

Town of Charlotte
Zoning Board of Adjustment

In Re: ZBA-19-133-CU Conditional Use Review for William E. & Barbara M. Benedict to Replace Garage/Workshop and Storage Shed with a single, 1-1/2 story Monitor-style building (Parcel ID 00052-0178).

I. Introduction and Procedural History

On July 30th, 2019, William E. Benedict submitted a conditional use application proposing to replace an existing 785-square foot garage with a 768-square foot garage that would move back from the lake shore and in fact become more compliant.

The public hearing took place on September 11th, 2019 at 7:00 PM at the Town Offices at 159 Ferry Road in the Town of Charlotte, Vermont. Public notification was originally accomplished via electronic posting of the notice on the Town website; publication in *The Citizen* newspaper August 16, 2019; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on August 23, 2019. Further notification was issued to the adjoining property owners regarding the public hearing by direct correspondence August 23.

A site visit was conducted at the property by the Zoning Board of Adjustment (ZBA) at 6:15 PM, just prior to the public hearing. Present at the site visit were ZBA members Frank Tenney (Chair), Stuart Bennett, Jonathan Fisher and Lane Morrison.

II. Exhibits

The following exhibits were used for the decision:

Attachment 1: Proposed Front View and Lakeside View drawings on graph paper including measurements

Attachment 2: Proposed Floorplan/footprint overlaid with current footprint presented on graph paper

Attachment 3: Cardboard Model of Proposed Structure

Attachment 4: Current layout, including measurements, presented on graph paper

III. 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:

Chapter II, Section 2.6, Table 2.6 (D) – Conditional Uses.

- Identifies “accessory structure/use” under Conditional Uses for the Shoreland District

Chapter II, Section 2.6, Table 2.6 (E) – Shoreland District (SHR): Dimensional Standards

- The minimum Lakeshore Setback for Structures is 150 feet (from MHW*). The proposed structure would replace preexisting nonconformities, and become slightly more compliant in its setback from the Lakeshore.

Chapter II, Section 2.6, Table 2.6 (F) – Application of District Standards

- The Land Use Regulations specify that “for the Cedar Beach Association parcel, there shall be a setback of 50 feet between structures.”

Chapter III, Section 3.5 (C) – Height Requirements

- The Board of Adjustment or Planning Commission may require a reduction in the height of a structure below the district maximum for structures subject to conditional use, site plan or subdivision review, based upon a determination that such a reduction is necessary to comply with applicable review standards

Chapter III, Section 3.8 (B) – Nonconforming Uses of Land & Structures

- The Board of Adjustment may require a reduction in the height of a structure below the district maximum for structures subject to conditional use based upon a determination that such a reduction is necessary to comply with review standards.

Chapter V, Section 5.4 (C) – Conditional Use Review: General Standards

IV. Findings and Conclusions of Law

Chapter II, Section 2.3, Table 2.7 (F)(6)

- No construction activity other than routine maintenance shall occur within this district between July 1 and Labor Day.

Chapter II, Section 2.3, Table 2.6 (F)(11)

- For the Cedar Beach Association parcel, there shall be a setback of 50 feet between structures.

Chapter III, Section 3.9 (B) Outdoor Lighting; General Standards

- 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.
- 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.

Chapter III, Section 3.12 (A) Performance Standards

- No issues of concern have been identified regarding performance standards.

Chapter III, Section 3.15 (G) Lakeshore Buffers *“A vegetative buffer zone shall be maintained within 100 feet of the shoreline of Lake Champlain in order to minimize runoff and pollution, and to maintain bank stability and environmental quality. Within 100 feet of the shoreline, the following shall apply.”*

- There shall be no cutting or removal of trees or shrubs except with administrative review and approval by the Zoning Administrator such review will determine whether the proposed cutting or removal is in conformation with any approved wildlife habitat plan or shoreland management plan.
- Limited pruning of branches of trees and shrubs is allowed to maintain cleared openings or views legally in existence as of the effective date of these regulations, such views or opening should not be enlarged except herein.
- Nothing in this section shall prohibit the cutting and removal of storm-damaged, diseased or dead trees which pose a hazard as determined by the Zoning Administrator.

- There shall be no dredging, draining or filling of land along the shoreline, or in wetland areas, and no cutting or removal of wetland vegetation shall be permitted, except in conformance with a shoreland management plan approved by the Board of Adjustment.

Chapter V, Section 5.4 (C)(2) General Standards stipulates that a proposed conditional use shall not result in an undue adverse effect on any of the following:

- Character of the area affected; The style of the proposed structure is within the character of neighborhood.

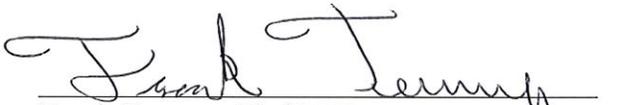
V. **Decision and Conditions**

Subject to the conditions set forth below, the Zoning Board of Adjustment APPROVES application ZBA-19-133-CU as presented in the application and site plan:

- The applicant shall adhere construct the proposed garage/workshop with the same footprint or askew as presented on attachment #2
- The building is approved as presented on attachment #1

Vote: 4 Ayes. 0 Nays. 1 Absent.

Dated at Charlotte, Vermont this 14th day of October 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 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.

