

ZONING BOARD OF ADJUSTMENT - APPLICATION

TOWN OF CHARLOTTE

Office Use Only #ZBA- _____

Planning & Zoning

Date Received: _____

P.O. Box 119

159 Ferry Road

Charlotte, VT 05445

Phone: 802-425-3533

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.

E-Mail: Gloria@townofcharlotte.com

Hearing Date: _____

Receipt # _____ Application Fee \$500 _____ Appeal Fee \$500 ²⁵⁰ ✓ Telecommunications Facilities Fee \$2,000 _____

*APPLICANT/REPRESENTATIVE (if different from owner) *

Name THOMAS P. KESSLER Name DENISE J. KESSLER

Address 585 GREENBUSH RD. Address same

N. FERRISBURGH VT 05473

Phone 802-877-6303 Phone same

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

Map 05 Block 02 Lot 01 Parcel ID # 00007-1687 Thompsons Point Lot # 0000200-360

Property address 1689 CHURCH HILL RD

Zoning District RVR12 Lot size 0.74 Lot frontage 290' % of Lot coverage (building) 3% (overall) Building height 25'

Existing front yard setback 43' Existing side yard setbacks 1. 94'-5 2. 91'-N Existing rear yard setback 91'

This application references Zoning Bylaw section(s) SECTION 4.2

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.)

Nov. 15, 2013 Tom Mansfield tells us the duplex we were inquiring about would not be permitted, however an accessory apartment would be. I specifically asked if I would need to go thru zoning for this to which he replied "no" and that I could quote him "you go ahead and start if the total is 3 bedrooms. We took a loan for \$30,000, used it, and were declined the CofO.

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) Thomas P. Kessler Denise J. Kessler DM Date 4/18/14

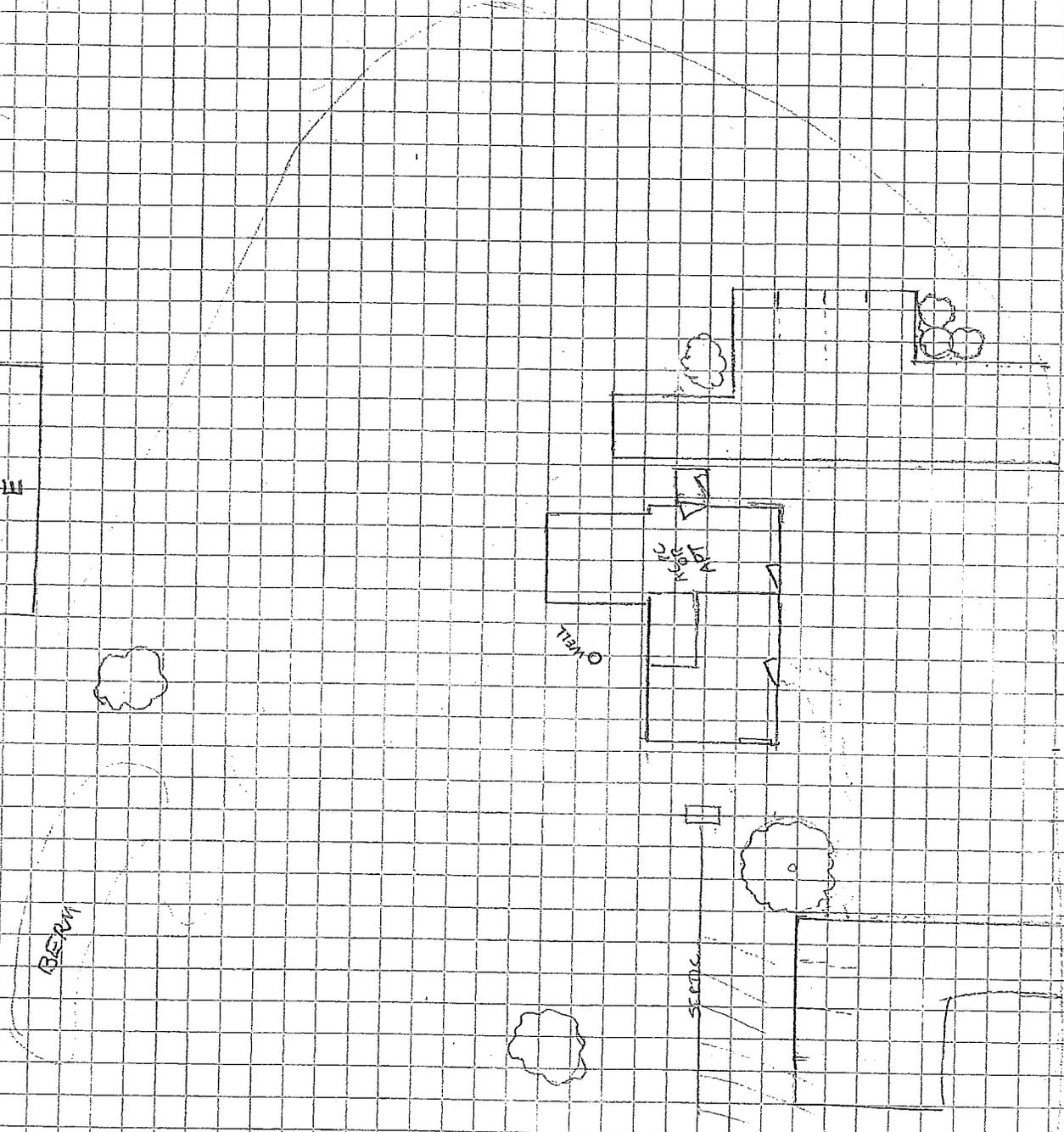
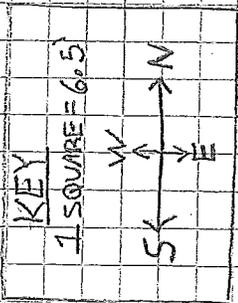
available from Town Lister and Tax Map.

