

Town of Charlotte
Zoning Board of Adjustment

CHARLOTTE TOWN CLERK'S OFFICE
RECEIVED FOR RECORD
This 18th day of October A.D. 2016
at 3 o'clock 45 minutes P. M. and
recorded in vol. 215 on page 437-440
Attest [Signature] Town Clerk

In Re: 16-125-CU Conditional Use Review for Ralph Brooker for construction of a 28'x36' garage and shop, and a 14'x28' deck to be attached to an existing house at 1362 Ethan Allen Highway in the Town of Charlotte (M05B01L04).

I. Introduction and Procedural History

On September 18, 2016, Ralph Brooker (the property owner) submitted an application for conditional use review for the construction of two projects: 1. 28'x36' garage, shop, and multi-use building on an existing concrete slab (that was installed on the property in 1998), and 2. A 14'x28' deck on the western side of the existing house with a 6'x6' access ramp on the deck's southern side. The structure is located at 1362 Ethan Allen Highway within the Route 7 Scenic Overlay District of the Rural Zoning District.

Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper for the week of August 22nd; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on August 17. Further notification was issued to the adjoining property owners regarding the public hearing by direct correspondence at least 15 days prior to the public hearing held on September 21 at the Town offices at 159 Ferry Road in the Town of Charlotte.

The application was considered by the Zoning Board of Adjustment (ZBA) on September 21 and 28, 2016. A site visit to the property was conducted before the September 21st hearing. Present at the hearing were the following members of the ZBA; Frank Tenney (Chair), Stuart Bennett, Jonathan Fisher, and Andrew Swayze. Property owner Ralph Brooker and Charlotte Town staff Daryl Benoit were also present during the visit.

The ZBA reviewed the application under the Charlotte Land Use Regulations, 2016. Application materials included a signed application form; an application fee; list of adjoining property owners; a proposed plan for the deck and the garage; an overall site plan for property, and an updated set of the aforementioned plans with the details, which were requested by the ZBA at the September 21, 2016 hearing and were accepted as Exhibit A (*submitted to the ZBA at September 28, 2016 hearing*).

All previously listed materials relevant to the review of the project are posted on the Town of Charlotte Planning & Zoning Office website at the following link: <http://bit.do/crVdK>.

II. Standard of Review

The application requires review under the following sections of the Land Use Regulations for the Town of Charlotte (Approved March 1, 2016):

1. Chapter II, Section 2.3, Table 2.5(E) – Application of District Standards; Rural District (RUR); Dimensional Standards

2. Chapter II, Section 2.3, Table 2.9(E)(2) – Application of District Standards; Route 7 Scenic Overlay District (R7O); District Standards
3. Chapter III, Section 3.8 (B)(2) Nonconforming Structures
4. Chapter III, Section 3.9 (B)(2) Outdoor Lighting; General Standards
5. Chapter V, Section 5.4 (C) General Standards
6. Chapter V, Section 5.4 (D) Specific Review Standards

III. Findings

Based on the application, testimony, exhibits and other evidence, the Zoning Board of Adjustment makes the following findings:

