seasonal Dist:  Appeal:  Other: describe

Describe your request: (When appropriate, make reference to attached documents, letters, photographs, etc.)

APPLICANT PROPOSES A SEAWALL TO CONTROL EROSION + PRESERVE TREES AT THE SHORELINE. THE WALL WILL BE CONSTRUCTED OF PANTON STONE BLOCK W/A CONCRETE LEVELING BASE. THE B.O.W. ELEVATION WILL VARY BETWEEN 98.8' AND 101'. THE T.O.W. ELEVATION WILL ALIGN APPROXIMATELY W/TOP OF SHORELINE (EXIST.) @ 105' 1/2.

APPLICATION MUST BE RECEIVED AT LEAST 23 DAYS PRIOR TO THE HEARING DATE. BE SURE TO COMPLETE ALL SECTIONS OF THE NECESSARY FORMS AND ATTACHMENTS. ONLY COMPLETE APPLICATIONS WILL BE ACCEPTED.

Signature of applicant(s) Ch Proutt Date 8/22/16

**Section 5.4 Conditional Use Review**

(A) **Applicability.** Any use or structure requiring conditional use approval shall not be issued a zoning permit by the Zoning Administrator until the Board of Adjustment grants such approval in accordance with the Act [§4414(3)], and the following standards and procedures.

(B) **Review Process.** Upon determination that an application is complete, a public hearing will be warned in accordance with Section 9.9(C). In accordance with the Act [§4464(b)] and Section 9.9(E), the Board shall act to approve, approve with conditions, or disapprove on each matter of an application for conditional use review; and shall issue a written decision within 45 days of the date of the final public hearing to include findings, conditions of approval, and provisions for appeal to Environmental Court. Failure to act within the 45 day period shall be deemed approval, effective on the 46<sup>th</sup> day.

(C) **General Standards.** In accordance with the Act [§4414(3)], the Board shall determine that the 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.** The Board shall consider the demand for community facilities and services that will result from the proposed development in relation to the existing and planned capacity of such services and facilities, and the adopted municipal capital budget and program currently in effect. The Board may request information or testimony from appropriate local officials to help evaluate potential project impacts on existing and proposed community facilities and services. Conditions may be imposed regarding the provision of services and facilities, and/or the timing and phasing of development in relation to anticipated municipal capital expenditures or improvements, to minimize any adverse impacts to community facilities and services.

N/A

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(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.

N/A

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(3) **Traffic on roads and highways in the vicinity.** The Board shall consider the potential impact of traffic generated by the proposed development on the capacity, safety, efficiency, and maintenance of roads, highways, intersections, and bridges in the vicinity. A traffic impact assessment may be required. Conditions may be imposed as necessary to ensure that a proposed development will not result in unsafe conditions for pedestrians or motorists, including but not limited to physical improvements on or off site, or the use of accepted traffic management strategies.

N/A

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(4) **Bylaws in effect.** The Board shall determine whether the proposed development conforms to other municipal bylaws and ordinances currently in effect, including but not limited to road, water or wastewater ordinances. The Board shall not approve a proposed development that does not meet the requirements of other bylaws and ordinances in effect at the time of application.

N/A

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(5) **The use of renewable energy resources.** The Board will consider whether the proposed development will interfere with the sustainable use of renewable energy resources by either diminishing their future availability on the subject parcel, or by interfering with neighboring property owners' access to such resources (e.g., for solar or wind power). Conditions may be imposed as appropriate to ensure access to and the long-term availability of renewable energy resources.

N/A

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(D) **Specific Review Standards.** In addition to general standards under subsection 5.4(C), the Board may also consider the following and impose conditions as appropriate to reduce or mitigate the adverse impacts of a proposed development:

(1) **Conformance with the Town Plan.** Whether applications conform to policies and objectives of the *Charlotte Town Plan*, and do not adversely affect significant natural, cultural or scenic features identified in the town plan, including natural areas, wildlife habitat, productive forests and farmland, surface waters, wetlands, water supplies and aquifers, historic sites, and scenic views or vistas in the vicinity of the proposed development.