EX-1

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<p>#</p> <p>Name Address Donna Rimo Pizzagalli PO Box 37 Charlotte 05445</p> <p>Map 05 Block 03 Lot 01</p>	<p>Name Address</p> <p>Parcel #</p> <p>Map Block Lot</p>
<p>Name Address Town of Charloth PO Box 119 05445</p> <p>Parcel #</p> <p>Map Block Lot } Charloth Park multiple</p>	<p>Name Address</p> <p>Parcel #</p> <p>Map Block Lot</p>
<p>Name Address</p> <p>Parcel #</p> <p>Map Block Lot</p>	<p>Name Address</p> <p>Parcel #</p> <p>Map Block Lot</p>
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4/16/24

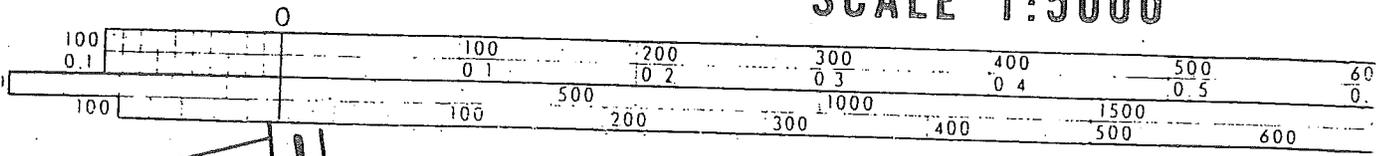


258.29'

290'

103

SCALE 1:5000



(SHEET NO.)

P/O 2-02-20

2821.27'

822.06'
 2 4
 2 Ac. (sur.)
 819.51'
 300.00'

340.65'
 378.46'
 310'
 299.00'
 299.66'
 338.00'

515.51'
 309.13'

576.43'

315.25'
 290's
 280.63'
 258.29'

158.15'
 Andrew
 Punnett
 2
 10.34 Ac.
 518.28'
 880.088'

TRAIL

P1250-002

3028.50'

167.64 Ac. (d)

25 Ac. (d)

Tom and Denise Kessler's recounting of events regarding 1689 Church Hill Rd Charlotte Vermont 2013-2014.

