**TOWN OF CHARLOTTE**
**DEVELOPMENT REVIEW BOARD**

**FINDINGS OF FACT AND DECISION**
**IN RE APPLICATION OF**

**Liam O'Farrell and Mary Jo Sleeper**
**Site Plan and Conditional Use Review for Childcare Facility**
**Serving Ten or More Children at 435 Dorset Street,**
**Charlotte, Vermont**
**Application # DRB 25-034-CU/SP**

## Introduction and Procedural History:

Liam O'Farrell and Mary Jo Sleeper bought the residence at 435 Dorset Street in 2024 and seek approval to convert an existing barn/garage into a children's daycare facility. Sleeper currently operates Our House" daycare in South Burlington, Vermont. The applicants propose that the operation will have up to fourteen children and three staff. No new buildings are proposed as part of this application.

Zoning Administrator Aaron Brown, acting upon authority granted by the Selectboard, waived sketch plan review on March 21, 2025.

The public hearing of the Development Review Board (DRB) took place on April 23, 2025 at 7:05 PM in the town offices and via Zoom. In attendance were Board members Charles Russell (chair), Gerald Bouchard (vice chair), Alexa Lewis, Brandon Tieso and Doug Paton. Zoning Administrator Aaron Brown, applicants O'Farrell and Sleeper, and consultant Scott Davis (Barnard and Gervais) were also in attendance. At the meeting, the board received comments from Heather Hamilton (Our House employee) David Carpenter (neighbor), Nancy Menard (neighbor). Chea Waters-Evans, and Brenda Evans (neighbor). Additionally, the board received eight letters of support for the project from the parents of current daycare attendees and the state Child Development Division. Menard also submitted a letter to express concerns about the proposal.

Notice of the scheduled public hearing was mailed to adjoining landowners on March 27, 2025. Notice of the meeting was also published in *The Citizen* print edition on March 27, 2025. The meeting warning was posted on the town website and in three public locations at least fifteen days before the hearing.

## Exhibits received in consideration of this application:

1. Narrative and Conditional Use and Site Plan Application, Barnard and Gervais, submitted March 21, 2025
2. Overall Site Plan, Sheet S-1, Barnard and Gervais, February 26, 2025
3. Site Plan, Sheet S-2, Barnard and Gervais, February 26, 2025
4. Wastewater System Details and Notes, Sheet D-1, Barnard and Gervais, February 26, 2025

5. Letters of Support from the following individuals: Dorothy Loren, Kelsey Jenkins, Willa and Eric Lampman, Lauren and Tom Child, Kati and Andrew Comeau, Torey Olson and Nick Gordon, Nicole Rock Cairns, and Heather Purinton (Child Development Division).
6. Letter of opposition, Nancy Menard, April 8, 2025
7. Charlotte Conservation Committee Advisory Letter, April 18, 2025

## Regulations in Effect:

*Charlotte Town Plan*, Amended November 5, 2019
*Charlotte Land Use Regulations*, Amended November 9, 2023
*Charlotte Road and Driveway Standards*, 1997

## Standard of Review:

The application requires review under the following sections of the *Land Use Regulations* for the Town of Charlotte, hereafter referred to as the LURs:

1. **Chapter II, Table 2.5** – Rural District (RUR)
2. **Section 2.3** – Application of District Standards
3. **Section 3.2** – Road, Driveway and Pedestrian Access Requirements
4. **Section 3.11** – Parking, Loading, and Service Area Requirements
5. **Section 3.12 (A)** – Performance Standards
6. **Section 3.16** – Water & Wastewater System Requirements
7. **Section 4.7** – Day Care Facilities (Home Child Care, Day Care)
8. **Section 5.4** – Conditional Use Review
9. **Section 5.5** - Site Plan Review

## Findings of Fact & Conclusions of Law:

The applicant seeks site plan and conditional use approval to convert an existing 34' by 40', two-story garage into a childcare facility at 435 Dorset Street in the Rural District. No new buildings are proposed as part of this application. The applicants plan to use the existing water supply and to build a new wastewater mound for the operation.

