

This 22 day of February A.D. 2018  
 at 1 o'clock 0 minutes P m and  
 recorded in vol. 232 on page 111-114  
 Attest: [Signature] Town Clerk

**Town of Charlotte  
 Zoning Board of Adjustment**

**In Re: ZBA-17-180-CU Conditional Use Review application for John Hauenstein to construct a garage that is within the side setback area of the property located at 6300 Spear Street in the Town of Charlotte (M10B01L39-9).**

**I. Introduction and Procedural History**

On November 29, 2017, John Hauenstein submitted an application for conditional use review to undertake the construction of a garage within the eastern side setback on the property, which would take the form of a 20' x 30' post and beam building and serve as a two-car garage with access to an existing mudroom at the northeast corner of primary house. The property is located at 6300 Spear Street Extension and is within the Rural (RUR) Zoning District.

The public hearing took place on January 10, 2018 at 7:00 PM at the Town Offices at 159 Ferry Road in the Town of Charlotte, Vermont. Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper on December 21, 2017; posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store; and by direct correspondence to adjoining property owners on December 15, 2017.

A site visit was conducted at the property by the Zoning Board of Adjustment (ZBA) on January 10, 2018 at 6:00 PM, prior to the public hearing. Present at the site visit were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, Stuart Bennett, and Andrew Swayze. Also in attendance were Daryl Benoit (ZBA Staff), neighbor John Koerner (abutter along the eastern property line), and the applicant John Hauenstein.

Present at the public hearing were the following members of the ZBA; Frank Tenney (Chair), Jonathan Fisher, Matt Zucker, Stuart Bennett, and Andrew Swayze. ZBA staff, neighbor John Koerner, and the applicant John Hauenstein were also present during the hearing.

**II. Exhibits**

The following exhibits were utilized for the decision:

1. A diagram of the Spear Street Right-of-Way, a diagram of the proposed addition added to the house, two side elevations, and two floorplans of the proposed 20' x 30' area;

**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), hereafter referred to as the Regulations:

1. Chapter II, Section 2.3, Table 2.5 - Application of District Standards; Rural District (RUR);
2. Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards

**III. Findings**

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

1. The applicant's existing house encroaches 8 feet into the side yard setback on the eastern side of the applicant's house.
2. The proposed 600 square foot garage would increase the encroachment from 8 feet to 38 feet into the side yard setback on the eastern side of the applicant's house.
3. The applicant and the abutting neighbor to the east (John Koerner) share a curb cut on Spear Street Extension (see the "Spear Street Right of Way" exhibit indicated above). This curb cut is located on their common boundary and accesses both properties, including;
  - a. The garage on the western side of the Koerner house, and
  - b. The eastern side of the applicant's house.
4. Access via this Spear Street curb cut to the driveway on the eastern side of the applicant's house will be eliminated, and access to the proposed garage will be by way of the existing driveway on the western side of the applicant's house.
5. The Koerners may continue to use the Spear Street curb cut to access their garage.
6. The two bays of the proposed garage would be accessed from the northern side of the proposed garage.

#### IV. Conclusions of Law

**Chapter II, Section 2.3, Table 2.5 – Rural District (E) Dimensional Standards:** requires the following dimensional standards:

1. Minimum Side/Rear/Front Setback: 50' (from ROW):

The front setback of the house is currently about 40' from the town highway right-of-way. The proposed addition is set back further from the main house frontage, and would be placed away from the Right-of-Way by ~75'.

The applicant's existing house encroaches 8 feet into the side yard setback on the eastern side of the applicant's house.

The proposed garage would increase the encroachment from 8 feet to 38 feet into the side yard setback on the eastern side of the applicant's house.

2. Maximum Height (section 3.5): 35 feet:

The height of the proposed structure appears less than that of the primary house.

3. Maximum Building Coverage: 20% / Lot Coverage: 30%:

As the lot is about 5-acres with 1 single family dwelling and 4 barns, the 600 square foot improvement (added to the 8,040 square feet of structures on the property) would meet the district standard at ~3.9% building coverage.

**Chapter V, Section 5.4 (C) – Conditional Use Review; General Standards:** stipulates that a proposed conditional use shall not result in an undue adverse effect on any of the following:

1. The capacity of existing or planned community facilities and services:

- There are no known adverse impacts with planned facilities or services.

2. Character of the area affected:

- As the proposed area to construct the building is heavily screened by trees on the neighboring lot, and there is a pre-existing driveway to the structure's location. Impact of the "Character of the Area" appears minimal.
3. Traffic on roads and highways in the vicinity;
    - There are two curb-cuts from Spear St. Ext. that provide access to the property. One curb cut is recommended by the applicant to be removed as part of the application.
  4. Bylaws in effect;
    - There are no known non-conformance issues with other Town Bylaws.
  5. The use of renewable energy resources;
    - There is no undue adverse effect on renewable energy resources

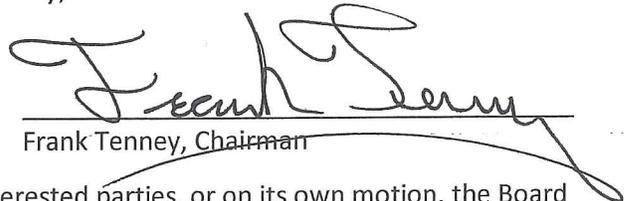
## V. Decision and Conditions

A Motion to approve the application as presented (ZBA-17-180-CU) was made and seconded. Stuart Bennett recused himself from the decision since he knows the applicant and the Koerners.

The application is DENIED because it increases the encroachment of the applicant's 600 square foot proposed garage into the eastern side yard setback from 8 feet to 38 feet.

**Vote: 0 Ayes. 4 Nays. 1 Recused.**

Dated at Charlotte, Vermont this 21<sup>st</sup> day of February, 2018.

  
Frank Tenney, Chairman

**Reconsideration:** At the request of the applicant or interested parties, or on its own motion, the Board of Adjustment or Planning Commission may reopen a public hearing for reconsideration of findings, conclusions, or conditions of the decision. A request by the applicant or interested parties must be submitted to the Planning and Zoning Office within the 30-day appeal period in accordance with Section 9.6(B).

**Appeals:** Decisions of the Board of Adjustment and Planning Commission may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeals must be taken within 30 days of the date that the permit is issued, 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.