1. The applicant seeks to expand the existing non-conforming primary structure (with an attached 14'x28' deck) within the 100' setback from the Route 7 Right-of-Way within the **Route 7 Scenic Overlay District (R7O)**, which triggers a Conditional Use review.
 2. The applicant seeks to construct of an accessory structure (a 28'x36' garage, shop, and multi-use building) upon a pre-existing concrete slab. As the project is also within the **Route 7 Scenic Overlay District (R7O)**, which triggers a Conditional Use review.
 3. The proposed garage to be built upon the cement slab conforms with all setback requirements.
 4. The proposed deck requires review under the following sections of the Regulations:
 - Section 2.3 / Table 2.5 Rural District
 - Section 3.1 – Repair of Damaged Structures; Demolition
 - Section 5.4 (C) – Conditional Use Review General Standards
 - Section 5.4 (D) – Conditional Use Review Specific Standards
- a. Chapter II, Section 2.3, Table 2.5 (E) requires the following dimensional standards:
1. Minimum Side/Rear/Front Setback: 50' / Route 7: 100':
The proposed deck structure does not conform to the Rural District standards because it falls within the 100' setback area of US Route 7. The primary structure has;
 - * 8' frontage/road setbackThe proposed deck structure does conform to the Rural District standards for;
 - * 180' side setback from the adjacent lot to the south (1445 Ethan Allen Hwy),
 - * 80' side setback from the adjacent lot to the north (Charlotte Wildlife Refuge),
 - * 700' rear setback from the adjacent lot to the west (Charlotte Wildlife Refuge).
 2. Maximum Height 30' (Section 3.5):
The existing height of the house is 24' in height. The height for the proposed deck is stated within the application to be 7'. The height of the proposed garage is stated within the application to be 22'. Both the deck and garage conform with the district standard.

3. Maximum Building Coverage: 20%:

The existing building coverage is 0.035 acres. The proposed building coverage would add a negligible area of 0.023 acres to the current footprint (for a sum of 0.058 acres) = 1.18% total building coverage. The Building Coverage conforms with the district standard.

4. Maximum Lot Coverage: 30%: The square footage of the all structures combined including the deck is approximately 2,921 square feet. $2,921/213,880$ (0.0671 acres) = 1.36% total lot coverage. The Lot Coverage conforms with the district standard.

5. A handicapped-accessible 6'x6' ramp will be built off of the southern side of the deck adjacent to the west wall of the house.

IV. Conclusions of Law

The proposed development meets the requirements of Sections 2.3 / Table 2.5 Rural District, 5.4 (C) Conditional Use Review General Standards and Section 5.4 (D) Conditional Use Review Specific Standards.

- a. The project will not result in the need for additional facilities or services as it will not increase the occupancy of the dwelling.
- b. The project will not have an adverse impact on the character of the area. The new garage will be in the same location as the existing structure and will have a negligible increase on the footprint. It will be a second story open deck without a roof.
- c. The project will not result in additional traffic as it will not increase the occupancy of the dwelling.
- d. The project is in conformance with municipal bylaws and ordinances currently in effect.
- e. The project does not interfere with the sustainable use of renewable energy resources on the applicant's parcel or on adjoining parcels.
- f. The project is in conformance with the Town Plan.
- g. The project will not impact significant natural, cultural or scenic features and thus, no additional restrictions are required.
- h. The use of the property for a single-family dwelling will not change and thus, consideration of the performance standards is unnecessary for this project.

V. Decision and Conditions

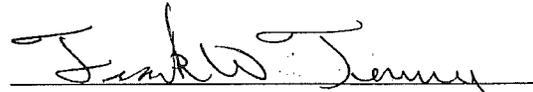
Motion to approve Brooker application as presented (ZBA-16-125-CU) subject to the following conditions:

- a. Outdoor lighting shall be kept to a minimum and permanent outdoor lighting fixtures shall not direct light upward or onto adjacent properties, as per Section 3.9 of the Regulations.
- b. Construction of a 28'X36' garage and shop upon a pre-existing concrete slab.
- c. Second story open 14'X28' deck without a roof.

- d. No additional dwelling units approved to be constructed within any structures.

Vote: 4 Ayes. 1 Absent.

Dated at Charlotte, Vermont this 13th day of Oct, 2016.


Frank Tenney, 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 latest date of signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Additional Regulations and Permitting

The owner and his/her representatives shall abide by the practices in the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control (2006) as necessary to ensure that sediment and sediment laden water does not leave the project parcel. Contact 802.540.1748 for a hard copy or you may visit: <http://dec.vermont.gov/watershed/stormwater>.

There may be additional State of Vermont and / or federal permits or approvals needed for the proposed development or use. The applicant may contact the Agency of Natural Resources Permit Specialist at 802.477.2241 for further information.