

**Town of Charlotte  
Zoning Board of Adjustment**

**In Re: ZBA-18-205 Conditional Use Review to for Harriet Patrick to Expand Pre-Existing Non-Conforming Structure within the Shore Setback Area at 705 Cedar Beach Road in the Town of Charlotte (M37B50L22).**

**I. Introduction and Procedural History**

Harriet "Happy" Patrick met with Zoning Administrator Aaron Brown November 5<sup>th</sup> to submit a conditional use application to expand a non-conforming single-family residence located within the Shoreland District at 705 Cedar Beach Road. The structure – a two-bedroom single-family residence – is non-conforming because it lies within the lakeshore setback and is approximately 62 feet from the shoreline.

Patrick proposes to replace an existing 25' by 32' deck with a two-story addition of the same footprint that will feature an expanded kitchen and dining area on the first floor and a bedroom and bathroom on the second floor. The existing septic system has a design flow of 280 gallons per day with pretreatment (two bedrooms) or 140 without pretreatment (one bedroom).

Zoning Board of Adjustment members Jonathan Fisher, Stuart Bennett, and Frank Tenney (chair) conducted a site visit December 1. The first public hearing took place on December 5, 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: electronic posting of the notice on the Town website; publication in *The Citizen* newspaper November 15, 2018; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on November 13. Further notification was issued to the adjoining property owners regarding the public hearing by direct correspondence on November 26. Present at the December 5 public hearing were Zoning Board members Tenney (Chair), Stuart Bennett, Jonathan Fisher, Andrew Swayze, and Matt Zucker. Also present were Happy Patrick, Richard Cunningham, David Carpenter (applicant's contractor) and ZBA staff Aaron Brown.

The meeting was continued December 19 to gather more information on the volume and square footage of the proposed addition. Present at that meeting were Tenney, Swayze, Zucker, Brown, and Carpenter.

**II. Exhibits**

The following exhibits were used for the decision:

1. Zoning Board application
2. Performance and conditional use questionnaires
3. Property Owner Authorization Letter for Representative David Carpenter
4. Shore Setback Measurement (Prepared by Staff)
5. Floor Plans and Elevation

6. Tree Warden Determination dated December 17, 2018
7. Site Photos (Exhibit A)
8. Volume Calculations (Exhibit B)

## 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 2.6, Table 2.6(E)** – Application of District Standards; Shoreland District (SHR); Dimensional Standards
2. **Chapter II, Section 2.3, Table 2.6 – Shoreland District (F)** – District Standards
3. **Chapter III, Section 3.12(A)** – Performance Standards
4. **Chapter III, Section 3.15(G)** – Lakeshore Buffers
5. **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 within the shoreline setback, which triggers conditional use review.

1. **Chapter II, Section 2.6, Table 2.6 – Shoreland District (E)** requires the following dimensional standards:

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

The Board finds that the proposal conforms to side and front setback requirements.

- b. Minimum Lakeshore Setback: 150':

The Board finds that the applicant proposes to replace an existing porch with a two-story addition approximately 62' from the shoreline. The applicant proposes to use only the existing footprint.

- c. Maximum Height 30' (Section 3.5):

The Board finds that the average height above grade will result in a 26' tall roof line. However, the roof line could be 30' above grade where the ground slopes.

- d. Maximum Building Coverage: 5% and Maximum Lot Coverage: 10%:

The Board finds that the total proposed building coverage is 1,222 square feet or 1%.

- e. Minimum Density: 5 Acres/Unit

The lot is a pre-existing non-conforming lot of 2.70 acres.

2. **Chapter II, Section 2.3, Table 2.6 – Shoreland District (F)**

The Board finds that:

- a. The proposed use will not cause unsafe or unsanitary conditions on land or on the water;
- b. The proposed use will not result in accelerated erosion, sedimentation, or water pollution;
- c. The proposed use will not adversely impact wildlife habitat areas;
- d. The proposed use will not interfere with existing public lake access, or scenic views of the lake as designated in the town plan; and
- e. Visual impacts, as viewed from the lake and from adjoining properties, are minimized.
- f. The project will not impact public lake access.

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

The Board finds no performance standards concerns.

4. **Chapter III, Section 3.15(G) – Lakeshore Buffers**

The applicant seeks to remove two white cedars as part of the project. The tree warden approves tree thinning as long as roots and stumps remain intact to avoid erosion.

5. **Chapter V, Section 5.6 – Flood Hazard Overlay District Review**

While the lot features some land within the Flood Hazard Overlay District, the Board finds that the existing building, proposed additions, and wastewater system do not fall within the Overlay.

6. **Occupancy**

The applicant proposes to increase the number of bedrooms from two to three.

**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 seasonal and year-round 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-18-205-CU as presented:

1. Construction of this project shall be completed in accordance with the dimensions of the submitted floor plans and volume calculation. The westerly addition will be a 120-square foot (900 cubic foot) single-story improvement. The easterly addition will be a two-story improvement with a 384-square foot area on the first floor and a 240-square foot area on the second floor for a combined volume of 4680 cubic feet.
2. The removal of three white cedars shall conform to the Tree Warden's determination dated December 17, 2018.
3. Pursuant to Section 2.7(F)(11), erosion control measures are to be taken before, during, and after the work is completed. 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>.
4. The Zoning Administrator shall not issue a building permit or certificate of occupancy to increase occupancy unless wastewater permit 07-04-S is amended to accommodate increased design flows.
5. Pursuant to Section 3.1(B), all construction waste shall be disposed of according to Chittenden County Solid Waste Management District Standards.
6. 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: 5 Ayes. 0 Nays.**

Dated at Charlotte, Vermont this 14<sup>th</sup> day of January, 2019.

  
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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 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).*