

**Town of Charlotte
Zoning Board of Adjustment**

In Re: ZBA-18-190 Conditional Use Review to for Troy Davis to Expand Non-Conforming Single-Family Residence, Replace a Non-Conforming Barn, and Replace a Non-Conforming Garage within Setback Areas at 26 Spear Street in the Town of Charlotte (M03B01L02).

I. Introduction and Procedural History

On October 19, 2018 Troy Davis of 26 Spear Street submitted a conditional use application to expand three nonconforming structures at his residence. The house was built in 1880 – well before zoning. The age of two detached structures, a barn and a garage, is unknown. Davis proposes to build a two-story addition where a 15' x 15' deck currently exists and a second floor on the back of the main wing of the house. He wishes to rebuild a barn in the center of the property, which today is comprised of remnants and a foundation. Finally, Davis proposes to demolish and rebuild a garage on the northerly end of the property. All structures involved lie within the required setback. Davis originally proposed to make use of current footprints. In an updated architectural sketch, however, Davis proposes to scale back the barn to meet the required setbacks.

In 2006, previous owners Parsons built a new septic system to accommodate a bedroom that was planned for the existing garage. That bedroom was never built. Davis's sewage capacity allows for five bedrooms within the main house or three bedrooms in the main house and one bedroom in an accessory structure. While Davis intends to use the barn for a shop and storage of products associated with his roofing business, he may at some point wish to build a small apartment in the barn for immediate family use only.

Zoning Board of Adjustment (ZBA) members include Stuart Bennett, Jonathan Fisher, Andrew Swayze, Frank Tenney (chair), and Matthew Zucker. Tenney and Swayze conducted a site visit November 14. The first public hearing took place on November 14 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: electronic posting of the notice on the Town website; publication in *The Citizen* newspaper October 25, 2018; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on October 22. Further notification was issued to the adjoining property owners regarding the public hearing by direct correspondence on October 26. Present at the November public hearing were Zoning Board members Tenney, Bennett, Fisher, and Swayze. Also present were Davis (applicant), Peter Mittelstadt (neighbor), and ZBA staff Aaron Brown.

The meeting was continued January 23 to gather more information on the floor plans and boundary lines. Present at that meeting were ZBA members Tenney, Bennett, and Zucker, as well as Brown, Davis, and Mittelstadt.

**CHARLOTTE TOWN CLERK'S OFFICE
RECEIVED FOR RECORD**
This 30th day of January A.D. 2019
at 1 o'clock 00 minutes P.m and
recorded in vol. 236 on page 379-381
Attest MaryA Mead Town Clerk

II. Exhibits

The following exhibits were used for the decision:

1. Zoning Board application
2. Performance and conditional use questionnaires
3. Building Proposals Numbered 1-3 (Replaced by Updated Architectural Sketches)
4. Updated Architectural Sketches Titled A-101, A-102, AE201, AE202, A-201, A-202, AG101, AG201, AB101, AB201, and AB202.
5. Surveyed Site Plans (performed by Stuart Morrow)
6. Site Photos (Exhibit A)

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 2.5, Table 2.5(E)** – Application of District Standards; Rural District (RUR); Dimensional Standards
2. **Chapter III, Section 3.12(A)** – Performance Standards
3. **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:

A. The applicant seeks to expand a non-conforming structure and replace a garage located within the setback, which triggers conditional use review. The proposed barn meets setback requirements and does not require conditional use review.

1. **Chapter II, Section 2.5, Table 2.5 – Rural District (E)** requires the following dimensional standards:

a. Minimum Side/Rear/Front Setback: 50'

The Board finds that the proposed rebuilt garage will be 24 feet from the northerly boundary line and the proposed house addition will be 16 feet and seven inches from the southerly boundary at the eastern end and approximately 13 feet from the southerly boundary at the western end.

b. Maximum Height 30' (Section 3.5):

The Board finds that the average height above grade will result in a 23-foot and 10-inch roof height for the house addition and a 20-foot roof height for the garage.

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

The Board finds that the total proposed building coverage is 3.7%.

d. Minimum Density: 5 Acres/Unit

The lot is a pre-existing non-conforming lot of 2.58 acres.

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

The Board finds no performance standards concerns.

3. **Occupancy**

The applicant might eventually add a bedroom to the barn structure. The Board finds that wastewater permit 06-29-S allows for the addition of one bedroom in an accessory structure or two additional bedrooms in the primary dwelling for a total design flow of 560 gallons per day.

IV. Conclusions of Law

Chapter III, Section 3.12 (A) – Performance Standards

The Board finds 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:

- a. The capacity of existing or planned community facilities and services
 - The Board finds no known adverse impacts with planned facilities or services.
- b. Character of the area affected
 - The Board finds no known adverse impacts to the character of the area. The surrounding neighborhood features agriculture and single-family residences.
- c. Traffic on roads and highways in the vicinity
 - The Board finds no adverse impacts on traffic.
- d. Bylaws in effect
 - The Board finds no known non-conformance issues with other Town Bylaws.
- e. The use of renewable energy resources
 - The Board finds no undue adverse effect on renewable energy resources.

V. Decision and Conditions

Subject to the conditions set forth below, the Zoning Board of Adjustment APPROVES application ZBA-18-190-CU as presented, excluding the proposed barn:

1. Construction of this project shall be completed in accordance with the dimensions of the submitted floor plans, elevations, volume calculation, and surveyed site plan.
2. The proposed garage shall be no closer than 24 feet from the northerly boundary.
3. The proposed house addition shall be no closer than 13 feet from the southerly boundary.
4. 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>.
5. This decision does not authorize additional bedrooms in the main house.
6. The Zoning Administrator shall not issue a certificate of occupancy for an accessory dwelling unless wastewater permit 06-29-S is amended to indicate a new connection from the proposed barn to the mound system.
7. Pursuant to Section 3.1(B), all construction waste shall be disposed of according to Chittenden County Solid Waste Management District Standards.
8. There may be additional local, State of Vermont, and 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.

Vote: 4 Ayes. 0 Nays. 1 Absent

Dated at Charlotte, Vermont this 30th day of January, 2019.


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 above, 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).*