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Town of Charlotte
DEVELOPMENT REVIEW BOARD
Meeting Conducted at Town Hall and via Teleconference
August 24, 2022

As approved by the Development Review Board – 9.28.22

Development Review Board: Charles Russell, JD Herlihy, Gerald Bouchard, Alexa Lewis,
(not present - Christina Asquith)

Staff: Rebecca Kaplan, P&Z Clerk; Danielle Atherton, Recording Secretary

OTHERS: Richard Robinson, Dave Marshall, Dean Bloch, James Faulkner, Abby Dery, Jacob Hinsdale; via Zoom: Lawrence Robinson, Paul Plante, Frank Tenney

Posted Agenda:

7:00 PM Call to Order; changes to agenda (if any)
7:02 PM Public Comment (not pertaining to pending applications)
7:05 PM DRB 22-157-VA/SA/SPA HEARING Town of Charlotte Town Garage - Review
for new town garage at 3205 Greenbush Rd
7:45 PM DRB 22-135-SK SKETCH Hinsdale Charlotte Farms, LLC – 1-lot Planned
Residential Development (PRD), convert single-family house to a multi-
family fourplex
8:15 PM Markup & Approve draft Decisions (Public Deliberations; no public testimony
or comment will be allowed): DRB 22-169-SK Belisle Sketch Letter DRB 21-
277-SK Curler - request for 6-month extension
8:25 PM Review & Approve meeting minutes: DRB Minutes August 10
8:30 PM Adjourn

CALL TO ORDER: The meeting was called to order at 7:04pm.

CHANGES TO THE AGENDA: Charles Russell stated that the Gaujac and Belisle subdivision
may have been mis-classified and it will be corrected during the draft decision mark-ups.

Public Comment: There was no public comment.

**DRB 22-157-VA/SA/SPA HEARING Town of Charlotte Town Garage - Review for new
town garage at 3205 Greenbush Rd:** There was no ex-parte communication or conflict of
interest. The interested parties were sworn in and identified as Dean Bloch, Dave Marshall
and James Faulkner. It was confirmed the abutters have been notified. Dave Marshall
explained they are requesting a variance to move the building further east into the Route 7
setback. The reason is because in the spring a wetland update was done and the wetlands
were shown to have migrated. The land is no longer developable as was previously
envisioned. They sought relief from the State of Vermont wetlands division, and they
determined that a variance needed to be requested. The LURs require a 100 ft. setback on

46 Route 7, which has made this property difficult to utilize. The applicants are seeking a 43 ft
47 relief, which would make it 57 ft from the ROW. He then presented a written response to
48 the five requirements needed for a variance:

49 1. *There are unique physical circumstances or conditions, including irregularity,*
50 *narrowness, or shallowness of lot size or shape, or exceptional topographical or other*
51 *physical conditions peculiar to the particular property, and that unnecessary hardship*
52 *is due to such conditions and not the circumstances or conditions generally created by*
53 *the provisions of these regulations in the neighborhood or district in which the*
54 *property is located.*

55 **Response:** The Town acquired the parcel in 2000 and had a wetland delineation in
56 2004. In preparing for the Town Garage, the Town had the wetlands re-delineated, and
57 it was found that the wetlands had migrated approximately 122 feet to the east from
58 the earlier delineation. In laying out the site for the Town Garage, the Town is trying to
59 minimize the impact to the wetland. Without a variance, the garage and/or paved apron
60 to the west of the garage would need to be reduced in size to avoid wetland buffer
61 impacts, which would be a significant and undue hardship.

62 2. *Because of these physical circumstances and conditions, there is no possibility that the*
63 *property can be developed in strict conformity with the provisions of the zoning*
64 *regulation and that the authorization of a variance is necessary to enable the*
65 *reasonable use of the property.*

66 **Response:** The proposed siting and configuration of the Town Garage has taken many
67 factors into consideration. First, the Town owns no other parcel that is as well suited for
68 proposed use in terms of the proximity to the salt shed and sand pile, the minimization
69 of impacts on residential uses, and the central location in town. Second, even though the
70 location is not a densely settled area, there are residential uses on the east side of Route
71 7—so the Town is trying to minimize the impact of the proposed use by facing the
72 garage doors to the west. In essence, the building itself is shielding the adjoining
73 properties from the impacts of lighting, noise and vehicular movements associated with
74 the garage. Third, research conducted regarding the site layout, including interviews
75 with Highway Department personnel from other towns, has indicated the need for a
76 100-foot paved apron outside of the garage doors. The paved apron is needed for the
77 turning radius and safety of the trucks, which often have additional apparatus attached
78 to them including snow plows, trailers, and mowing equipment, and which are
79 sometimes operating under difficult and hazardous conditions that include snow, ice
80 and heavy rain. Thus, to minimize the impacts to the wetland, and allow the garage to
81 be operated in a way that is efficient, safe and reasonable, the variance is necessary.