October 2013 an eviction process was completed at 1689 Church Hill Rd. Charlotte, Vermont. At that time we discussed what we could do with the building as our experience of large families (who trashed the building and dumped on the external property---visible to the road), and transient families who did not want a house that big (the old clinic end is an odd addition to a family home), and groups of young adults who had relational discordancy, were not satisfactory residents of our property. It seemed very logical to divide it into two units and attract two couples who would reside longer and would be much quieter and financially more stable.

I called Tom Mansfield on November 15th, 2013, to enquire into the possibility of creating a duplex. I told him we would like to make it a three bedroom on the south end, and a two bedroom on the north end. He informed me that it would not be legal to make it into a duplex due to the small size of the property. However, he said we could turn it into an accessory apartment if the north side was not more than 1000sq. ft.. I informed him that the north apartment would be 979 sq. ft..

Furthermore, he did say that we would need to find out from the State of Vermont if there were records on file for the capacity of wastewater which would determine the number of bedrooms that it was legal to have. We would need to go to the zoning board of adjustment if we wanted the north end to have two bedrooms. I asked him how long that process would take and he said about three months. He said if the north end was to just be a one bedroom unit and the south side a two bedroom unit, then we would not need to go to the zoning board. To clarify, I asked him if he was sure we didn't need to go thru zoning permit or board. He said it was fine and we could go ahead. I asked him "can I quote you as I don't want to quote someone" without them acknowledging it. He said "you go ahead and start if (it is) a total of three bedrooms."

Tom M. then did tell me that I would need a permit (Certificate of Occupancy) right before someone moves into the north apartment. So I could call him when the renovations were done and he would need to walk thru to give the CO. That is all that would be needed according to him.

He also told me I would need to talk to the Agency of Natural Resources Wastewater Management Division @ 879-5656 if we wanted to increase the number of bedrooms in the future.

Based on his word as a representative of the law, we took out a loan to fund the project. This loan is to be repaid by the income of two renters at the building.

On November 21, 2013, I again called Tom Mansfield to see if we had the option of renting out the north end as an office as we were not totally sure we wanted to take out a loan to upgrade and turn the north end into an apartment. Tom told me that we could rent the north end as an office without needing any other zoning or anything. Therefore, as

we were going to finish the south end first, the north end was listed as an office space for rent while we complete the south. We received not a single interested party, at which point we took it off craigslist as an office for rent and began the north renovation by adding a shower and shifting the toilet closer to wastewater outlet.

I did call Jim at the Agency of Natural Resources and discussed theoretical gallons of water usage for a veterinary clinic and he explained how that would be reverse engineered to mediate an application for an increase in the number of bedrooms. At that time, my husband and I decided that we wanted to keep things very simple and just remain with a total of three bedrooms for the entire building until such time we might have the space, energy, and money to pursue such a change.

On February 14, 2014, as we were approaching the end of the building process for the north apartment (total of 3 days of work left which the sub-contractors would likely spread over 1-2 weeks) I called the zoning office to get onto the schedule for the walk thru that Tom Mansfield told me we would need for the Certificate of Occupancy. We were expecting to show the apartment before March 1st in order to have it rented out by March first. We had people on a waiting list that wanted to rent it.

At that time I learned there was a new zoning administrator Janinne McCrumb. She informed me that we needed to get a zoning permit submitted to her right away. I was surprised as Tom had said none of that was necessary. On further discussion she informed me that nothing would trigger a state level inspection as since we did not have 3+ units, and that we did not need to hard wire the smoke and CO detectors. I downloaded the Zoning Permit application but was confused in attempting to answer some of the questions so I left a phone message for her to please call me to help me fill it out.

On February 20th, 2014, Janinne returned my call to tell me that she found that we could not do the project. I told her what Tom Mansfield said before we ever started the project or took out a loan. I told her that "my heart rate has just gone thru the ceiling" and that we have a loan we must repay based on his information to us. Furthermore I informed her that we were almost *done* with the project. I didn't know how to interpret her saying that it was a project we couldn't do, when the project was only days away from total completion. I couldn't reverse history. I told her I appreciated that she was doing the best she could to perform her job as a zoning administrator but this was a project already in place and I believed it would need to be Grandfathered in or something like that. We couldn't take get our loan taken off the books at the bank as we already had spent the majority of it. She called me back about ten minutes later to say that she had left a phone message with Tom Mansfield and would get back to me when she heard from him. I later learned that she was able to speak with him on that Friday February 21st.

