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Attest Town Clerk

Town of Charlotte
Zoning Board of Adjustment

In Re: 16-40-CU Conditional Use Review for 923 Trust c/o Carleen Tufo for alteration to an existing structure at 532 Flat Rock Road.

I. Introduction and Procedural History

On March 15, 2016, Carleen Tufo and her representative, David Bertrand, submitted an application for conditional use review for enclosing a porch on their camp at Thompson's Point. The project property is located at 532 Flat Rock Road in the Shoreland Seasonal Home Management Zoning District. Public notice of the application was achieved by posting of the notice at The Brick Store, Town Hall and Spear Street Store on March 23, 2016; publishing in The Citizen on March 24, 2016[1]; and mailing to adjoining property owners on March 25, 2016. Notices were mailed to the applicant and Smith (00025-0534).

The application was considered by the Zoning Board of Adjustment (ZBA) on April 6, 2016 and April 12, 2016. The Design Review Committee (DRC) reviewed the application and visited the site on March 29, 2016 and April 11, 2016. Their initial comments dated March 31st and received on April 5th indicated a need for additional information. Following the first hearing and after receiving more information from builder, David Bertrand, the DRC provided an email dated April 11, 2016 indicating their approval of the application.

Present at the hearing(s) were the following members of the ZBA: Frank Tenney, Chair; Andrew Swayze; and Stuart Bennett. Jane Kiley of the Charlotte Design Review Committee participated in the first hearing as did property owner Carleen Tufo and her builder David Bertrand. Mr. Bertrand represented the applicant during the second hearing.

The ZBA reviewed the application under the Charlotte Town Plan, 2016 and the Charlotte Land Use Regulations, 2016. Application materials included a signed application form; list of adjoining property owners; a photo mockup of the proposed enclosure; and an application fee.

During the course of the hearing(s) the following exhibits were submitted to the ZBA:

- Additional photos (3) of the south-facing porch to be enclosed.
- A 'to scale' sketch plan drawn by David Bertrand which includes information on proposed building materials (tempered glass (removable and sliding panels)), aluminum window frames and Versatex trimboard and moulding for pillars.

These exhibits are available at the Charlotte Planning & Zoning Office.

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[1] Due to a publishing error, the initial request for legal notice was not advertised March 17, 2016. A notice was published on March 24, 2016.

II. Findings

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

a. The applicant seeks conditional use approval to enclose a porch on the southern side of their camp. The subject property is a 1.2-acre parcel located at 532 Flat Rock Road in the Town of Charlotte (M42B50L62).
b. The property is located in the Shoreland Seasonal Home Management District as described on the Town of Charlotte Zoning Map and in the Town of Charlotte Land Use Regulations, 2016.
c. Conditional use approval is requested for the project as an alteration to an existing camp as that term is defined in Chapter X of the Land Use Regulations. The application requires review under the following sections of the Regulations:
    - Section 2.3 / Table 2.7 Shoreland Seasonal Home Management District
    - Section 3.15 Lakeshore Buffers
    - Section 5.4 (C) Conditional Use Review General Standards
    - Section 5.4 (D) Conditional Use Review Specific Standards
d. Chapter II, Section 2.3, Table 2.7 (F)(7) stipulates that the alteration or expansion of an existing principal structure may be approved subject to conditional use review if the following are true:
    i. The building footprint which is covered by a roof (including covered porches and decks) does not exceed 7 percent of the leasehold it occupies; and
    ii. The alteration or expansion is not for the purpose of increasing occupancy; and
    iii. The applicant can demonstrate that all municipal and state regulations for sewage disposal are met for each structure altered or expanded.

