

**Town of Charlotte
Zoning Board of Adjustment**

In Re: ZBA-19-182-CU Conditional Use Review for the Thompson's Point Association to construct a 12x24 single story wood-frame accessory building to house water treatment and pumping equipment (M42B50L23).

I. Introduction and Procedural History

On September 12th, 2019, the Thompson's Point Association submitted an application for conditional use review proposes to construct improvements to its existing water system including a proposed 12x24 wood frame building to house treatment and pumping equipment. Building to be located in a wooded area north of Thompson's Point Road.

Public notification was accomplished via the following: electronic posting of the notice on the Town website; publication in *The Citizen* newspaper August 30, 2019; and by posting hardcopies of the notice at the Town Office, the Brick Store, and Spear's Corner Store on August 30, 2019. Further notification was issued to the adjoining property owners regarding the public hearing by direct correspondence August 30.

The application was considered by the Zoning Board of Adjustment (ZBA) at the public hearing held on September 25th, after a site visit to the property was conducted. Present at the visit were the following members of the ZBA; Stuart Bennett, Lane Morrison, Jonathan Fisher, Matt Zucker, and Frank Tenney (Chair). Jane Alsofrom, Gary Alsofrom, Martha Barton-Rivera, Pete Degraff, and John Paul were also present at the hearing.

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; existing and future floor plans; existing and future elevations plan; an overall site plan for property; and site photos.

All application materials relevant to the project (including the report from the Design Review Committee) are posted on the Town of Charlotte Planning & Zoning Office website at the following link: <http://bit.do/cNssb>.

II. Exhibits

The following exhibits were used for the decision:

Attachment 1: Site Plan, Otter Creek Engineering

Attachment 2: Floor Plan and Building Elevations, Otter Creek Engineering

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 2.3: Application of District Standards

Chapter II, Section 2.3, Table 2.7(E) – Shoreland Seasonal Home Management (SHM):
Dimensional Standards

Chapter II, Section 2.3, Table 2.7(F)(3,4,5) –

Municipal facilities allowed within this district are limited to municipally owned and/or operated outdoor recreational facilities (parks, beaches, lake access, other outdoor facilities and associated accessory structures), and municipal water and wastewater systems.

- In addition to the provisions of Section 3.15 (concerned with Surface Waters and Wetlands), existing native woody vegetation between the shoreline and a structure shall be preserved and maintained. No existing or proposed use or activity shall result in soil erosion or adversely impact designated wildlife habitat areas.
- 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. Dead or storm damaged trees shall not be cut unless they are determined by the Tree Warden to be a hazard to structures or to public safety.

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)(3,4,5) *“In addition to the provisions of Section 3.15 (See below), existing native woody vegetation between the shoreline and a structure shall be preserved and maintained. No existing or proposed use or activity shall result in soil erosion or adversely impact designated wildlife habitat areas. All trees on leased lots are owned by the Town, and permission from the Tree Warden shall be required for cutting and pruning within the district. Dead or storm damaged trees shall not be cut unless they are determined by the Tree Warden to be a hazard to structures or to public safety.”*

1. No trees will be cut down without approval from Mark Dillenbeck, Town Tree Warden.

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

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

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

3. 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.
4. 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

5. 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.”*

6. 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.

7. 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.
8. 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.
9. 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:

10. Character of the area affected: the style of the proposed structure is within the character of neighborhood. The proposed structure will be built to blend in well with existing structures and natural habitat.

V. Decision and Conditions

Subject to the conditions set forth below, the Zoning Board of Adjustment APPROVES application ZBA-19-182-CU as presented in the application and site plan:

- The Town of Charlotte Tree Warden and/or Zoning Administrator will approve any trees affected by construction. Only trees approved for removal by Tree Warden and/or Zoning Administrator may be cut.
- The existing water tower will be removed by the Thompson's Point Association on or before July 1, 2023.
- The applicant must obtain a zoning permit prior to construction, consistent with Otter Creek Attachments 1 & 2.
- No construction activity other than routine maintenance shall occur within the SHM District between July 1 and Labor Day.
- Immediately following demolition, all materials shall be disposed of according to solid waste district standards.

Vote: 5 Yeas. 0 Nays.

The Zoning Board of Adjustment (ZBA) hereby approves the application as presented.

Dated at Charlotte, Vermont this 31st 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.

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.