On February 21st, 2014, I left a message for Tom Mansfield to please call me regarding this issue. He never returned my call.

On February 26th, 2014, she left a phone message at our home indicating that she had spoken with Tom Mansfield (on February 21st). I (Tom K) returned her call on 2/26/14 at 3:45pm. during which conversation Janine stated, "Yeah, well, what I know after talking to Tom M. last Friday, he does recall an accessory apartment conversation." Tom K also stated in the conversation, "Yes we have people working there. Tom Mansfield knows this" to which Janinne replied "Woah! I don't mean to get heated but I will make a trip up there and put a stop to any work to make this a duplex if I need to!" Very surprised by that comment, I politely answered "Thank you. I am sorry you are 'heated', we will consider what you have told us." Thus on February 26th, we immediately ceased the little work that was left to complete the north side apartment.

On February 28th, 2014, I (Denise) again left a message for Tom Mansfield to please call me as I needed advice. He never returned my call. I also on that day called and went to see Ellie Russell. We did not feel welcome to walk in and ask for help at the Charlotte Zoning Office. We literally did not know where to turn for help. We have no excess funds available for hiring an attorney. I explained an abbreviated sequence of events to Ellie and words that Janine chose to use in her conversation with my husband. Ellie said that Janine was correct with her assessment of zoning law. She was not able to address the fact that Tom Mansfield had told us otherwise and that we had based our loan and actions on the information from him as the zoning official in Charlotte. She informed me that she would get back to me after town meeting day.

It is important to note that Tom M. had full knowledge of the difficulties with the family of eleven people that we needed to evict throughout the summer. When GMP threatened to turn off the power due to non-payments by that resident I (Tom K.) called Tom M on July 15, 2013. I explained to him that there was a family of eleven people there and that there would be no working well to supply water for toilets and the power shut off. Tom M. explained that it would then be a health hazard, uninhabitable for eleven people. He could not evict the family but I should call the state of Vt. if this happened. Hence, he was totally knowledgeable of the building as a rental. It is noteworthy that we did not authorize eleven people to move into the house.

On March 7th, 2014, I (Denise) left a phone message for Ellie asking for any news regarding our situation. She returned my call to tell me that she and Dean and Janine were meeting at 12:30p this day to discuss it. I called her back to see if there was any benefit in my attending the meeting, to which Ellie replied that they needed to meet internally. At 3:52pm Ellie called me back and informed me that we needed a zoning permit for the renovations and that they had come up with three options for us;

1. Live in it and rent it as an accessory apartment.
2. Sell it as a single family home.
3. Rent it as a single family home.

She informed me that Janine would eventually be calling us to set up a time to meet about the situation.

On March 20th, 2014, Dean and Janinne and Ellie and I met in the town offices to discuss the situation. Noteworthy is the discussion between Dean and Janinne that he said two plus units need zoning approval, whereas Janinne had told me previously and said to him in this meeting that she thought it was three plus units. There was lengthy discussion about transfer of density to make it possible for us to have a duplex or accessory apartment and he advised me to see the Land Use Regulation 8.4 F 4 & 5. At the end of this meeting Ellis did say that she wonders if the town of Charlotte doesn't have a moral obligation to a citizen in this situation. Dean said he would talk to the town attorney and get back to me sometime in the following week. He was concerned that this may be a problem of setting a precedent.

On April 1, 2014 Dean called to tell us that they can't grant a permit based on our claim of what Tom M. said. Janinne could not give a CO and she could not give a ZP based on the regulations. They had discussed a transfer of density and there were two people we could call, Donovan and O'Donnell, who may have interest in providing density provided that the dwellings are affordable, i.e., rents considered affordable for this area. He explained the appeal process from zoning administrator to the board. He said he could ask them to wave the fee of \$250. We would need to be rejected from the ZP and CO to go to the board. I called Janinne and left a message asking if we could simply go with a rejection of the CO rather than pretend that a ZP was even applicable to our incongruent situation.

