

**TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT**

In Re: Conditional Use Review of 529 Church Hill Road

ZBA-15-07

OPINION

I. Introduction and Issues Presented

On August 28, 2015, Patricia Coyle submitted an application for conditional use review for a proposed two-bedroom accessory dwelling. The residence is located at 529 Church Hill Road. Public notice of the application was achieved by distributing the notice of hearing via The Citizen on September 10, 2015; 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) Charlotte Congregational Church (00007-0403); 2) Trust of Trudi Pinney (00007-0643); 3) Jason & Donna Wark (00043-0014); 4) Frank & Elaine Ittleman (00007-0406); 5) Church Hill Home Owner's Association; and 6) Frank Weidman Jr. (00007-0602).

The application was considered by the Zoning Board of Adjustment at a public hearing on September 30, 2015. The Zoning Board reviewed the application under the Charlotte Town Plan, 2013 and the Charlotte Land Use Regulation, 2010. Present at the hearing were the following members of the Zoning Board: Frank Tenney, Chair; Jonathan Fisher, Mathew Zucker, Andrew Swayze, and Stuart Bennett.

II. Meeting Attendance

The following participated in the hearing: Patricia Coyle, Christopher Coleman, and William Pinney,

III. Evidence

During the course of the hearing sworn testimony was taken from Patricia Coyle, Christopher Coleman, William Pinney and the following exhibits were entered into the record:

- A completed conditional use application form, received August 28, 2015
- A list of abutters with addresses

- A site plan showcasing the location of the proposed accessory dwelling
- A letter authorizing Christopher Coleman to act as the designated co-applicant
- Preliminary elevations of the proposed accessory dwelling
- Lister's sketch illustrating the amount of habitable floor area in the principal dwelling
- Sketch of the accessory dwelling and garage footprint

IV. Findings of Fact

1. The principal structure is located at 529 Church Hill Road and is owned by Patricia Coyle.
2. The property is located in the Rural District and is sited on a 5.9 acre lot.
3. As required under Section 4.2 (2), accessory dwellings located in a new accessory structure require conditional use approval.
4. The property is located in the Church Hill Historical District but is not listed as a historical structure.
5. Under Section 4.2 (A)(d), an accessory dwelling shall not exceed 30% of the total habitable floor area of the principal dwelling or 1,000 square feet, whichever is larger. The principal dwelling has 3,470 square feet of habitable floor area and the proposed accessory dwelling is 1,040 square feet in size. The proposed accessory falls one square foot shy of the 30% maximum.
6. The proposed dwelling will be 24'-1 5/8" in height and is proposed to have an attached 728 square foot garage.
7. The accessory dwelling will share the same driveway access as the principal structure.
8. The applicant is working with Vermont Contours to design a wastewater system for the accessory dwelling. The submission of the wastewater permit is pending.
9. The applicant's site plan was prepared by Vermont Contours and was calculated using the location of lot pins. Mr. Pinney testified that he did not feel the property lines were depicted correctly on the applicant's site plan.

V. Conclusions of Law

Table 2.5 Rural District

The minimum setback for the rural district is 50ft. The proposed accessory dwelling will have a front setback of approximately 170ft, a rear setback greater than 220ft, a west side setback of approximately 80ft, and east side setback of approximately 170ft. The setbacks are approximate given the ambiguity surrounding the property lines. The Zoning Board finds that the accessory structure is sited in a manner that will allow it to continue to meet the setback requirements even if the property lines were to be adjusted in the future.

The maximum building lot coverage allowed in the rural district is 20% and the maximum lot coverage allowed in the rural district is 30%. With the addition of the 1040 square foot accessory dwelling and 720 square foot garage, the building lot coverage will increase to approximately 2.3%, which is below the district's maximum.

The maximum height allowed with the rural zoning district is 35ft. According to the plans, the proposed accessory structure will be 24ft-1 5/8 inches tall, as measured from the average natural grade.

Section 4.2 Accessory Dwelling

The principal dwelling or accessory dwelling must be owner occupied. Patricia Coyle, the property owner, will continue to reside in the principal structure, and will eventually move into the accessory dwelling. The accessory dwelling will be built as a handicap accessible structure.

If there is a designated building envelope, the accessory dwelling must be located within it. There is no building envelope associated with this parcel. The accessory dwelling will be subject to the standard setbacks of the Rural District.

The total floor area of the accessory dwelling shall not exceed 30% of the total habitable floor area of the principal dwelling, or 1,000 square feet, whichever is larger. The principal dwelling has 3,470 square feet of habitable floor area and the proposed accessory dwelling is 1,040 square feet in size. The proposed accessory dwelling is one square foot less than the 30% maximum.

The accessory dwelling shall share the same road access as the principal dwelling. The accessory dwelling will share the existing driveway access. There are no new curb cuts proposed.

There must be sufficient water and wastewater system capacities to serve both the principal and accessory dwelling. The applicant is working with Vermont Contours to design a separate wastewater system for the proposed two-bedroom accessory dwelling. Preliminary tests indicate that the soils can support the new system. A water/wastewater permit submission is pending.

Section 5.4 Conditional Use Review

Character of the area affected. The Zoning Board understands that the accessory dwelling will be constructed in the Historical District, and as such, asks that the applicant preserve that natural screening along Church Hill Road.

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.

VI. Decision

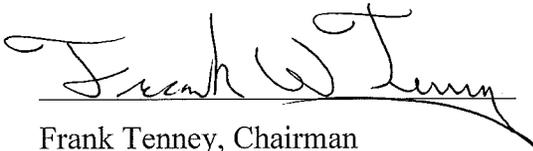
Based upon these findings, and subject to the conditions set forth below, the Zoning Board of Adjustment **approves** this application as presented to the Zoning Board.

1. The accessory dwelling shall be no larger than 1,040 square feet as per the revised plans submitted August 28, 2015.

2. There shall be no finished living space in the proposed garage.
3. Pursuant to Section 3.9, all proposed lighting shall be down shielded to prevent glare onto neighboring properties, and public rights-of-way.
4. 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 10 feet in height above natural grade, which shall be set back from the existing hedgerow, to effectively screen the accessory structure from pedestrian and vehicular traffic on Church Hill Road. Plantings shall be installed within seven months of this decision and shall be replaced in the event that a specimen dies.
5. It is the applicant's responsibility to adhere to all local and state regulations, including, but not limited to, the State Wastewater Regulations.

Vote: 5 Ayes; 0 Ayes.

Dated at Charlotte, Vermont, this 16th day of, October, 2015.



Frank Tenney, 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.