N/A

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(2) **Additional Restrictions.** All conditional uses shall comply with the dimensional, density, siting and associated standards for the district(s) in which the use or development is located, including overlay districts, however the Board may require increased setbacks and buffers, or reduced lot coverage or densities of development to avoid or mitigate adverse impacts to adjoining properties or significant natural, cultural or scenic features in the vicinity of the site.

N/A

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(3) **Performance Standards.** The Board shall consider whether the proposed development will meet applicable performance standards under Section 3.1<sup>g</sup>, and may impose conditions on the installation, operation, storage or maintenance of devices or materials necessary to meet these standards. In determining appropriate performance standards, the Board may consult with state officials, and consider accepted industry standards. In addition, the Board may limit hours of operation so that the use shall be consistent with the character of the area. Evening or night operations shall be permitted only if noise levels, lighting and traffic will not unreasonably interfere with surrounding uses.

Section 3.12

Performance Standards

(A) The following performance standards must be met and maintained for uses in all districts, except for agriculture and forestry, as measured at the property line. In determining compliance, the burden of proof shall fall on the applicant. The Town or a complainant shall be required to provide reasonable proof if challenging compliance after a permit has been issued. The Planning Commission or Board of Adjustment may require periodic reporting as a permit condition to confirm ongoing compliance. No use, under normal conditions, shall cause or result in:

- (1) noise in excess of 70 decibels, or which otherwise represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or within the Commercial/ Light Industrial District, noise in excess of 75 decibels;

N/A

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- (2) clearly apparent vibration which, when transmitted through the ground, is discernable at property lines without the aid of instruments;

N/A

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- (3) smoke, dust, noxious gases, or other forms of air pollution which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

N/A

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- (4) releases of heat, cold, moisture, mist, fog or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;

N/A

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- (5) electromagnetic disturbances or electronic transmissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare, except from facilities which are specifically licensed and regulated through the Federal Communications Commission (FCC).

*N/A*

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- (6) glare, lumen, light or reflection which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;

*N/A*

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- (7) liquid or solid waste or refuse which cannot be disposed of by available methods without undue burden to municipal or public disposal facilities, which pollutes surface or ground waters, or which is otherwise detrimental to public health, safety and welfare; or

*N/A*

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- (8) undue fire, safety, explosive, radioactive emission or other hazard which endangers the public, public facilities, or neighboring properties, or which results in a significantly increased burden on municipal facilities and services.

*N/A*

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Information available from Town Lister and Tax Map.

Name Address Parcel #	Nugent Family Trust P.O. Box 265 Charlotte, VT 05445 Map 36 00058-0370 Block 50 Lot 14	Name Address Parcel #	_____ _____ _____ Map _____ Block _____ Lot _____
Name Address Parcel #	332 Turtle Moon Road LLC Po Box 99 Hinsdale, VT 05461 Map 36 00058-0332 Block 50 Lot 12	Name Address Parcel #	_____ _____ _____ Map _____ Block _____ Lot _____
Name Address Parcel #	_____ _____ _____ Map _____ Block _____ Lot _____	Name Address Parcel #	_____ _____ _____ Map _____ Block _____ Lot _____
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Name Address Parcel #	_____ _____ _____ Map _____ Block _____ Lot _____	Name Address Parcel #	_____ _____ _____ Map _____ Block _____ Lot _____

David F. Finney  
350 Turtle Moon Road  
Charlotte, VT 05545

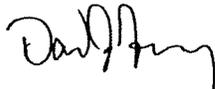
August 17, 2016

To Whom It May Concern:

I am the owner of Turtle Moon, LLC, a Limited Liability Company that owns 350 Turtle Moon Road in Charlotte, VT. I have authorized Distinctive Landscaping's Charlie Proutt to represent me for the seawall permit application and hearings.

If you have any questions about this arrangement you may contact me via email at [dafinn14@gmail.com](mailto:dafinn14@gmail.com)

Sincerely,



David F. Finney