82 • JD Herlihy asked if the lot could be developed without the variance. Dave
83 Marshall replied yes. Charles Russell suggested to change the design by
84 flipping the garage and the parking area, thereby moving the garage further
85 from the road. Dave Marshall replied that it was designed this way to be
86 compliant with Section 9.3 which keeps lights and other activities from
87 impinging on the neighborhood and it needs to be turned away from the
88 roadway. Charles Russell said the Board could put restrictions on other
89 uses/hours to minimize the activity. JD Herlihy didn't think there should be

90 much maintenance done outside since the purpose was to have a heated
91 place during the cold weather. Dave Marshall said between the aesthetics
92 and the regulations, they felt they were forced to do it this way. Charles
93 Russell said how it looks from Route 7 can be mitigated, and that the visual is
94 less of a concern than the noise.

- 95 • James Faulkner didn't want a lot of trucks and activity visible when people
96 are driving down Route 7. If they put a restriction that more work needs to
97 be done inside, the garage would have to be bigger.
- 98 • Dean Bloch addressed JD Herlihy's question asking if it can be developed?
99 Yes, a shed can be put on it. That provision asked can it be developed for a
100 reasonable use of the property, and reasonable has many meanings. Could it
101 be made into a town park, possibly. It can't be developed without strict
102 conformities to provisions from the zoning district. He added in Section
103 5.5E4, it states the parking, loading and service areas should be located to the
104 side or rear of the building, which would make their suggested change not
105 compliant. JD Herlihy said it would be helpful to see the site plan area that is
106 now developable.

107 3. *The unnecessary hardship has not been created by the appellant.*

108 **Response:** The Town did not create the wetland, which is the "unnecessary hardship"
109 prompting the variance request. One could potentially claim that the Town is creating
110 the hardship by locating the Town Garage on this parcel, or by configuring the building
111 and site as proposed. Those claims are addressed in the answer to #2 above.

- 112 • Charles Russell asked if the elevation has changed. Dave Marshall confirmed the
113 building will now be 2-3 feet taller.
- 114 • Charles Russell said the wetland shifted which created this hardship, and could
115 have been created by a previous owner.
- 116 • JD Herlihy said the hardship doesn't exist until the permit is rejected by the
117 state. Dean Bloch responded they have received communication from the state
118 that it's highly unlikely a permit will be issued. James Faulkner asked if
119 Charlotte Crossings is in the setback. Charles Russell confirmed that it is, and it
120 was grandfathered as a pre-existing non-conformance.

121 4. *The variance, if authorized, will not alter the essential character of the neighborhood
122 or district in which the property is located, substantially or permanently impair the
123 appropriate use or development of adjacent property, reduce access to renewable
124 energy resources, or be detrimental to the public welfare.*

125 **Response:** It should be noted that the only 100-foot setback in this portion of Town, as
126 required by the Land Use Regulations, is on the west side of Route 7. The setback on the
127 east side of Route 7 is 30 feet. If the variance is granted, the Town Garage will still be
128 over 50 feet from the westerly edge of the Route 7 right-of-way—and this is in keeping
129 with the character of the area. Locating the garage as proposed will have no effect on
130 the use or development of adjacent property as it will not encroach any further in the
131 north or south directions to those abutting properties, and the residence to the east will
132 not be unduly impacted because it is set 32-38 feet above Route 7 and views to the west
133 from those structure will continue to look over the top of the proposed facility. The

134 proposed location will not reduce access to renewable energy resources—in fact, the
135 building is being configured in order to site solar panels on its roof. The proposed
136 location of the garage will not be detrimental to the public welfare.

- 137 • Charles Russell and the Board agreed that moving it 43 feet won't affect what
138 can be done in that area.
- 139 • Gerald Bouchard asked what the ROW is from the center of the road. After
140 calculating, it was determined to be 107'.

