

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Town of Charlotte
DEVELOPMENT REVIEW BOARD
Meeting Conducted at Town Hall and via Teleconference
July 27, 2022

Approved by the Development Review Board – August 10, 2022

18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

OTHERS: In person: Jack Kelly, Peter Trono, Richard Robinson, Mathew Citarella, Maggie Citarella, Jim Donovan, Patricia O'Donnell, Elizabeth Hunt, Cathy Marshall; via Zoom: Brigit Robinson, Paul Plante, Frank Tenney, Barry Finette, Kiona Baez Heath, Richard Heath, Kathee O, Sharon Mount, Charlotte News, Frances Foster, Janice Heilmann, Rachel Hellman, Katherine Lampton,

32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

Posted Agenda:

6:00 PM	Call to Order; changes to agenda (if any)
6:02 PM	Discussion on the Planning Commission's draft LUR amendments
7:02 PM	Public Comment (not pertaining to pending applications)
7:05 PM	DRB 22-163-SA FINAL PLAN Robinson - Minor Subdivision Amendment with parcel line change at 295 Meadowside Dr.
7:15 PM	DRB 22-97-CU Robinson - After-the-fact Conditional Use review for accessory dwelling at 295 Meadowside Dr.
7:30 PM	DRB 22-160-SD SKETCH O'Donnell Donovan – Three-lot subdivision at 125 Lake Rd.
8:15 PM	Review & Approve meeting minutes: DRB Minutes July 13
8:20 PM	Adjourn

CALL TO ORDER: The meeting was called to order at 6:00pm.

CHANGES TO THE AGENDA: Charles Russell said O'Donnell Donovan has been changed to sketch plan (from final plan review) since it went from an 8-lot PRD to a 3-lot subdivision.

Discussion on the Planning Commission's draft LUR amendments:

Public facility: JD Herlihy said previously this re-stated the state statute. Language has now been added as to what a public facility can be used for and he wasn't sure why. He did agree that removing public facility from the conditional use lists was a good change. Removing "hospitals" and adding "Health Clinic and Health Care Facility" was also a concern since that is in the state statute. The Board felt this needs more research.

Non-conforming Lots: Charles Russell noted they crossed out dimensional and added minimum lot size. He felt that should go back to dimensional. Alexa Lewis asked if they meant minimum lot size in the district or in the state statute. After re-reading it as a whole it made more sense, but felt a further explanation could be helpful. Charles Russell would like the reasoning why this was changed.

Non-Conforming Structures: JD Herlihy felt this should be re-worded since it's not clear what they can and can't restrict and it needs more guidelines. Charles Russell said the last sentence explains what you can do without conditional use review. JD Herlihy read it as under conditional use review you can go further into the setback, but the Board likely would not do that and it would then require a variance. It appeared to him that this takes all modifications from non-conforming structures out of the DRB. He felt

50 this is a drastic change from practice and precedent. Alexa Lewis added that a conforming property
51 wouldn't be allowed to do this since they aren't allowed to go into the setback. She disagreed to allow
52 someone to continue to develop if they are already in the setback as long as they don't encroach further.
53 She would like clarification on what the actual intent is. Charles Russell suggested the PC hold off on this
54 topic until March. JD Herlihy felt this could have unexpected consequences by removing conditional use
55 from this process. The DRB would like clarity and more standards.

56 **Waiver authority:** The change stated that application criteria could be waived. JD Herlihy suggested
57 "except density requirement" to get struck out. He asked if waiver authority is still allowed under PRDs,
58 or does this nullify? Alexa Lewis felt this nullifies.

59 **Temporary structure:** Alexa Lewis felt 4.17 and 9.2 are in conflict with each other. 4.17 stated a zoning
60 permit is needed for a temporary structure, and 9.2 lists a temporary structure as an exemption for a
61 permit. The Board would like the PC to make sure this isn't conflicting.

62 **Section 7.2:** JD Herlihy said they are removing access by ROW unless it's a PUD or PRD. Frontage is
63 required on a public ROW which means there is no ability to put a private road and have frontage on a
64 private road unless it's a PRD. Almost all subdivisions in town would have to be PRD's which triggers the
65 open space agreement. He felt it should say all subdivisions require a PRD unless they have road
66 frontage. Alexa Lewis would like clarification if that is the actual intent of this change. Charles Russell
67 and Christina Asquith believe that is the intention. The purpose, rationale and effect paper that Larry
68 Lewack prepared should have the answer to this.

69 **Definition on abandoned dwelling/structure:** Alexa Lewis asked if they don't have an event, how is
70 the 1-year period determined? Would it be the date the utilities get shut off?

