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3 **Town of Charlotte**  
4 **DEVELOPMENT REVIEW BOARD**  
5 **Meeting Conducted at Town Hall and via Teleconference**  
6 **October 26, 2022**

7 *Approved by the Development Review Board – 11/9/2022*

8 **Development Review Board:** Charles Russell, JD Herlihy, Gerald Bouchard, Alexa Lewis, Christina  
9 Asquith

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11 **Staff:** Larry Lewack, Town Planner; Lynn Monty, Recording Secretary

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13 **OTHERS:** Dave Marshall, Eli Lesser-Goldsmith, Paul Plante, Keith Osborne

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15 ***Posted Agenda:***

16 7:00 PM Call to Order; changes to agenda (if any)  
17 7:02 PM Public Comment (not pertaining to pending applications)  
18 7:05 PM DRB 22-183-VA Lesser-Goldsmith - Hearing Continued - Variance review for proposed  
19 outdoor pool at 701 Hills Point Rd. Project information available at:  
20 [https://bit.ly/Lesser-Goldsmith\\_VA](https://bit.ly/Lesser-Goldsmith_VA)  
21 8:00 PM Markup & Approve draft Decisions (Public Deliberations; no public testimony or  
22 comment will be allowed); DRB 22-218-CU TOC Recreation – Decision DRB 22-209-VA  
23 Alpert – Closure of application  
24 8:05 PM Review & Approve meeting minutes: DRB Minutes Oct. 12  
25 8:10 PM Discussion on DRB process  
26 9:00 PM Adjourn

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28 **CALL TO ORDER:** Acting Chair JD Herlihy called the meeting to order at 7 pm.

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30 **CHANGES TO THE AGENDA:** Larry Lewack asked to add a discussion on the holiday meeting  
31 schedule, as well as Planning Commission and CCC meeting discussions—to be added after the  
32 approval of meeting minutes.

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34 **Public Comment:** There was no public comment.

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36 **DRB 22-183-VA Lesser-Goldsmith - Hearing Continued - Variance review for proposed outdoor**  
37 **pool at 701 Hills Point Rd.**

38 Dave Marshall of Civil Engineering Associates addressed materials to be used for replacing the  
39 existing gravel driveway that makes the lot non-compliant, in terms of lot coverage. He discussed the  
40 differences between pervious and impervious materials. Subsurface gravel under the pavers is required  
41 to have a reservoir underneath, which channels runoff away to a treatment area. A key element in this  
42 design is the capacity to handle 1.84” of rain over 24 hrs.

43 The board also requested a more complete site plan, with setbacks indicated. A couple of site  
44 plans that show the entire parcel were submitted, Dave said. These show the site layout and  
45 dimensions. The solution was to create something that improve runoff management vs. what is out  
46 there today, Dave said. with respect to whether this application can be treated as a conditional use

47 review: The plans indicated the creation of an accessory structure, in this case a pool. It is not  
48 technically an extension of the house, so that defines this as a variance request. Dave said they are  
49 trying to demonstrate a fair use of the property. The task is to prove to the board that this is a  
50 reasonable, practical solution, with the least impact to the parcel.

51 Alexa Lewis asked if they submitted their plans to the ANR shoreland specialist yet. Dave said  
52 no, they're waiting on the outcome of this process first. He discussed encroachment into the 150'  
53 shoreline buffer, vegetation, and erosion policies, and state standards, which discourage creating  
54 additional impervious surface or tree removal within 100 ft. of the shoreline. Their project would not  
55 involve clearing or adding impervious surface within that 100 ft. zone.

56 JD Herlihy asked if they were counting the proposed rain garden as part of reducing their lot  
57 coverage. Dave M: no. Charles Russell commented that it seems like there are other places on the lot  
58 where a pool could be built. Possible other areas the proposed pool could be installed were discussed.  
59 Eli Lesser-Goldsmith noted the house is located where the Zoning Board of Adjustment required.  
60 Dave M said the proposed pool location is more private than other options. He noted this small lot has  
61 many constraints, Dave said. Given that, he feels some flexibility in applying LURs standards would  
62 be appropriate. JD Herlihy asked for the citation of state stormwater rules used in the project design.  
63 Dave M. couldn't recall, but provided additional details about stormwater treatment from the proposed  
64 system, including the possible use of level spreaders at the outfall of drain pipes. Charles Russell  
65 noted that several recent heavy storms have exceeded the 1.84" 24 hrs. rainfall design spec.  
66

67 **Motion by Alexa Lewis, seconded by Gerald Bouchard, to close continued public hearing on**  
68 **DRB 22-183-VA. VOTE: 5 ayes, motion carried.**

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70 Deliberations on DRB 22-183-VA:

71 Christina Asquith confirmed that the proposed pool is 100% within the side yard and partly  
72 within the 150 ft. town lakeshore setback. Impervious vs. pervious surfaces were discussed. It is a one-  
73 year storm design as required by the State, JD said. Larry spoke about the pipe outflow, and how it  
74 would concentrate runoff impacts to a discharge point, which is not shown on their plans. Charles  
75 Russell read the LURs definition of impervious surface and noted it does not recognize degrees of  
76 infiltration. Alexa Lewis isn't sure we can accept applicant's claim that 'permeable pavers' are 100%  
77 permeable. Larry Lewack agreed; the actual function of these systems over time is unknown. Charles  
78 Russell said he doesn't agree with the applicant's claim that there's no other place where an outdoor  
79 pool can be located on this parcel. Alexa said she doesn't agree that denying this pool constitutes a  
80 hardship. Christina doesn't feel this project meets variance criteria, period.  
81

82 **Motion by Charles Russell, seconded by Alexa Lewis to approve DRB 22-183-VA Lesser-**  
83 **Goldsmith - Variance for proposed outdoor pool at 701 Hills Point Rd. VOTE: 0 ayes, 4**  
84 **opposed, 1 abstain (Gerald Bouchard). Motion denied; project is not approved.** Staff will prepare  
85 a draft decision to this effect.  
86

87 Markup & Approve draft Decisions (Public Deliberations; no public testimony or comment  
88 allowed): DRB 22-218-CU TOC Recreation – Decision + DRB 22-209-VA Alpert – Closure.

89 *DRB 22-218-CU TOC Recreation:* Gerald Bouchard said size of foundation blocks needs correction.  
90 Charles Russell noted Flood Hazard Zone standards in Table 2.10 must be addressed, at least  
91 minimally. The permit decision document was edited. A condition was added requiring applicant to

92 present evidence of state shoreland review once complete. A condition was added to allow the Zoning  
93 Administrator to approve any needed changes in design which may be required due to future Lake  
94 Road improvements. Final review of this draft was deferred until staff prepares a revised version for  
95 the Board to consider at its next mtg.

96 *DRB 22-209-VA Alpert:* Zoning Administrator Keith Osborne explained why this variance is not  
97 needed (state septic regulations trump the LURs standards re: lakeshore setbacks for septic leach  
98 fields). The Town does not have jurisdiction to prohibit septic systems outside a 50 ft. setback from  
99 the lakeshore. **MOTION: Alexa Lewis moved & Charles Russell seconded that DRB 22-209-VA**  
100 **Alpert be dismissed without prejudice. VOTE: approved 4-0-1 (Christina Asquith abstained).**

101

102 **Review & Approve draft meeting minutes: DRB Minutes Oct. 12:**

103 **MOTION by Charles Russell; seconded by Alexa Lewis, to approve the DRB Minutes for Oct.**  
104 **12, as amended. VOTE: 4-0-1, motion approved (Christina Asquith abstained).**

105

106 **Discussion on upcoming meeting schedules**

107 Taylor Newton to present at a future meeting, TBD. Scheduling changes were set:

- 108 • The Board agree to cancel its regular meeting on Nov. 23, 2022 (night before Thanksgiving).  
109 In its place, the Board agreed that a special meeting will be held on Nov. 30, 2022.
- 110 • The Board agreed to cancel its December 28 mtg. (conflict w/ members' holiday schedules)

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112 **MOTION by Charles Russell; seconded by JD Herlihy, to continue the meeting past 9 pm.**

113 **VOTE: 5 ayes, motion carried.**

114 *Other topics:*

- 115 • Charles Russell noted staff is working to modify DRB applications by adding checklists, so it's  
116 clear what materials applicants must provide vs. which materials are not needed. Staff will  
117 share these drafts with the Board for feedback when they're ready for review.
- 118 • JD suggested only one joint meeting with another board be scheduled per DRB meeting.
- 119 • Larry said the Planning Commission wants the DRB to have a voice in the PC's next round of  
120 proposed Land Use Regulation amendments. It was suggested an outline or 'wish list' be  
121 developed. Larry said it is not expensive to run a special vote on during a non-election year for  
122 a town vote on phase two of the Land Use Regulation process. He will be suggesting that to the  
123 Commission at their next meeting.
- 124 • Taylor Newton, Regional Planning Director, is willing to present on the basics of Land Use  
125 Planning, Larry said. Examples of good standards and bad standards, and examples from other  
126 Towns will be helpful to have presented, he said.
- 127 • Charles spoke about Act 171 (re: protecting forest blocks) in land use planning.

128

129 **Adjournment:**

130 **MOTION by Charles Russell; seconded by Gerald Bouchard, to adjourn the meeting. VOTE: 5**  
131 **ayes, motion carried. The meeting was adjourned at 9:22 pm.**

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133 *Minutes Respectfully Submitted:*

134 Lynn Monty, Recording Secretary, with edits by Larry Lewack, Town Planner.