    In addition Table 2.7(F)(8) requires that alterations not reduce the existing setback distance from the shoreline (mean high water mark) nor increase the height of the structure so that it exceeds two stories or 30 feet, whichever is less.
e. Chapter II, Section 2.3, Table 2.7 (G) states that the ZBA shall seek the recommendation of the DRC as relates to the following design criteria:
    i. The size, scale, style, design and materials of any structural alteration, expansion or replacement are consistent and harmonious with existing structures, and with the overall historic and aesthetic character of the area.
    ii. Natural features should be identified.
    iii. Alterations or additions to an historic structure shall preserve the historic appearance of the structure and not alter the structure's historic integrity.
    iv. Alterations to existing structures and new structures within the district shall be compatible with the visual elements of surrounding historic structures and the overall historic and aesthetic character of the area.
    v. The demolition of structures of historic significance shall be discouraged.
f. Chapter III, Section 3.15 requires the maintenance of a minimum 100 foot vegetated buffer zone along Lake Champlain and restricts the dredging, draining or filling of land along the shoreline.

g. Chapter V, Section 5.4 (C) stipulates that a proposed conditional use shall not result in an undue adverse effect on any of the following:
    i. The capacity of existing or planned community facilities and services.
    ii. Character of the area affected.
    iii. Traffic on roads and highways in the vicinity.
    iv. Bylaws in effect.
    v. The use of renewable energy resources.
h. Chapter V, Section 5.4 (D) states that the Board may consider the following and impose conditions as appropriate to reduce or mitigate any adverse impacts from the proposed development:
    i. Conformance with the Town Plan.
    ii. Additional restrictions – for example, increased buffers and setbacks or reduced lot coverage, to avoid or mitigate impacts to adjoining property owners or significant natural, cultural or scenic features in the vicinity of a project.
    iii. Performance Standards (Section 3.12) – noise; vibration; smoke, dust, noxious gases or other forms of air pollution; releases of heat, cold, moisture, mist, fog or condensation; electromagnetic disturbances or electronic transmissions or signals; glare, lumen, light or reflection; liquid or solid waste or refuse; or undue fire, safety, explosive, radioactive emission or other hazard.

III. Conclusions of Law

The proposed development meets the requirements of Section 2.3 / Table 2.7 Shoreland Seasonal Home Management District, Section 3.15 Lakeshore Buffers, Section 5.4 (C) Conditional Use Review General Standards and Section 5.4 (D) Conditional Use Review Specific Standards.

a. The Board finds that the project as proposed will not enlarge the building footprint, add to the height of the structure or result in additional occupancy of the structure.
b. The Design Review Committee recommended approval of the project as proposed indicating their concurrence that the project is consistent and harmonious with existing structures, and with the overall historic and aesthetic character of the area.
c. The project will not result in the need for additional facilities or services as it involves the alteration of an existing structure and additional occupancy is not requested or permitted.
d. The project will not have an adverse impact on the character of the area (see condition 2 above).
e. The project will not result in additional traffic as it involves the alteration of an existing structure and additional occupancy is not requested or permitted.
f. The project is in conformance with municipal bylaws and ordinances currently in effect.
g. The project does not interfere with the sustainable use of renewable energy resources on the applicant's parcel or on adjoining parcels. There will be no change to the building footprint or height of the existing structure.

h. The project is in conformance with the Town Plan which states "... seasonal housing may be maintained, managed, and altered in accordance with land capability and the scenic and historic character of the shoreline...".
i. The project will not impact significant natural, cultural or scenic features and thus, no additional restrictions are required.
j. The use of the property as a seasonal dwelling will not change and thus, consideration of the performance standards is unnecessary for this project.

IV. Decision and Conditions

Based on the foregoing Findings of Fact and Conclusions, the Zoning Board of Adjustment approves the application for alteration of an existing structure (seasonal dwelling) at 532 Flat Rock Road subject to the following conditions:

a. The applicant must obtain a zoning permit prior to construction.
b. No construction activity other than routine maintenance shall occur within the Shoreland Seasonal Home Management District between July 1 and Labor Day.

Vote: 3 Ayes, 2 Absent.
Dated at Charlotte, Vermont this 19th day of April, 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.