Based on the application, testimony, exhibits, and other evidence submitted, the Development Review Board makes the following findings and conclusions:

**Chapter II, Section 2.3(C)** reads in part "In the event that a proposed use is not set forth as either a permitted or conditional use, the Development Review Board may allow it as conditional use after a public hearing as provided in Section 5.4 if the Board finds that the proposed use is consistent with the purpose of the district" The Charlotte LURs currently contemplate the use of a primary residence for daycare operations. The board finds that the proposal to build a daycare facility within an existing accessory structure at the residence is consistent with the purpose of the Rural district. Furthermore, the LURs and state child care regulations do not share a common definition of "daycare." Local regulations allow daycares as part of the primary residence, while state rules define them as existing outside a primary residence (such as in an accessory structure). See Vt. Admin. Code 12-3-102:2.1.1.

**Chapter II. Table 2.5 – Rural District – General Standards**

The board finds that the proposal meets the general dimensional standards of the Rural district. The lot meets the minimum frontage requirement of 300 feet and minimum lot area of five acres. The proposal does not impact density requirements. The existing buildings meet all setback requirements and fall well within the maximum lot and building coverage maximums of the Rural district.

**Chapter II, Table 2.5 – Rural District – Conditional Uses**

The applicants intend to operate a daycare facility serving ten or more children, which requires conditional use review in the Rural district.

**Chapter III, Section 3.2 – Road, Driveway and Pedestrian Access Requirements**

Project consultant Scott Baker testified at the hearing that the driveway is approximately 12-feet-wide in most areas and narrows down to approximately 11 feet in some parts. The board finds that the existing driveway does not meet the width requirements of the 1997 *Recommended Standards for Developments and Homes*, which requires 14-foot-wide driveways. The board further finds a potential need for cars to pass each other on the driveway and a potential for multiple cars to be waiting to simultaneously leave the driveway.

**Chapter III, Section 3.11 – Parking, Loading, and Service Area Requirements** – The Board finds that the proposed parking satisfies the requirements of the LURs. The applicant has proposed using existing paved surface area to provide six parking spaces. The applicants indicated at the hearing that state regulations may require the dedication of one wheelchair accessible space, and consultant Scott Baker testified that the site has enough space to accommodate a van or passenger vehicle for this puprose. The board finds that the proposed parking meets the requirements of this section.

**Chapter III, Section 3.12 – Performance Standards** – The Board provides the following review of several performance standards.

1. **Noise** – The district standard is 70 decibels at the property line. The applicants testified that children will play outdoors for approximately 1.5 hours per day. The board does not find any concern for violations of the district noise standards.
2. **Glare, light or reflection** – The applicants do not propose any new lighting for this application. The residence currently has several downward-facing, shielded light fixtures. The applicants testified that the lights are customary to a residential property. The board finds that the existing lighting complies with the LURs.

The board does not find concern for the other performance standards: smoke, dust, noxious gases, or other forms of airborne pollution; liquid or solid waste; vibrations; release of heat, cold, moisture, mist, fog, or condensation; electromagnetic disturbances, transmission, or signals; and undue fire, safety, explosive, radioactive, and other hazards.

**Chapter III, Sectio 3.15 – Surface Waters and Wetlands** – The subject property does not have any named streams, surface waters, or wetlands.

**Chapter III, Section 3.16 (A) – Water & Wastewater System Requirements - (F)** – The applicants are in the process of obtaining a state wastewater and water supply permit for the proposed daycare. Consultant Baker testified at the hearing that the mound will be moved 10 feet to the north as compared to the submitted plans. The applicants testified at the hearing that they do not plan to increase the total number of individuals at the daycare (two to three staff and up to 14 children), because doing so could require becoming a public water source and fulfilling additional state requirements. The Board finds that the applicant has demonstrated adequate water and wastewater capacity.

**Chapter IV, Section 4.7 – Day Care Facility**

Subsection B requires that child care facilities serving 10 or more children receive conditional use approval. While the LURs contemplate that such facilities will occur inside a primary residence, the state defines "center-based child care" as existing outside a primary dwelling. See Section 2.3 above.

**Chapter V, Section 5.4, Conditional Use Review**

Conditional use review requires consideration of five general standards.