71 **Definition on healthcare facility:** JD Herlihy suggested to change to "inpatient and/OR outpatient"
72 because this could be in conflict with the state statute.

73 **Shoreline protection:** Alexa Lewis said there was nothing that addresses the coordination between the
74 tree warden and the state shoreland protection staff.

75
76 Rebecca Kaplan will compose a draft of the DRB's concerns to present to the PC.

77
78 **Public Comment:** There was no public comment.

79
80 **DRB 22-163-SA FINAL PLAN Robinson - Minor Subdivision Amendment with parcel line change at**
81 **295 Meadowside Dr:** Dr. Robinson (applicant), Peter Trono and Kiona Baez Heath (neighbors), and
82 Richard Robinson were sworn in. Dr. Robinson said a land swap was proposed to the Heath's to bring the
83 accessory dwelling (ADU) within the setback boundary adjustment which was requested by the DRB.
84 This land swap avoids the need for a waiver or variance. The property has been surveyed, which brought
85 the setback to 50.5 ft. Kiona Baez Heath added this agreement works for them. Alexa Lewis said the fire
86 department's ability to serve letter is still pending. Dr. Robinson has a letter stating it's serviceable, and
87 he added the driveway is in a construction phase and not completed. **MOTION** by Alexa Lewis; seconded
88 by Gerald Bouchard, to close DRB 22-163-SA FINAL PLAN Robinson. VOTE: 5 ayes, motion carried.
89

90 **DRB 22-97-CU Robinson - After-the-fact Conditional Use review for accessory dwelling at 295**
91 **Meadowside Dr:** Dr. Robinson, Peter Trono, Kiona Baez Heath and Richard Robinson were sworn in. Dr.
92 Robinson thought the boundary setback issue would clear this up. He stated in the minutes there was a
93 5/0 vote that the Conditional Use Review was accepted. The Board looked up the minutes and found on
94 6/29 the Board re-opened the hearing in order to review the fire chief's recommendations from the
95 original subdivision approval. JD Herlihy referred to 7/22/86 Planning Commission minutes where it
96 states the final approval will be subject to applicable recommendations from the fire chief as submitted to
97 act 250, and those recommendations have yet to be provided. Dr. Robinson shared an email from Captain
98 Eric Sargent. The letter was dated 7/14 and it stated that "it looks good" but he has to come back with

99 equipment and determine the grade and then he will get the ability to serve letter. Charles Russell stated
100 there is a new fire chief, Justin Bliss, and the Board needs a letter from him. Alexa Lewis asked if there
101 has been a visit from the fire department to follow up, and Dr. Robinson was unsure. Dr. Robinson is
102 frustrated by this process. Peter Trono is also frustrated because Dr. Robinson's contractor cut trees on
103 his property and felt there was a disregard for people's property rights and the town ordinance and
104 thought this should be considered by the DRB.

105 An email from Keith Osborne dated 7/27 stated there is a concern with the slope and
106 maneuverability for responding trucks during a potential event and that correspondence on these issues
107 should be forthcoming shortly. After seeing this email, the Board would like to continue this hearing,
108 which would be quicker than closing and then re-opening. Alexa Lewis brought up a potential issue with
109 stormwater and erosion since it's a different driveway now. **MOTION by** Alexa Lewis; seconded by JD
110 Herlihy, to continue the hearing for DRB 22-97-CU Robinson on 8/10 at 7:05pm. VOTE: 5 ayes, motion
111 carried.

112
113 **DRB 22-160-SD SKETCH O'Donnell Donovan:** Christina Asquith recused herself. Patricia O'Donnell
114 and Jim Donovan approached the table. Patricia O'Donnell stated this started in 12/2021 and in the
115 LUR's she didn't see where a subdivision application could change to a sketch plan. She wasn't sure if it
116 was due to the PC and DRB shift. This is now the 3rd hearing for their 124-acre lot. The original plan was
117 for 9 lots, it has now been reduced to 3 lots. Jim Donovan explained that for lot 1, the goal is to be on the
118 fence line and it encompasses all of the agriculture land. There is no change to lot 1 which is 44.5 acres.
119 Lot 3 is 62.97 acres and incorporates the large open space lots. Lot 2 is 16.8 acres and was formally 2
120 small residential lots but is now one building envelope. Lot 1 has been configured to be workable with
121 Charlotte Land Trust and VT Land Trust for an agricultural conservation sale. This has been a long
122 process and there is no guarantee that this will happen. Lot 3 has been configured this way since they are
123 working with the Charlotte Land Trust and Lake Champlain Land Trust to see if they can conserve the
124 forest. Each property is served by individual wells. Lot 2+3 flow to the pump station by gravity and Lot 1
125 will need a pump station. Driveway and stormwater permits are in process and the 3 houses will be
126 served by sprinkler systems. The 3 lots meet the zoning district standards which means it doesn't need
127 open space. The setback and frontages are met so no waivers are being requested.