On April 4, 2014 I (Denise) spoke with Janinne on the phone and she said it was okay to go ahead with just her rejecting our CO. I asked this as I thought it was representative of what Tom M. had indicated we should be doing. She did want me to know that this would cost \$500.00. (I had not heard this previously and was a bit startled). I asked at this time if we could go forward and put the toilet on its new base as we had abruptly stopped the process when she had said we must on February 26th. We wanted a working toilet to use. She replied that it was "okay to put the toilet on the base" and said it was okay to quote her on this when I asked for such permission.

On April 15, 2014, Dean called to tell me (Denise) that there are two people in the town that are interested in transferring density but they would want it to be with the condition that it would be affordable rent. I replied that I don't have any interest as a land owner in giving up my freedom for a mistake by the town. I would keep it in mind.

On April 10, 2014, our Certificate of Occupation request was submitted. On April 17, 2014 we received the declination for a duplex. We were requesting an Accessory Apartment from the start of the project until now.

The options we have been given are not acceptable:

1. If we were to have only one renter, we absolutely would NOT have taken out a loan. We were less than one year away from paying the mortgage on this house. If we were told that neither an accessory apartment or a duplex were allowable, we would have continued to rent it as a single family home despite our previous experience. This investment was only made in the hopes that we would be able to provide some monies for our three sons college education. We took on more debt to provide for college, not to be needlessly deeper in debt.
2. If we were to move into the property with our family with all of our machines and things that currently fill our garage and our animals and old boat and old snowmobiles and old cars of three sons, Charlotte would have a very unattractive site across from one of the most beautiful views of Lake Champlain. This is not in the best interest of the town
3. We previously chose not to sell it as it was not financially advisable or responsible at this time in our current economy. According to Vera Schoolcraft, appraiser, the house is worth no more at this time than it was in 2011 when we inquired into selling the property. This house is the equity for my business as I am still a vet in debt.

Note; I informed them that we have no money for buying 5 acres of land to provide the density requirement for a duplex. Even if we did not have to buy the additional land, we would not want someone else controlling what we can charge on our property since the goal of the property is to provide for college and it is not our fault that we have been trapped. In the end it appears that we and the town want the same thing in that we want to provide a more affordable house and an accessory apartment to the community at large that would be more affordable than one large house. We were looking for more reliable couples or singles who would occupy the space and stay for a longer time. Anyone with more money is not going to rent a dwelling on Rt. 7.

Town of Charlotte, Vermont
Application for Certificate of Occupancy
(Compliance with Zoning Permit Requirements)

Zoning Permit No. _____ - _____ - _____
_____ - _____ - _____

Date of permit 1 / 1 /
 1 / 1 /

Address of property 1689 Church Hill Rd Charlotte VT

Name of property owner Tom & Denise Kessler Phone 802-877-6303

Name of applicant Tom & Denise Kessler Phone D cell 598-6267

Applicant mailing address 585 Greenbush Rd, N. Ferrisburgh VT 05473

The work done under this permit differs from what is described on the permit application or approved plans: Yes ___ No ___ (Describe any significant differences:)

according to Tom Mansfield no permit was required.

I hereby apply to the Town of Charlotte for a Certificate of Occupancy and state that all construction relative to the above permit has been completed in accordance with the plans and information submitted with that application, or as amended with the approval of the Zoning Administrator. Attached are final "as-built" plans, where applicable.

