

**TOWN OF CHARLOTTE
ZONING BOARD OF ADJUSTMENT**

In Re: Conditional Use Review 719 Hills Point Road

ZBA-15-10

OPINION

I. Introduction and Issues Presented

On September 30, 2015, Michael and Rebecca Abbott, on behalf of John Winton, submitted an application for conditional use review for a proposed alteration to an existing non-conforming structure. The house is located at 719 Hills Point Road. Public notice of the application was achieved by distributing the notice of hearing via The Citizen on October 8, 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) Gregory & Fraya Smith (00034-0724), 2) David & Katherine Cohen (00034-0775), and 3) George & Marie Luhr (00034-0701).

The application was considered by the Zoning Board of Adjustment at a public hearing on October 28, 2015 and continued to November 4, 2015. The Zoning Board attended a site visit on October 28, 2015 and November 1, 2015. The Zoning Board reviewed the application under the Charlotte Town Plan, 2013 and Charlotte Land Use Regulations, 2010. Present at the hearing were the following members of the Zoning Board: Frank Tenney, Chair; Jonathan Fisher, and Andrew Swayze.

II. Meeting Attendance

The following participated in the hearing: Linda Sparks, Karen Bresnahan, Marie Luhr, Michael Minadeo (architect), Scott Hammond (builder), Rebecca Abbott, and Michael Abbott.

III. Evidence

During the course of the hearing sworn testimony was taken from the attendees listed above and the following exhibits were entered into the record:

- A completed conditional use application form, received September 30, 2015
- A letter authorizing Michael and Rebecca Abbott to represent John Winton as designated co-applicants.
- A list of abutters with addresses
- A site plan, received September 30, 2015
- A set of elevations, received October 26, 2015

- A collection of site photographs dated September 30, 2015
- An email from Gregory Smith requesting “interested party” status, received October 5, 2015.
- An email of support sent from Dave Cohen, dated October 26, 2015.
- A revised site plan, received November 4, 2015, denoted as Exhibit A.

IV. Findings of Fact

1. The property is located at 719 Hills Point Road and is owned by John Winton.
2. The parcel is one acre in size and is located in the Shoreland District.
3. The current residence is considered non-conforming because it does not meet the required 150ft setback from the lake or the 50ft side setback requirements. At its closest point, the existing house is located 64’-9” from the lake (as measured from the mean high-water level). The existing house is located 40ft from north and south side setbacks.
4. The Applicant proposes to construct a new 25’x24’ garage attached to the principal structure by a 20’ x 10’ enclosed breezeway on the south side of the property. The proposed project also includes the construction of a partial second story, expansion of the front deck, a second story “bump-out” on the north and east side of the house, and the construction of a balcony on the second story of the lake side of the house. The existing garage will also be converted into living space.
5. One tree located on the north side of the house will have to be trimmed or removed to make room for the proposed bump-out on the second story of the house.
6. The proposed house will measure 26ft at its highest point. The partial second story will be situated over the north side of the existing structure. The maximum height allowed in the Shoreland District is 30ft.
7. The existing lake setback of 64’-9” will be maintained. No vegetation between the lake and the house is proposed to be removed.
8. The structure will feature natural-toned cedar shingling.
9. There is an existing shed located near the southern boundary on the lakeside of the house.

V. Conclusions of Law

Table 2.6 Shoreland District:

The proposed structure will maintain its current (west) lake setback of 64’-9”. The existing southern boundary will be decreased from 40ft to 16ft due to the addition of the attached garage. The northern

setback will be reduced from 40ft to 36ft, due to a proposed 3ft bump-out, bay-window on the second story, with a 1ft roof overhang. The minimum side setback in the Rural District is 50ft. With the construction of the new garage, the eastern setback will be reduced to from 160ft to approximately 116ft.

With the proposed additions and site improvements, the total lot coverage will increase from 6.4% to 9.8%. It is worth noting that the 150 square foot deck proposed on the south side of the house, the 460 square foot deck proposed on the lakeside of the house, and 100 square foot lake patio, will be constructed of pervious materials, and in terms of the state application, will not be included in lot coverage calculations. In terms of local review, the Zoning Board has taken the conservative interpretation, and has included the pervious decks and existing driveway into the lot coverage calculation.

Section 3.8 Existing Non-Conforming Structures

Nonconforming structures may only be modified or moved in a manner that will not increase the degree of non-compliance, unless approved by the Board of Adjustment in association with this conditional use review process. The addition of the attached garage and the proposed bump-out bay window on the north side of the house will reduce the already nonconforming side setbacks, and add volume within the side, and lake setbacks. These additions triggered the need for this conditional use review.

Section 3.12 Performance Standards

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

Section 3.15 (6) Lakeshore Buffers

There is no proposed cutting of wetland vegetation with the 100ft buffer, other than the possible removal one cedar tree on the north side of the house. The Charlotte Deputy Tree Warden has reviewed the tree and has determined that it would be okay to remove, as it leans slightly towards the house, and may become more dangerous overtime.

Section 5.4 Conditional Use Review

The Zoning Board has reviewed the application under the conditional use standards prescribed in Section 5.4 and has determined that the project will not violate any of these standards.

VI. Decision

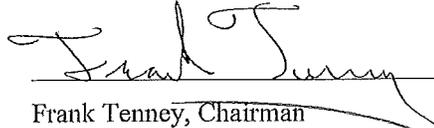
Subject to the conditions set forth below, the Zoning Board of Adjustment **approves** this application as documented in the elevations submitted on October 26, 2015, and the revised site plan, originally dated 10/17/2015, and revised 11/3/2015, otherwise denoted as Exhibit A.

1. The Zoning Board approves the revise plan submitted November 4, 2015 (Exhibit A), with the option that the garage doors may be placed on the east or north side of the proposed structure. The Zoning Board gives the Applicant the choice as to whether they remove or retain the additional 250 square feet of asphalt located to the east of the proposed garage.
2. No portion of the proposed structure, including the proposed lakeside deck with steps, shall be closer to the lake than the existing 64'-9" setback, as measured from the 98ft mean high-water mark. The distance from the lake to the three season porch shall be confirmed not to be closer than 64'-9" by the Zoning Administrator during the initial inspection for the building permit.
3. At no point should any part of the proposed garage be any closer than 16ft from the southern property line.
4. At no point should any portion of the proposed bay window be closer than 36ft from the northern property line.
5. As provided for in Table 2.6 (F) (9), erosion control measures shall be taken during excavation and construction of the proposed project to mitigate sediment runoff into the lake.
6. The existing shed structure, located on the lakeside of the house, near the south boundary, shall be removed, and the area where it occupies shall be returned to natural vegetation.

7. Pursuant to Section 3.1(B), immediately following any demolition, all materials shall be disposed of according to the Chittenden Solid Waste District Standards.
8. The one cedar proposed to be cut on the north side of the house may be removed. No other vegetation within the 100ft lakeshore buffer may be removed.
9. In accordance with Section 3.15 (G)(4), there shall be no dredging, draining, or filling of land to create to the proposed "path to water's edge".
10. It is the Applicant's responsibility to adhere to all local and State regulations, including, but not limited to, the Vermont Shoreland Protection Act.

Vote: 3 Ayes; 2 Absent.

Dated at Charlotte, Vermont, this 13th day of November, 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.