141 5. *The variance, if authorized, will represent the minimum that will afford relief and will*
142 *represent the least deviation possible from these regulations and from the plan.*

143 **Response:** The Town is using a benchmark provided by the Vermont Wetland Rules as
144 the basis for the variance request, which is that impacts to wetland or wetland buffer of
145 3,000 square feet or less do not require a Wetland Individual Permit. The proposed
146 configuration of the Town Garage will result in 3,000 square feet of buffer
147 encroachment—that is the most encroachment allowed by the Wetland Rules without
148 needing a permit. And the 3,000 square feet of impact is presumably the most that is
149 considered acceptable by those who are charged with protecting wetlands. Therefore,
150 the proposed encroachment into the Route 7 setback by 46.7 feet is the least deviation
151 possible from the 100-foot setback required by the Land Use Regulations.

- 152 • Gerald Bouchard asked how much would need to be cut back to avoid a state
153 permit? Dave Marshall replied another 20 ft.
- 154 • James Faulkner suggested instead of 100 ft, if 80 ft could work as a compromise
155 to minimize the variance and impact. Charlotte Crossings is 75 ft from the ROW.
156 Dave Marshall wanted it noted the engineer's plans show what it takes to be as
157 much of a functional facility as possible and felt the 100 ft was appropriate.
- 158 • JD Herlihy confirmed with Dave Marshall that the stormwater management is
159 acceptable with the state.

160 **Next Steps:** Charles Russell confirmed with the Board and they all agree the hardship
161 wasn't created by the applicant. The Board is hung up on #2; Dean Bloch suggested that
162 legal provide guidance on "reasonable use of property" meaning. James Faulkner said the
163 job needs to go to bid now to line up contractors for April and May. If they wait too long,
164 they could lose the contractors. Alexa Lewis didn't want to close the hearing because the
165 applicants may be able to modify the plans to provide minimum impact. **MOTION by**
166 **Gerald Bouchard;** seconded by JD Herlihy, to continue DRB 22-157-VA/SA/SPA HEARING
167 Town of Charlotte Town Garage until August 31. VOTE: 4 ayes, motion carried.

168
169 **DRB 22-135-SK SKETCH Hinsdale Charlotte Farms, LLC - 1-lot Planned Residential**
170 **Development (PRD), convert single-family house to a multi-family fourplex:** A site
171 visit was done earlier in the day. Abby Dery explained the application was proposing to
172 convert a single-family home to a multi-family fourplex. The existing septic can
173 accommodate 4 units and a well will be drilled. There is 35.25 acres of open space
174 conserved that takes into consideration the natural resources, aquatic habitat and forestry
175 identified on the map. The wetland delineation was done in 2021 with a 50ft buffer. This is
176 proposing very little to no excavation except for the drilling of the well. 6 parking spaces

177 can fit, and no landscaping or screening will be done in front of the parking area since
178 vegetation, hedge rows and cedar trees block the area.

- 179 • Charles Russell noted the staircase will be outside of the setback for the 2nd
180 floor and he wants to see that in the final plan. He added this is not a
181 subdivision, it's automatically a conditional use with a PRD since it's a multi-
182 unit dwelling.
- 183 • JD Herlihy added it's a pre-existing non-conforming structure.
- 184 • Alexa Lewis noted they haven't sought any waivers for any application
185 requirements.

186 **MOTION by** Gerald Bouchard; seconded by JD Herlihy, to classify DRB 22-135-SK SKETCH
187 Hinsdale Charlotte Farms, LLC as a one-lot PRD. VOTE: 4 ayes, motion carried.

188

189 **Markup & Approve draft Decisions (Public Deliberations; no public testimony or**
190 **comment will be allowed): DRB 22-169-SK Belisle Sketch Letter DRB 21-277-SK**
191 **Curler - request for 6-month extension:**

192 **Belisle: MOTION by** JD Herlihy; seconded by Alexa Lewis, to reclassify DRB 22-169-SK
193 Belisle as a 2-lot minor subdivision. VOTE: 4 ayes, motion carried. The Board made edits
194 to the draft and decided to postpone the letter until the next meeting.

195 **Gaujac: MOTION by** Alexa Lewis; seconded by Gerald Bouchard, to reclassify DRB 22 156-
196 SK Gaujac as a major subdivision. VOTE: 4 ayes, motion carried.

197 **Curler: MOTION by** Gerald Bouchard; seconded by Alexa Lewis, to extend DRB 21-277-SK
198 Curler for 6 months. VOTE: 4 ayes, motion carried.

199

200 **Review & Approve meeting minutes: DRB Minutes August 10:** The Board decided to
201 discuss these at the next meeting.

202

203 **MOTION by** Alexa Lewis; seconded by JD Herlihy, to adjourn the meeting. VOTE: 4 ayes,
204 motion carried. The meeting was adjourned at 9:23 pm.