128 Charles Russell asked if there are future subdivision plans, and they replied no. Alexa Lewis
129 asked if the Trust comes to fruition, if that would require a subdivision for them to conserve the land, and
130 Jim Donovan said no, it's simply an easement. Jim Donovan explained Lot 1 is more promising than Lot 3
131 for a trust sale. Alexa Lewis noted that on lot 2, based on the topography, there wouldn't be much of an
132 opportunity to subdivide. Jim Donovan agreed but that depends on how much future housing is needed.

133 Sharon Mount wasn't aware this meeting was scheduled and felt that is problematic since there
134 are many interested parties. She sent a letter to the Board addressing her concerns. This application is
135 completely different from the original one and doesn't feel this should be a modification, and also that it
136 feels rushed. JD Herlihy clarified that this is being treated as a new application which was decided by the
137 town planner. Some concerns were:

- 138 • She wanted to make sure nothing from the previous application such as the 6-month time limit,
139 and the owners requesting relief from stipulations no longer apply, and that this application was
140 truly starting from scratch. Charles Russell confirmed.
- 141 • She asked why there needs to be a structure on lot 1. Jim Donovan said that was requested by the
142 Charlotte Land Trust so someone could live there.
- 143 • The reluctance to do a Quechee test. If the neighbors could see what 4-bedroom houses would
144 look like it could ease their minds. Jim Donovan replied the balloon test wasn't required, it was
145 suggested and they did it, which was costly. The Quechee test costs a lot more money.

- 146 • As an adjacent land-owner she should have been warned about this meeting. This was seconded
147 by Maggie Citarella of the Conservation Commission. She wasn't notified by the ZA and it felt
148 rushed to her. Charles Russell replied the Conservation Commission should have been notified by
149 the ZA once the application was complete, and the adjacent land owners will get notified when
150 there is a public hearing (which this is not).
- 151 • Elizabeth Hunt, a neighbor, said she appreciates the gesture to conserve the land and the balloon
152 study was helpful. She wondered if this goes on the market if the appraisal would be higher than
153 what it was appraised at when this process started. Also, there has been problems with her well.
154 If a 3-4 bedroom house were to come in, would the water draw affect the surrounding neighbors?
155 Patricia O'Donnell answered that open land appraisers are not common and they are trying to
156 gauge the land on the open market and the value conserved. The appraisal is still in progress. Jim
157 Donovan said the existing farm well capacity is 1-2 gallons and there should be enough water.
- 158 • Catherine Marshall was concerned with item 13 which is requesting relief for further hydrological
159 studies. It is unknown what the new owners would be using the property for, which is a concern
160 with the availability of water. She asked since this is a new application, are the previous
161 comments with concerns with the wildlife corridor and creek runoff still intact, or do they need to
162 be resubmitted? Charles Russell said the comments can be forwarded and the Board is aware of
163 them, but recommended them to be re-submitted at the hearing. JD Herlihy agreed. Catherine
164 Marshall added that a Quechee test would be relevant since there are so many unknowns.
165 Charles Russell replied they can't put a requirement on what may happen in the future. If their
166 future plans request a subdivision then the Quechee test could then kick in.
- 167 • Matthew Citarella asked is there anything in the LUR's that would prevent lots 2 + 3 from
168 becoming managed forestry and if it is permitted use on those lots. Jim Donovan replied it is
169 permitted now, which is required by the state if going to current use, and there is a management
170 plan now. JD Herlihy added in regards to a HOA bylaws, a (2/3 majority) vote of the community
171 can't override the zoning regulations.

172
173 Charles Russell said the sketch plan letter will take a couple weeks. Patricia O'Donnell stated they
174 already paid \$5,500 for the first subdivision application fees and doesn't feel she should have to pay
175 again. Charles Russell will look into that. **MOTION by** JD Herlihy; seconded by Gerald Bouchard, to
176 categorize DRB 22-160-SD as a minor subdivision. VOTE: 4 ayes, motion carried. JD Herlihy said to
177 prioritize area of high public value, he suggested to get input from the Conservation Commission.

178
179 **Review & Approve meeting minutes: DRB Minutes July 13:** Minutes will be approved at the next
180 meeting.

181
182 **MOTION by** JD Herlihy; seconded by Gerald Bouchard, to adjourn the meeting. VOTE: 4 ayes, motion
183 carried. The meeting was adjourned at 9:29 pm.

184
185 Minutes Respectfully Submitted:
186 Danielle Atherton, Recording Secretary, with edits by Rebecca Kaplan, DRB Clerk