

**TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT**

In Re: Conditional Use Review of 436 Monkton Road

ZBA-14-~~05~~⁰⁷

OPINION

I. Introduction and Issues Presented

On August 27th 2014, Erica and Jason Galipeau submitted an application for conditional use review for a proposed alteration and expansion of their existing residence. The residence is located at 436 Monkton Road. Public notice of the application was achieved by distributing the notice of hearing via The Citizen on September 25th, 2014; posting the notice of hearing at the Town Hall, The Brick Store and Spear Street Store; and mailing a notice of the hearing to adjoining property owners. Notices were mailed to 1) Stephen and Deborah Mayfield (0028-0441), Roger Bunten (0028-0488), Frankie Botala (0028-0398), and Matthew Hough and Michelle Barnes (0028-0399).

The application was considered by the Zoning Board of Adjustment (ZBA) at a public hearing on October 15th, 2014 and continued to October 22nd, 2014. The ZBA reviewed the application under the Charlotte Town Plan, 2013 and the Charlotte Land Use Regulation, 2010. Present at the 10/15/2014 hearing were the following members of the ZBA: Frank Tenney, Vice Chair; Jonathan Fisher, and Douglas Webster. Present at the 10/22/2014 hearing were the following ZBA members: Benjamin Pualwan, Chair; Frank Tenney, Vice Chair; Douglas Webster, and Jonathan Fisher.

It is the applicant's intent to remove the existing garage, and in its footprint, construct a 24' X 23' great room. A new 24'x28' garage will be constructed on the front side of the house. As part of this application, the applicants also propose to add a 10'x16' mudroom located on the front of the house, expand a bedroom, add closet space, and construct a bathroom on the second story of the house. A 12'x 59.5' deck and 12.5'x12' patio are proposed additions to the rear of the house.

II. Meeting Attendance

The following participated in the hearing: Erica and Jason Galipeau.

III. Evidence

During the course of the hearing sworn testimony was taken from Jason and Erica Galipeau and the following exhibits were entered into the record:

- A completed conditional use application form, dated August 27th, 2014
- A list of abutters with addresses
- A site plan show casing the location of the proposed addition (Attachment A)
- A floor plan of the current first and second floor layout (Attachment B)
- A floor plan of the proposed first floor layout (Attachment C)
- A floor plan of the proposed second floor layout (Attachment D)
- Existing sketch of the building footprint (Attachment E)
- Correspondence dated 10/14/14 clarifying existing and proposed dimensions (Attachment F)
- A set of existing and proposed floor plans and plot plans, drawn to scale. (Exhibit A)
- Elevations drawn to scale depicting the front and side view of the residence (Exhibit B)
- A photograph of the front of the residence (Exhibit C)

IV. Findings of Fact

1. The house is located at 436 Monkton Road and is owned by Erica and Jason Galipeau.
2. The house is located in the rural district on a one acre lot.
3. The house is considered a nonconforming structure as it does not meeting the 50ft side setback requirement on the south boundary. The current south setback is 38ft. The southern setback is proposed to be reduced from 38ft to 35ft.
4. With the addition of the new garage, the front setback will be reduced from 104ft to 76ft. The front setback measurements take into account the 66ft right-of-way, for Monkton Road.

5. The rear setback will be reduced from 81ft to 69ft with the addition of the proposed deck and patio.
6. The total building lot coverage will increase from approximately 3.8% to 6.6%.
7. The current height of the residence is 20ft. There is no proposed increase in height.
8. The residence is permitted as a three bedroom. There is no proposed increase in occupancy.

V. Conclusions of Law

Table 2.5 Rural District

The house is considered a nonconforming structure as it does not meeting the 50ft side setback requirement as established in Table 2.5 of the Charlotte Land Use Regulations. The Rural District has a density requirement of five acres per dwelling unit. The residence is located on a preexisting one acre nonconforming lot. The southern setback is proposed to be reduced from 38ft to 35ft. The west (rear) setback will be reduced from 81ft to 69 ft. The front (east) setback will be reduced from 104ft to 76ft. The proposed alterations and expansion will have no impact on the current north setback, which is 120ft. The proposed west, east, and north setbacks are all within the 50ft rural district setback requirements. The current building lot coverage is approximately 3.8%, and is proposed to increase to 6.6%, which is below the District's 20% maximum. The total proposed lot coverage is estimated to be 9.8%, which conforms to the district's 30% maximum.

Section 3.8 (B) Nonconforming Structures

The nonconforming southern setback is proposed to be reduced from 38ft to 35ft. According to Section 3.8 (B), a nonconforming structure may only be structurally modified or moved in a manner that will not increase the degree of noncompliance, unless approved by the Board of Adjustment in association with conditional use review under Section 5.4. The Land Use Regulations define any structural alteration which extends the footprint, height or volume of a structure within any required setback as an increase in noncompliance. The Board notes that the proposed further encroachment on the southern boundary and proposed additional volume within

the setback will significantly increase the nonconformity of the structure. In order to reduce the proposed increase in nonconformity, the Board has determined that the height of the proposed great room and new garage shall be no higher than 14ft. A reduction in the height of these buildings will result in far less volume added within the southern setback.

Section 5.4 Conditional Use Review

The ZBA concludes that all five conditional use review general standards in Section 5.4 (C) are met by this application.

Section 5.4 (D) (2) Additional Restrictions:

Under this Section, the Board may require increased setbacks and buffers to avoid or mitigate adverse impacts to adjoining properties. While the Board does not wish to increase the southern setback beyond what's existing, it does not want the existing southern setback to be reduced. In order to mitigate adverse impacts to the adjoining property on the southern boundary, the Board will require that at no point the new garage be less than 38ft from the property line.

Section 3.12 Performance Standards

The ZBA has reviewed the application under performance standards described in Section 3.12 and has determined that the project should not violate any of these standards.

Decision

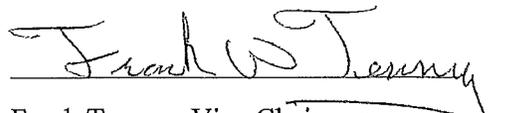
Based upon these findings, and subject to the conditions set forth below, the Zoning Board of Adjustment **approves** this application as presented to the Board.

1. Pursuant to Section 3.1(B), immediately following any demolition, all materials shall be disposed of according to solid waste district standards.
2. There shall be no additional occupancy (measured as no more than three bedrooms) in the residence.
3. The deck shall be no larger than 12' x 59.5' and the patio shall be no larger than 12.5' x 12'.

4. The Board approves the proposed changes to the second floor of the residence as depicted on page four of Exhibit A.
5. As indicated in the plans, the proposed great room shall be no larger than 24' X 23', the proposed garage shall be no larger than 24' X 28', and the proposed mudroom shall be no larger than 10' X 16'.
6. In order to reduce the adverse impact on the southern adjoining property, at no point shall the new garage be less than 38ft from the southerly property line.
7. In order to limit the volume added within the nonconforming southern setback, the proposed great room, and new garage, shall be no higher than 14ft from the average natural grade.
8. Prior to applying for a zoning permit, plans shall be revised to depict the revisions necessary according to this decision.

Vote: 3 Ayes; 2 Absent.

Dated at Charlotte, Vermont, this 21st day of November, 2014.


Frank Tenney, Vice Chairman

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.