

**Town of Charlotte  
Zoning Board of Adjustment**

**In Re: Conditional Use Review to Expand Existing Camp by 25 Square Feet, Increase Roof Pitch, Raise the Structure, Install a New Foundation, and Replace Siding at 241 North Shore Road (M41B50L13).**

**I. Introduction and Procedural History**

On September 14, 2018 David Winters McMath submitted an application for conditional use review to expand existing camp by 25 Square Feet, increase roof pitch, raise the structure, install a new foundation, and replace siding at 241 North Shore Road. The property is located within the Shoreland Seasonal Home Management District. Changes, alterations, or expansions to existing structures within the District are subject to conditional use review.

The public hearing took place on October 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 the following methods: electronic posting of the notice on the Town website; publication in *The Citizen* newspaper on September 20, 2018; posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store September 17; and by direct correspondence to adjoining leaseholders the week of September 24. Present at the October 10<sup>th</sup> public hearing were Zoning Board of Adjustment (ZBA) members Frank Tenney (Chair), Matt Zucker, and Andrew Swayze. Also present were applicant David Winters McMath and ZBA staff Aaron Brown.

Three site visits occurred before the hearing. The first was held by Design Review Committee members Robin Colburn and Robin Pierce September 27 at 4:30; Aaron Brown was also present. Following this visit, Tree Warden Mark Dillenbeck visited the site to review four proposed tree removals. Finally, the ZBA conducted a site visit at 6:30 PM October 10. Present at the site visit were ZBA members Tenney, Swayze, and Zucker, and staff Brown.

**II. Exhibits**

The following exhibits were used for the decision:

1. Site plan, including lot layout, existing floor plan, proposed floor plan, and side elevations
2. Photos of each side of the existing structure and an interior photo of a deteriorated roof
3. Design Review Committee report
4. Conditional use, performance standards, and Shoreland Seasonal Home Management District questionnaires.

**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 2.7 (A)(3)** – Purpose
2. **Chapter II, Section 2.7, Table 2.7(D)** – Application of District Standards; Shoreland Seasonal Home Management District; Conditional Uses

3. **Chapter II, Section 2.7, Table 2.7(E)** – Dimensional Standards
4. **Chapter II, Section 2.7, Table 2.7(F)** – District Standards
5. **Chapter II, Section 2.7, Table 2.7(G)** – District Design Review Standards
6. **Chapter III, Section 3.9** – Outdoor Lighting
7. **Chapter III, Section 3.12(A)** – Performance Standards
8. **Chapter III, Section 3.15(G)** – Lakeshore Buffers
9. **Chapter V, Section 5.4 (C)** – Conditional Use Review; General Standards
10. **Chapter X** – Definitions

### III. Findings

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

- A. The applicant seeks to expand an existing seasonal home by 24.63 square feet and alter the exterior appearance of the structure, which triggers conditional use review.
  1. **Chapter II, Section 2.7 (D) – Conditional Uses** stipulates that alteration of an existing structure in the Shoreland Seasonal Home Management District shall require conditional use approval. The applicant seeks conditional use approval.
  2. **Chapter II, Section 2.7 (E) – Dimensional Standards** stipulates that maximum building coverage is 7% of the area of the leasehold and the maximum lot coverage is 10% of the area of the leasehold. The lease for Lot 153 includes a lakeside portion that equals 0.27 acres and a small lot on the eastern side of the road. A Town of Charlotte lease to William Horsford dated October 1, 1934 says that the eastern side is 100 feet in length by 70 feet in width on the west and 50 feet in width on the east. The lease does not specify the width of the lot at center or the total acreage. This portion of the lease was not included in Thompson’s Point only survey, which H.M. McIntosh conducted in 1932. However, one can conservatively estimate that the eastern side is 0.14 acres. Taken together as one lot, the total size is 0.41 acres. The Board finds that the building and lot coverages are an estimated 5.2%. The Town Selectboard may more clearly define the size of the easterly portion in the future.
  3. **Chapter X – Definitions – “Lot”** stipulates that *where an existing public road right-of-way bisects an existing parcel, the right-of-way shall be considered a boundary dividing the parcel into two lots. The merger of any lot prior to the effective date of [the] regulations shall terminate its separate existence for the purpose of these regulations.*

