

August 8, 2018

Mr. Aaron Brown
Zoning Administrator
Town of Charlotte
Ferry Road
Charlotte VT 05445

Dear Mr. Brown,

I am writing in regards to the Coyle/Coleman property located at 529 Church Hill Road and the conditions set out in the decision by the Zoning Board of Adjustment in July of 2015. I believe the owner is in violation of these conditions. Can you investigate to determine for yourself?

Background - ZBA Concern for Character of the Area Drives Its Requirement for Screening

As your records will show, the project came before the ZBA as a conditional use application for an accessory structure. The applicant explained during the hearing that the project grew out of medical needs for a secondary, one story dwelling. As part of the application, the owner presented drawings and a siteplan. Other than the septic mound, the site plan did not indicate any changes to the vegetation.

Under conditional use review, 5.4 of the town land use regulations, the Board looked to the character of the area affected. In the decision, the board stated in The Conclusions of Law section: *"The Zoning Board understands that the accessory dwelling will be constructed in the historical district, and as such, asks that the Applicant preserve the natural screening along Church Hill Road."*

The conditions in the Decision section of the opinion were designed to achieve this end:

Pursuant to Section 5.4 (2), the Applicant shall retain the existing natural screening along Church Hill Road, and install coniferous plantings of at least 4 feet in height above natural grade, with the intent that the plantings will grow to at least 10ft in height when mature. The Applicants shall select tree species that would be expected to grow to ten feet in height within five years. The plantings shall be situated to provide adequate screening from Church Hill Road and shall be replaced in the event that a specimen dies. [emphasis added]

In other words, the Board took note of the fact that this project was located in an area of exceptional aesthetic value to the town – with iconic buildings including the Congregational Church, the historic Victorian occupied by the Ittlemans and stone walled Pinney residence; and the Greek Revival museum - and specifically asked that screening be preserved so that while the owner could gain an additional dwelling to accommodate their needs the aesthetic impact of a new construction, shallow pitched, vinyl-sided garage/accessory dwelling would be minimized.

To sum up, the Board allowed a structure that did not fit the character of the area to proceed specifically because they contemplated that it would barely be seen. They ensured this by conditions designed to preserve screening adequate to protect the viewscape in this historic neighborhood.

Two Warning Letters re Church Hill Road Plantings & Land Clearance

Based on letters in the parcel file, it appears that ZA Joe Rheaume sent a warning letter on August 11 2016 re the lack of plantings along Church Hill Road per condition 4. He then had to send another warning letter on December 15 2016 to the effect that the plantings in place were inadequate. Nothing in the file indicates that this second warning was heeded and the underlying issue was resolved.

But the plantings and the hedgerow today speak for itself. Specifically, the ZBA requires planting of four foot trees that would grow to 10 feet within five years. Three have passed, suggesting they should be ~6 feet now. I would ask you to confirm, but my sense is that they are considerably smaller.

Much more important, the ZBA wrote: *The plantings shall be situated to provide adequate screening from Church Hill Road*. In other words, rather than dictate the exact method, the ZBA gave freedom to the owner but specified the result it wanted to achieve. But 3 years in, the applicant has planted spindly, inexpensive pines, far apart from each other. The ZBA's opinion suggests, for example, a row of dense Cedar evergreens that, when mature, knit together to provide comprehensive natural screening. Is that what you see in the picture in Exhibit 1?

Ignored in the previous Zoning Administrator's letters is the larger issue of land clearance further back from the road. At the time of the application, the parcel of land from Church Hill Road up to the proposed site was densely wooded and visually impenetrable. If left substantially untouched, this growth coupled with the roadside trees would have provided protective screening. Nothing in the site plan indicated that they would remove this foliage. **And the Zoning Board approved site plan, as presented.** But after approval, the applicant cleared the land creating a virtual fairway from the house to the road. See before and after images in Exhibit 2 & 3.

The owner of course needed to clear land for the installment of a septic system. But see the attached septic plan in Exhibit 4. The system is comparatively small, accounting for only 20% of what was cleared.

The owners actions (clearing of the land) and inactions (non-maintenance of the roadside barrier through additional tree plantings) leave little screening from the road and immediate neighborhood, effectively changing, quite significantly, the character of the neighborhood. The letter and the spirit of the option seem to me to be in violation here.

I would appreciate it if you would visit the site and determine if, given the property's current state, the owner is in violation of the ZBA conditions. I would ask you to assess this question not by looking at the actions/inactions ("Are the trees specified on track to be 10 ft?") but by effect ("Is the applicant maintaining *adequate screening* (concealment!) of the structure from Church Hill Road?"). Simply because something is harder to enforce doesn't mean it shouldn't be. And in an instance where the ZBA gave the owner comparative freedom to accomplish a given effect, it would be a shame if that latitude was used against the town.

