



# Town of Charlotte

ESTABLISHED 1762

September 28, 2018

From: Aaron Brown, Zoning Administrator  
To: Charlotte Zoning Board of Adjustment  
Re: ZBA-18-154 Swayze Appeal

Dear Zoning Board Members,

On October 24, you will hear an appeal of a determination I made to uphold previous zoning administrator Joe Rheume's approval of tree screening at the Patricia Coyle residence at 529 Church Hill Road. The determination occurred in mid-August, and we would all likely benefit from a reminder about how this appeal arose. I will also explain the rationale behind my determination as well.

On August 8, 2018, ZBA member Andrew Swayze sent me a letter asking me to investigate whether the tree plantings at 529 adequately fulfilled screening requirements you set forth in ZBA-15-07: "install coniferous plantings of at least 4 feet in height...that will grow to at least 10 feet in height when mature." Swayze believed the plantings were inadequate. The Zoning Board also made the conditions that these trees should grow to 10 feet within five years and that existing natural screening be maintained. I immediately inspected the property, agreed with Mr. Swayze, and sent Ms. Coyle a warning letter advising her that she was not in compliance and should plant additional trees. Some of the trees were shorter than 4 feet and some trees pre-dating the Zoning Board decision had clearly be removed (I later heard a storm and/or disease brought down at least some of them).

Ms. Coyle called me shortly after receiving the letter and said that Rheume approved her planting. I contacted Rheume and he confirmed this approval to me verbally and in writing. He did not record anything in the parcel file or land records at the time of his original determination. Unfortunately, he did save files of warning letters to Ms. Coyle, which led me to believe that the resident was in violation. I also spoke with Town Attorney Dave Rugh, who advised Rheume on the case and considered it closed. I sent a letter to Ms. Coyle on August 14 to uphold Rheume's decision.

I reversed my original stance for two reasons. (1) Over a year had passed since Rheume approved the plantings, which well exceeds the fifteen-day appeal period. My understanding of 24 VSA 4472 is this constitutes finality. (2) Town Attorney Rugh advised that the town cannot enforce the condition that trees grow to a certain height within a given time frame, nor can the town reasonably expect pre-existing screening to last forever. The town, however, can specify height at the time of planting and require applicants to replant any *new* plantings that die.

I look forward to resolving this matter and will answer any additional questions you have at the October 24 meeting.

Sincerely,

A handwritten signature in black ink that reads "Aaron Brown". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Aaron Brown  
Zoning Administrator