Town of Charlotte
Zoning Board of Adjustment

In Re: ZBA-16-181-CU Conditional Use Review for Richard Ahrens to remove an existing water cistern, install insulation and a foundation underneath the main structure for conversion from a seasonal to a year-round use on the house located at 42 Wishbone Lane in the Town of Charlotte (M37B50L03).

I. Introduction and Procedural History

On December 22, 2016, Richard Ahrens (the property owner) submitted an application for conditional use review for the modification of a house, including; **1.** Removal of an existing water cistern; **2.** Installation of insulation and a foundation underneath the main structure (20' 5" x 34' 8") for the purpose of converting the house from a seasonal to a year-round use. The structure is located at 42 Wishbone Lane within the Shoreland District.

Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper January 5, 2017; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on December 30, 2016. 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 Wednesday January 25, 2017 at the Town offices at 159 Ferry Road in the Town of Charlotte.

A site visit to the property was conducted January 25 at 6:20pm. Present at the visit were the following members of the ZBA; Frank Tenney (Chair), Stuart Bennett, and Jonathan Fisher. Property owner Richard Ahrens, a neighbor David Wilson, and Charlotte Town staff Daryl Benoit were present during the visit. The application was considered by the Zoning Board of Adjustment (ZBA) at 7:00pm after the site 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 replacement water system map for the property designed by Barnard & Gervais, LLC (dated May 27, 2016); side elevations (dated March 27, 1997); and a survey of the property.

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: https://is.gd/Y7eNDU.

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 2.6(E) – Application of District Standards; Shoreland District (SHR); Dimensional Standards
2. Chapter III, Section 3.8 (B)(2) Nonconforming Structures
3. Chapter V, Section 5.4 (C)(2) General Standards; Character of the Area Affected

III. Findings

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

1. The applicant seeks conditional use approval for the removal of an existing water cistern and the installation of insulation and a cellar foundation underneath the existing main structure (for conversion from seasonal to year-round use), located at 42 Wishbone Lane within the ***Shoreland District (SHR)***.
2. The water source for the house will be converted from an existing cistern to a well.
3. The entire house will be insulated.
4. The house is currently stands 18" off of an exposed earth foundation upon pier footings.
5. The project proposes to attempt to create an 8' high walkable cellar for the entire house. This depends on the amount of rock ledge that is found underneath the house during excavation of the foundation. The parcel lot has been found to have ledge at a depth of 2' in some areas. However, the cistern location had a deep excavation. If ledge is found during excavation, then the applicant has stated that an attempt will be made to establish at least a 4' 6" crawlspace underneath the house without blasting.
6. The project would increase the volume of the pre-existing non-conforming primary structure by up to 2,224 cubic feet of space (in the case of an 8' basement underneath 20' 5" x 34' 8") within the 50' setback of the property, thereby increasing noncompliance and triggering a Conditional Use review.
7. The basement will be constructed out of concrete and house the associated mechanical apparatus for a new well to be drilled on the property (detailed in the Site Plan and Replacement Water System Details designed by Barnard & Gervais, LLC that was submitted by the applicant).
8. After the excavation of the foundation, the grade level may be 12" to 18" higher than the current grade.

IV. Conclusions of Law

1. **<u>Chapter II, Section 2.3, Table 2.5 (E)</u>** requires the following dimensional standards:
   a. <u>Minimum Side/Rear/Front Setback: 50':</u>
   The project does conform to the Shoreland District standards because it falls within the 50' setback area. The primary structure has;

   * 70' east side setback
   * 100' north side setback

   The proposed addition <u>does not</u> conform to the Shoreland District standards for;

   * 22' side setback
   * 40'-50' frontage setback

   b. <u>Maximum Height 30' (Section 3.5):</u>

The current height of the two-story primary structure is unknown. The Town has no records of the building height. The proposed modification would not increase the building height to exceed the **Shoreland District** standard maximum of 30' 0".

c. Maximum Building Coverage: 20% and Maximum Lot Coverage: 30%:
The existing coverage is 0.0353 acres, or 5.04%. The proposed coverage would add a basement area of 712 sq. ft. to the building. Both the Building & Lot Coverage would conform with the district standard.

2. **Chapter III, Section 3.8 (B)(2) Nonconforming Structures.**
The project increases the volume of the structure within the 50' setback of the property and therefore increases the degree of noncompliance

3. **Chapter V, Section 5.4 (C) General Standards** stipulates that a proposed conditional use shall not result in an undue adverse effect on any of the following:
   a. The capacity of existing or planned community facilities and services;
      - There is no undue adverse effect
   b. Character of the area affected;
      - The style of the proposed structure alteration is within the character of neighborhood.
   c. Traffic on roads and highways in the vicinity;
      - There is no undue adverse effect
   d. Bylaws in effect;
      - There is no non-conformance issues with other Town Bylaws.
   e. The use of renewable energy resources;
      - There is no undue adverse effect on renewable energy resources.

V. Decision and Conditions

Motion to approve Ahrens application as presented (ZBA-16-181-CU) subject to the following conditions:

1. The project will not increase the number of bedrooms or living space within the house.
2. The basement will be unfinished and will be designed to house mechanical systems only.
3. The volume created within the basement shall not exceed a maximum of 2,224 cubic feet within the setback area.
4. The height of the house will not exceed 30'.

Vote: *3 Ayes. 2 Absent.*

Dated at Charlotte, Vermont this 15th day of Feb., 2017.

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.