Signature of applicant: Denise J Kessler Date: 4/10/14

Permit Fee \$150.00
Recording Fee \$ 10.00

Total \$160.00 made payable to the Town of Charlotte

FOR OFFICE USE ONLY

Date Application Received: _____ Date 4/10/14

Fee Received by: [Signature]

Outstanding items, if certificate is denied: zoning permit - not permissible as display

Certificate of Occupancy (Compliance with Zoning Requirements)

A Certificate of Occupancy certifies that the building, or use, at the above location conforms to the approved plans heretofore filed with the Zoning Administrative Officer and with all applicable provisions of the Charlotte Land Use Regulations.

box
 Permit No. G-10
 SPS
 Package & #

EX-6

TOWN OF CHARLOTTE

LAND USE PERMIT FORM

MAP #	BLOCK #	LOT #	PARCEL #	Application Filed	Deemed Complete	PERMIT #
05	02	01	00007-1687	10-Apr-14	10-Apr-14	14-21-JM

APPLICANT'S NAME: THOMAS & DENISE KESSLER	APPLICATION FOR	
BUSINESS NAME:	Zoning Permit <input type="checkbox"/>	Certificate of Occupancy <input checked="" type="checkbox"/>
APPLICANT'S MAILING ADDRESS: 585 GREENBUSH ROAD NORTH FERRISBURGH, VT 05473	Conditional Use <input type="checkbox"/>	Certificate of Compliance <input type="checkbox"/>
APPLICANT'S PHONE: (802) 877-6303	Variance <input type="checkbox"/>	Other <input type="checkbox"/>
PROPERTY OWNER: THOMAS & DENISE KESSLER	Subdivision <input type="checkbox"/>	

GENERAL DESCRIPTION OF PROPOSAL	
LOT ACREAGE: 0.74	CO request for unpermitted work.
PROPERTY LOCATION: CHURCH HILL ROAD 1687	
ZONING DISTRICT: R1	
PROJECT AREA (sq. ft.)	

NATURE OF WORK: Alteration Residence	Value \$40,000.	BUILDING Length	Width
USE: Existing Year-Round Residence Single-Unit		Stories	Bdrms
Proposed Year-Round Residence Two-Units		WATER SYSTEM:	
SETBACK: Front Rear Side Side		SEWER SYSTEM	

APPLICATION AND REVIEW PROCESS

	ACTION	DATE	EFFECTIVE	EXPIRES
<input type="checkbox"/> Zoning Permit				
<input type="checkbox"/> Conditional Use				
<input type="checkbox"/> Variance				
	REQUESTED	ACTION	DATE	
<input checked="" type="checkbox"/> Cert. of Occupancy	10-Apr-14	Not Issued	14-Apr-14	
<input type="checkbox"/> Cert. of Compliance				
	TYPE	ACTION	DATE	PLAT FILED
<input type="checkbox"/> Subdivision				

NOTE: There may be State of Vermont and/or federal permits or approvals needed for the proposed development or use. Any appeal of the Zoning Administrator's decision must be filed within 15 days of the date of the decision.

COMMENTS:
 Can not issue CO for unpermitted work. Can not issue zoning permit for duplex on this preexisting small lot (0.74 acre). Minimum density needed is 5 acre / dwelling unit.

CHARLOTTE TOWN CLERK'S OFFICE
 RECEIVED FOR RECORD

This 15 day of April A.D. 20 14
 at 10 o'clock 00 minutes A m and

Authorized Signature: recorded in vol. 212 on page 565
 Attest: Sharon B. Balaban Town Clerk Date: 4/15/14

3/20/14 Meeting w/ Denise Kessler Re: Church Hill Rd.

TM said Denise, Jeanine, Dean, Ellie

11/15/13 - No to duplex but okay to do accessory; will need CO

11/21/13 - office vs accessory apt

→ 3 bedroomTH, 1 bedroom - no ZBA

• considered additional bedrooms (spoke w/ DEC) and decided perhaps later.

• bank loan (~43k) → bathrooms gutted

Denise called Tom and he did not return

• call JMC Re: CO

Dean - CO from state Re duplex?

Options: 1. Rent as single-unit

2. Sell as main/accessory or sell as SFH

3. ~~Sell as SFH w/ home occupancy~~ TDR

Dean Re: TDR to gain density, affordable housing

Denise - intensity of use of vet clinic vs. accessory apt.

South side - existing

North - clinic

Next step:

1. transferring density

2. talk to Town Attorney re: work based on discussions w/ Tom (i.e. 'moral obligation')