Section 2.7(F)(1) prohibits subdivision of leaseholds in the District and says a leasehold shall be considered a lot. The second clause of this definition – “the merger of any lot prior [to regulations] shall terminate its separate existence” – holds that lots merged before zoning are considered merged, even when a road bisects them. The Board finds that the two portions of the leasehold constitute one lot.
  4. **Chapter II, Section 2.7 (E) – Dimensional Standards** limits the maximum building height to the lesser of 30 ft. or 2 stories. The applicant proposes a one-story structure with a maximum height of 19 feet above grade.

5. **Chapter II, Section 2.7 (E) – Dimensional Standards** requires minimum side, front, and rear setbacks of 50 feet. No change is allowed to shore setbacks. There is no change in distance between the building footprint and the shore. The area around the camp has not been surveyed, making it difficult to determine side and rear setbacks.
6. **Chapter II, Section 2.7 (F)(7)(b) – District Standards** holds that the alteration or expansion is not for the purpose of increasing occupancy. The applicant proposes no increase in occupancy.
7. **Chapter II, Section 2.7 (G) – District Design Review Standards** requires that the size, scale, style, design, and materials of any structural alternation, expansion, or replacement are consistent and harmonious with existing structures, and with the overall historic and aesthetic character of the area. The Design Review Committee report states “the elevations and floor plans that [Winters McMath] has presented would drastically improve the outward esthetics of the camp. As it exists, the building is a very small nondescript one-story camp with a small ell off the back. The roofline is low, and is parallel with the road. Increasing the footprint by a mere 24 feet will allow for a gable end on the north of the house to present toward the road. The architecture works well with existing camps in the area in particular, and on the Point in general.”

The DRC added several recommendations: (1) enlarge the proposed kitchen windows from 48” to 60”; (2) use dark green, deep brown, natural red cedar or dark red as the exterior camp color; and (3) if a stone fascia is not added to the cement foundation, require planting to hide the cement foundation on the roadside and on the south end to disguise the crawlspace. The applicant indicated a willingness to comply with this recommendation.

- B. The applicant seeks to remove four trees.
  1. **Chapter II, Section 2.7 (F)(4) – District Standards** stipulates that all trees on leased lots are owned by the Town, and permission from the Tree Warden shall be required for cutting or pruning within this district. Tree Warden Mark Dillenbeck approves the removal of the four trees and recommended the removal of additional Norway maples.

#### IV. **Conclusions of Law**

##### **Chapter III, Section 3.12 (A) – Performance Standards**

The applicant poses no known performance standard concerns.

**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:*
  - The board finds no adverse impacts with planned facilities or services.
2. *Character of the area affected;*

- The board finds no adverse impacts.
- 3. Traffic on roads and highways in the vicinity;
  - The board finds no adverse traffic impacts.
- 4. Bylaws in effect;
  - N/A
- 5. The use of renewable energy resources;
  - N/A

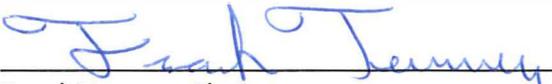
**V. Decision and Conditions**

Subject to the conditions set forth below, the Zoning Board of Adjustment APPROVES application ZBA-18-165-CU as presented:

1. The applicant shall construct the project as presented in the application.
2. The exterior siding of the camp shall be dark green, deep brown, natural red cedar, dark red, or another muted earth tone.
3. No building construction may occur between July 1 and Labor Day.
4. The number of bedrooms shall remain three (3).
5. The applicant is allowed to remove trees per the project plans by approval of the Tree Warden.
6. The applicant may use only the existing footpaths for the delivery of materials to the construction site.
7. 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 visit: <http://dec.vermont.gov/watershed/stormwater>.

**Vote: 3 Ayes. 0 Nays. 2 Absent.**

Dated at Charlotte, Vermont this 25th day of October, 2018.

  
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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.*

***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).*

### **Additional Regulations and Permitting**

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.

