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Attest [Signature] Town Clerk

Town of Charlotte

Zoning Board of Adjustment

In Re: ZBA-17-27-CU Conditional Use Review for Nancy and Andrew Milliken to alter a pre-existing nonconforming structure that is within the setback area located at 1946 Greenbush Road in the Town of Charlotte (M05B01L25).

I. Introduction and Procedural History

On March 6, 2017, Nancy Milliken (one of the property owners) submitted an application for conditional use review to enclose a 16 sq. ft. enclave to the main entrance, and to add a 198 sq. ft. deck on the southern end of their house. Both improvements would occur within the 50 ft. setback area. The structure is located at 1946 Greenbush Road within the Rural District.

Public notification was accomplished via electronic posting of the notice on the Town website; publication in "The Citizen" newspaper March 30, 2017; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on March 28, 2017. 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 April 19, 2017 at the Town offices at 159 Ferry Road in the Town of Charlotte.

A site visit to the property was conducted April 19 at 6:30pm. Present at the visit were the following members of the Zoning Board of Adjustment (ZBA); Frank Tenney (Chair), Stuart Bennett, Matt Zucker, and Jonathan Fisher. Property owner Andrew Milliken and Charlotte Town staff Daryl Benoit were present during the visit. The application was considered by the ZBA around 7:30pm 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; and a set of color floor plans and side elevations property designed by New Frameworks Natural Design/Build, LLC (dated February 9, 2017).

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/r3mF2Z>.

II. Exhibits

The following exhibits were utilized for the decision:

1. Zoning Board of Adjustment minutes from the meeting held on April 19, 2017
2. Zoning Board of Adjustment minutes from the meeting held on October 16, 1967
3. 2016 Lister File for 1946 Greenbush Road

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 III, Section 3.8 (B)(2) – Nonconforming Structures
3. Chapter III, Section 3.9 (B) - Outdoor Lighting; General Standards
4. 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 seeks conditional use approval to enclose an open 16 sq. ft. (4 ft. x 4 ft.) front entrance way, and to add a 198 sq. ft. (13' 1" x 15' 1 ½") deck on the southern end of the house; Both improvements to occur within the setback area of 1946 Greenbush Road within the *Rural District (RUR)*, which triggers a Conditional Use review.
2. Built in 1970, the current house is a 1,384 square foot structure with an attached 504 square foot garage, and a 110 square foot wooden rear deck.
3. A variance was granted by the Zoning Board of Adjustment in 1967 to construct the house within the 50 foot setback from Greenbush Road (a three-rod right-of-way public highway). The single family home was permitted with a 25 foot setback from the right-of-way due to hardship of the expense of the fill that would have been necessary to reduce a sharp slope further away from the roadway. The ZBA further determined that the setback was considered "*not out of line with other buildings in the neighborhood*".
4. A previous application was submitted by the application ([ZBA-16-131-CU](#)) was approved by the ZBA on November 17, 2016, which sought to replace the attached damaged garage with one that is expanded 12 feet further to the north within the 50 foot setback, but not closer to the road right-of-way. The applicants have decided not to undertake this project.
5. The proposed deck will not have a roof, and will not be visible from the east due to substantial vegetative screening.
6. Greenbush Road is classified as a "Most Scenic Public Road" within the Charlotte Town Plan.
7. Solar panels will be installed to increase the energy efficiency of the house.

IV. Conclusions of Law

1. **Chapter II, Section 2.3, Table 2.5 – Rural District (E)** requires the following dimensional standards:
 - a. **Minimum Side/Rear/Front Setback: 50'**
The proposed improvements do not conform to the frontage setback requirements. All of the side setbacks as well as the rear setback conform to the district standard.
 - b. **Maximum Height 30' (Section 3.5):**

The proposed improvements would retain the height of the 17' structure and would conform to Rural District standard.

c. Maximum Building Coverage: 20% and Maximum Lot Coverage: 30%:

The proposed building coverage would add a negligible area to the current footprint. The coverage would be 5.7%. The maximum lot coverage would be 7.5%. Both the Building and Lot Coverage would conform to the district standard.

2. **Chapter III, Section 3.8 (B)(2) – Nonconforming Structures**

The proposed improvements increase the footprint and the volume of the structure within the 50' setback of the property and therefore increase the degree of noncompliance.

3. **Chapter III, Section 3.9 (B) – Outdoor Lighting; General Standards** require the following:

a. All outdoor lighting shall be kept to the minimum required for safety, security, and intended use, consistent with the character of the neighborhood in which it is located.

b. Permanent outdoor lighting fixtures shall be designed to minimize glare, and shall not direct light upward or onto adjacent properties, roads, or public waters, or result in excessive lighting levels that are uncharacteristic of the surrounding neighborhood or area.

4. **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:

a. The capacity of existing or planned community facilities and services;

- There is no known undue adverse effect.

b. Character of the area affected;

- The style of the proposed structural alterations are within the character of neighborhood.

c. Traffic on roads and highways in the vicinity;

- There is no known undue adverse effect.

d. Bylaws in effect;

- There are no known 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 Milliken application as presented ([ZBA-17-27-CU](#)) subject to the following conditions:

1. The project will not encroach closer to the roadway right-of-way.
2. The project will not increase the number of bedrooms or living space within the house.
3. The proposed deck shall not be enclosed.

4. Pursuant to Section 3.1(B), immediately following demolition, all materials shall be disposed of according to solid waste district standards.
5. Outdoor lighting shall be kept to a minimum and permanent outdoor lighting fixtures shall be downward-shielded and will not direct light upward or onto adjacent properties.
6. No trees will be taken down.

Vote: 5 Ayes. 0 Absent.

Dated at Charlotte, Vermont this 24th day of May, 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.