Finally, I would note that I am both a ZBA member and a proximate neighbor, living at 209 Museum Rd. I am writing as a citizen. I will recuse myself on ZBA action in relation to this matter.

Sincerely

Andrew Swayze

EXHIBIT 1 – PICTURES OF CURRENT STATE OF ROADSIDE HEDGEROW

(Substantial openings that do not adequately screen the structure from the road)



EXHIBIT 2 & 3 – BEFORE AND AFTER PICTURES OF THE SITE LANDSCAPE SHOWING DRAMATIC EFFECT OF CLEANING THE LAND ON THE PREVIOUS SCREENING

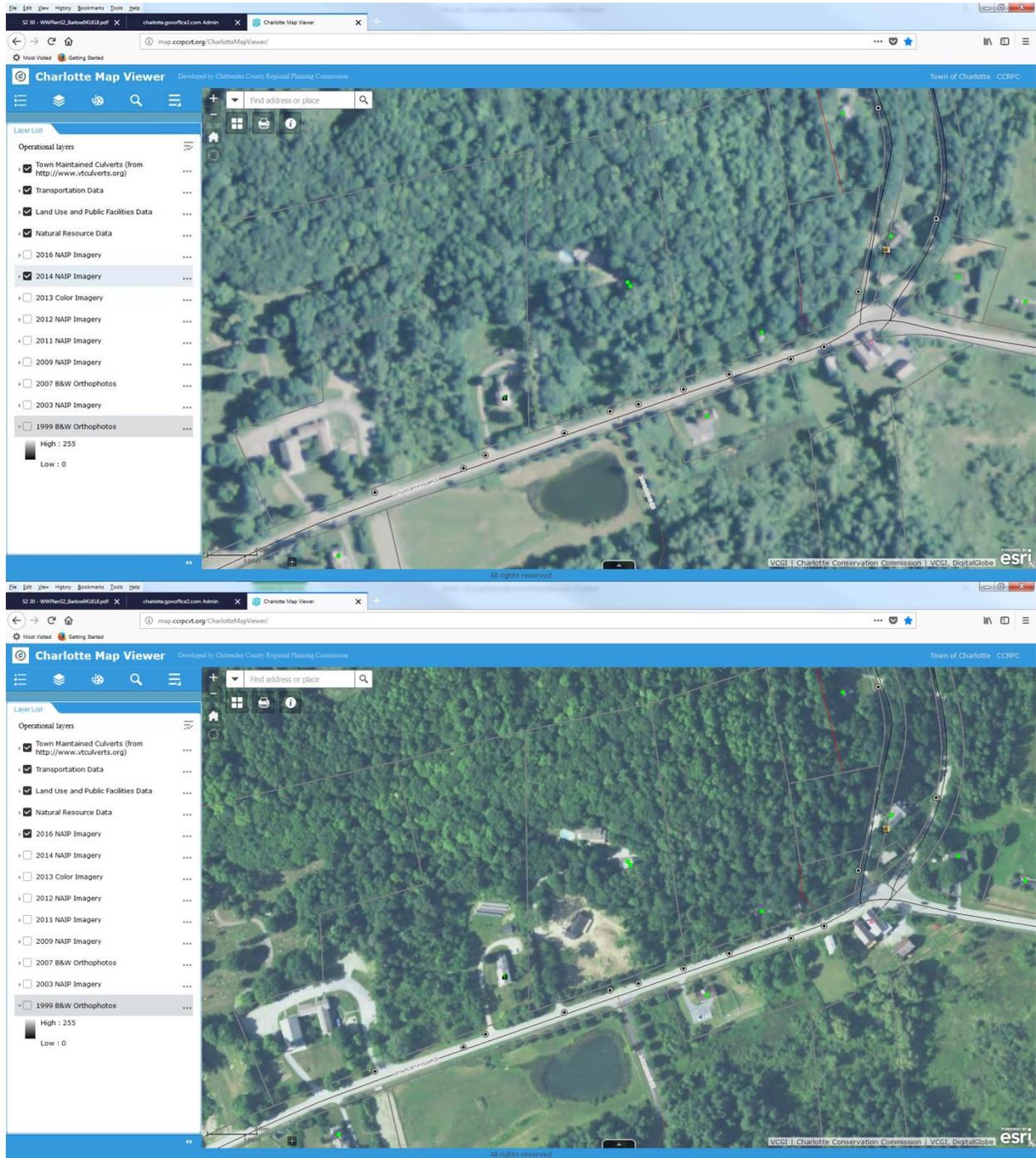


EXHIBIT 4 – SECTION OF SITE PLAN SHOWING MOUND AREA COMPARED TO TOTAL AREA