1. **Capacity of existing or planned community facilities and services** – The board finds that the proposal will have minimal impact on local schools, police and fire and rescue services. The facility will need to meet state public safety requirements.
2. **Character of the area affected** – The Board finds that the proposal does not adversely impact the character of the area. The applicants testified that staff begin work at approximately 7:45 AM and typically leave by 4:15 PM.
3. **Traffic on roads and highways in the vicinity** – The applicants testified that childcare drop-offs are staggered over an hour to an hour and a half each morning and afternoon. While the board does not find a major impact on traffic volume in this proposal, it does find that driveway improvements are required to meet the 1997 *Recommended Standards for Developments and Homes* and prevent unsafe road conditions. See decision and conditions.
4. **Bylaws in effect** – The board finds that the proposal complies with bylaws in effect. The Town Plan at page 2-47 cites 24 VSA 4302(13), which reads that town plans shall "ensure the availability of safe and affordable child care and to integrate child care issues into the planning process, including child care financing, infrastructure, business assistance for child care providers, and child care work force development."
5. **The use of renewable energy resources** – The board finds that the proposal does not impact renewable energy resources on the subject parcel or neighboring lots.

### Chapter V, Section 5.5 Site Plan Review –

1. Site Features: 435 Dorset Street is a relatively flat, 10.32-acre parcel with no streams, waterbodies, or wetlands. The land does not feature any significant habitats. Most of the parcel is statewide agricultural soil, though pockets of prime agricultural soil exist along Dorset Street.
2. Site Layout and Design: The board finds that the existing garage and site layout are architecturally compatible with the surrounding area. There are no known historic structures in the immediate vicinity.
3. Access: The board finds that the applicants will use the existing access on Dorset Street.
4. Parking, Loading, and Service Areas: The board finds that the existing paved area around the garage provides adequate parking for the proposed daycare.
5. Landscaping and Screening: The Board finds that the proposed landscaping and screening generally comply with these regulations. The applicants testified that they will install a fence around the designated outdoor play area.
6. Stormwater Management and Erosion Control: None proposed or required.
7. Outdoor Lighting: The applicants do not plan to install any new lighting.

## Decision and Conditions:

**Subject to the conditions set forth below, the Development Review Board APPROVES DRB 25-034-CU/SP O'Farrell-Sleeper:**

1. All plats, plans, drawings, documents, testimony, and evidence submitted at the hearing and used as the basis for this decision to grant the permit shall be binding on the applicant, and his/her/their successors, heirs and assigns.
2. Any deviation from the approved site plan shall be regarded as additional "land development," which may require additional permit(s), and must be reviewed and approved by the Zoning Administrator prior to commencing construction, in accordance with the provisions of Section 5.2 and 9.1 of the Charlotte Land Use Regulations.
3. An updated site plan mylar shall be signed by the DRB chair and recorded in the Town Land Records within 180 days of this decision. The site plan shall depict the final location of the new wastewater mound, driveway improvements (required below), and the approximate location of the fenced play area.
4. The applicants shall widen the base of the driveway (first 20 feet) to 18 feet in width. The applicants shall widen the remainder of the driveway to 14 feet. The applicants may accomplish this requirement by paving to the required width or by installing gravel hardpack shoulders.
5. The applicant shall obtain a "Land Use Change – No Construction" permit to convert the garage into a daycare facility.
6. Prior to the issuance of a zoning permit to convert the garage into a daycare, the applicants shall obtain a new highway access permit to reflect the commercial use of the property. Highway access permits are currently reviewed by the Selectboard.

7. Prior to the issuance of a certificate of occupancy, the applicant shall obtain an ability-to-serve letter from the Charlotte Volunteer Fire and Rescue Service.
8. Any new lighting devoted to the approved childcare facility requires administrative review approval of the zoning administrator. Lighting does not require a zoning permit.
9. Any sign requires administrative review and approval of the zoning administrator. Signs do not require a building permit.
10. Approved hours of operation are 7:00 AM to 5:00 PM.

**Vote of Members after Deliberations:** The following is the vote for or against Site Plan Amendment approval of this application, with conditions as stated in this decision:

| | | | For /Against | Date Signed |
|---|---|---|---|---|
| 1. | Signed: _____ | Charles Russell | For / Against | May 14, 2025 |
| 2. | Signed: _____ | Gerald Bouchard | For / Against | May 14, 2025 |
| 3. | Signed: _____ | Alexa Lewis | For / Against | May 14, 2025 |
| 4. | Signed: _____ | Brandon Tieso | For / Against | May 14, 2025 |
| 5. | Signed: _____ | Doug Paton | For / Against | May 14, 2025 |

***This decision may be appealed to the Environmental Division of the Vermont Superior 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.***