

CHARLOTTE TOWN CLERK'S OFFICE  
RECEIVED FOR RECORD  
This 14 day of April A.D. 20 14  
at 10 o'clock 00 minutes 4 m and  
recorded in vol. 212 on page 541-544  
Attest Pharon B. Salaban Town Clerk  
asst

**TOWN OF CHARLOTTE**  
**Zoning Board of Adjustment**  
**Application for Conditional Use Permit**

**ZBA 13-11**

**In Re: David Weinstein and Erin Hanley**  
**2750 Thompson's Point Road**

**OPINION**

**I. Introduction and Issues Presented**

This matter came before the Zoning Board of Adjustment (ZBA) on the application of David Weinstein and Erin Hanley (Applicants), 77 Pomeroy Street, Burlington VT, for a conditional use permit for alterations and renovations of their property located at 2750 Thompson's Point Road. In addition to substantial interior renovations, the applicants wish to add a porch roof on the east side of the structure, create a bedroom dormer on the west side of the building, and add square footage to their dining room on the south side. A planned walk-out balcony was withdrawn once it became evident that they would not be able to find adequate gross floor area offsets.

The property is located in the Shoreland Seasonal Home Management District, the standards for which are found in Chapter 2 of the Charlotte Land Use Regulations (November 2, 2010). This application is for the (D)4 "Alteration of an existing structure" conditional use listed in Table 2.7. The issue before the Board is whether the proposed alterations meet the relevant District Standards, the Section 5.4(C) Conditional Use Review General Standards, as well as taking into consideration the recommendations of the Design Review Committee.

Based on the application, exhibits and testimony at hearings on January 15, January 29, and March 26, 2014 as well as a site visit on January 26, the Board renders the following substantive review and decision.

**II. Evidence Presented & Findings of Fact**

The initial application was dated December 5, 2013. While the Board reviewed several versions of the renovation plans, the final and most up to date revisions are discussed in a memo to the ZBA from

the applicants dated March 5, 2014 (Exhibit B), elevation drawings (Exhibit C) and floor plan (Exhibit D). The board was also given an existing floor plan as well as pictures of the existing structure. Exhibits and testimony shows the following:

- On the east side of the house, the applicant intends to cover an existing porch with a roof. The porch is sealed and covers an existing storage room.
- On the west side, the applicant intends to create a five-window dormer replacing a single window dormer, raising the interior headroom under the new dormer to over six feet. The current knee wall is 3.5 feet high and the floor area where the floor to ceiling height is less than six feet is 2.5 feet by 16.5 feet, or 41.3 square feet total. By increasing the headroom of this area to over six feet, this area will count toward the gross square footage.
- On the south side, the applicant intends to extend the dining room several feet west, thereby eliminating a "notch" in the floor plan. This dining room addition adds another 18 square feet, for a total of 59.3 square feet of new space to be included in the gross square footage measurement.

To offset the proposed additions in gross square footage, the applicant intends to eliminate up to 68.3 feet of the porch on the east side of the house (30 square feet from the north end of the porch, 38.3 from the east side of the porch). The result is that there will be no net increase to the gross square footage of the house, and a net decrease in the building footprint. Because the porch floor area acts as a weather-sealed roof to a storage room underneath, its dimensions influence both the gross square footage as well as the building footprint measurements.

On the site itself, the applicants intend to remove several trees, do modest landscaping, and create a path on the North side of the property from driveway to the back yard.

The board received a letter from the Design Review Committee dated November 12, 2013. At the time, the DRC was opposed to the south side expansion of the dining room given that it increased the footprint of the house. They were also opposed to the porch roof, fearing that it might later be screened in to increase the square footage on a lot already over the limit of coverage. They voiced no objection to the dormer. Neighbor Dorothy Naylor wrote in support of the project. No neighbors indicated any objection to this proposal.

Shoreland Seasonal Home Management district standards (7)(a) and (b) read:

- (7) The alteration or expansion of an existing principal structure may be approved by the Board of Adjustment subject to conditional use review, provided that:
- (a) the building footprint which is covered by a roof (including covered porches and decks) does not exceed seven percent (7%) of the area of the leasehold it occupies; and
  - (b) the alteration or expansion is not for the purpose of increasing occupancy

The proposed renovations actually reduce the number of bedrooms from 5 to 3, so there is not an issue regarding an increase in occupancy; however, the current building footprint totals 2,167 square feet and because the leasehold totals 8,724 square feet, at 19.9% it does significantly exceed the seven percent threshold. This is not an unusual situation on Thompson's Point, and a narrow reading of these regulations would suggest that no alterations -- defined in our bylaws as any "structural change" to a building (emphasis added) -- would be permitted in these cases. The Board rejects such a narrow reading of the regulations which would have the effect of eliminating almost all renovations to affected properties on Thompson's Point as being contrary to the intent of the drafters and good sense,<sup>1</sup> especially in this case (where as a result of the final proposed alterations including reductions to the porch) the footprint of the house will decrease (to 19.4% of the area of the leasehold).

### III. Decision

On a motion duly made and seconded, the Board voted unanimously to approve the revised application with the following five conditions:

1. That the increases in square feet due to the dormer and dining room additions are entirely offset by porch area reductions
2. That alterations made conform to the most recent testimony and description presented to the Board and in accordance with plans dated March 5 and entered as Exhibits B, C, and D
3. That if the roof is added to the porch as planned, the porch shall not be further enclosed or screened in without first seeking and receiving approval as required under the Land Use Regulations

<sup>1</sup> While the Board was willing in this instance to undergo Conditional Use review for an alternation, we would have been reluctant to do so in the case of a proposed expansion. If town planners wish otherwise, we suggest the addition of clarifying language in revised Land Use Regulations.

4. That no construction activity takes place between July 1 and Labor Day, pursuant to Table 2.7(F)(6)
5. That immediately following any demolition, all materials shall be disposed of according to solid waste district standards, the site shall be restored to a normal grade, and ground cover shall be established sufficient to prevent erosion, pursuant to Section 3.1(B)

**Vote: 5 in favor, 0 opposed**

**Dated at Charlotte, Vermont, this 11th day of April, 2014.**

  
Benjamin Pualwan  
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 DATE OF THIS DECISION, PURSUANT TO 24 VSA §4471 AND THE VERMONT RULES FOR ENVIRONMENTAL COURT PROCEEDINGS.