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Town of Charlotte
DEVELOPMENT REVIEW BOARD
Meeting Conducted at Town Hall and via Teleconference
June 22, 2022

As approved by the Development Review Board June 29, 2022

Development Review Board: Charles Russell (Chair), JD Herlihy (Vice-Chair), Gerald Bouchard, Christina Asquith, Alexa Lewis

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

OTHERS: Larry & Brigit Robinson, Martin Danaher (in-person); Paul Plante, John B, Kiona Baez Heath, Michael D'Amico, Frank Tenney, Shawna McKeon (via Zoom)

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 22-97-CU Robinson – PUBLIC HEARING – After-the-fact Conditional Use Review for Accessory Dwelling Unit at 295 Meadowside Dr.
7:20 PM DRB 22-117-SK Robinson – SKETCH – Subdivision Amendment with Boundary Adjustment at 295 Meadowside Dr.
7:30 PM DRB 22-116-SK Clark – SKETCH – Sketch Plan Review for minor subdivision at 1429 Mt. Philo Rd.
8:30 PM Markup & Approve draft Decisions (Public Deliberations; no public testimony or comment will be allowed):
DRB 22-95-SP Town Garage Decision
DRB 22-98-SA Montgomery-Horsford Decision.
8:45 PM Review & Approve meeting minutes: DRB Minutes May 25; DRB Minutes June 8.
9:00 PM Adjourn

CALL TO ORDER: Charles Russell called the meeting to order at 7:04 p.m.

CHANGES TO THE AGENDA: JD Herlihy suggested to review the Sketch application before the Conditional Use application for Robinson.

Public Comment: There was no public comment.

DRB 22-117-SK Robinson – SKETCH – Subdivision Amendment with Boundary Adjustment at 295 Meadowside Dr.

Dr. Larry Robinson asked for clarification on the application process. Charles Russell explained the steps towards potential approval. Dr. Robinson proposed an almost 1000 sq ft. ADU above his garage for an elderly relative. The septic mound required revision since the original access road was a farm road. The driveway was revised to meet code and was approved by the Fire Department.

Charles Russell clarified they are requesting a subdivision amendment and a boundary line adjustment. The boundary adjustment is needed because the ADU is 7 ft within the setback. Gerald Bouchard suggested a 10 ft instead of 7ft adjustment, since the distance to the property line is measured from the eaves, not the foundation. Martin Danaher, the contractor for the project, agreed

50 with the 10 ft relief of setback. He said a property line adjustment would require a lot of
51 paperwork from the mortgage companies which would inconvenience the abutters. A subdivision
52 amendment would be an easier path to follow in his opinion. Charles Russell explained the Board
53 needs to decide if a waiver is appropriate or not. Christina Asquith asked the reason why the
54 mistake was made. Dr. Robinson replied the construction was done using a GPS and not surveyed,
55 which resulted in a builder error by approximately 8' wider than it was.

56 JD Herlihy asked if the property was staked prior to construction. Martin Danaher replied
57 that the town was in between Zoning Administrators, and no stake out was requested at that time.
58 The permit did not have the detached garage on it at all, he said it was a verbal agreement between
59 himself and Wendy Pelletier. JD Herlihy listed the possible ZA errors as: not requesting a stakeout;
60 not requiring a permit when stated an ADU will be built; and, not inspecting the site prior to
61 construction. He suggested the best approach could be a variance. However, after reviewing the
62 LUR's, Charles Russell said the variance language does not list a ZA error as an applicable reason
63 Alexa Lewis read a letter which stated there was an awareness that a permit would be required for
64 the garage but it was not applied for prior to construction. She isn't sure if this is a ZA error. Martin
65 Danaher replied the deferment from the town was due to a backlog. JD Herlihy replied that a
66 backlog doesn't mean they can build it.

67 Kiona Baez Heath, who is a neighbor, explained there would be a burden put on her if there
68 were to be a boundary line adjustment. She recently had to do this for a wastewater permit and it
69 took 8 months, it was costly, and was a major process for both of their lenders. Michael D'Amico
70 from the Homeowners Association said the association is fully in support of the Robinson's plans.
71 The boundary adjustment would go against their bylaws, and he felt it puts a large unfair burden on
72 the Heath's with their mortgage company. However, if the town does decide it's the best route, they
73 would support it.

74 JD Herlihy added that before they allow a waiver for the setback, they have to ask if they
75 would have approved this to begin with, prior to construction. After-the-fact applications
76 presented to the Board create a circumstance of asking for forgiveness and not asking for
77 permission. Charles Russell agreed the boundary adjustment is a burden for the neighbor, but it's
78 the more appropriate approach and it cleanly cures the issue. Alexa Lewis was sympathetic to the
79 Heath's, but agreed that a boundary adjustment is the best route. Christina Asquith also agreed and
80 would like more time to discuss this to see if there is another creative alternative. JD Herlihy added
81 a variance is less destructive to the neighbors, but there has to be a reason for a waiver to be
82 granted. Martin Danaher said that variances are granted on a case-by-case basis. Charles Russell
83 said variances are hard to get, it is a high bar. Alexa Lewis agreed the conditions on the variance
84 will get tripped up on.

85 Construction on the ADU has stopped and Charles Russell said the decision whether they
86 are allowed to continue construction would fall on Keith Osborne, the ZA. The Board agreed to
87 discuss this at a future meeting.

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89 **DRB 22-97-CU Robinson – PUBLIC HEARING – After-the-fact Conditional Use Review for**
90 **Accessory Dwelling Unit at 295 Meadows Dr.**

91 Charles Russell opened the hearing and swore in Martin Danaher, Dr. Larry Robinson, and
92 Michael D'Amico. No conflicts of interest or ex parte communications were declared. JD Herlihy
93 asked what the driveway grade is. Martin D'Amico replied between 11-13%, and the fire
94 department can provide a letter. Charles Russell found there was no issue with the character of the
95 area, the traffic on the roads, the bylaws in effect, the noise effect, the neighbor's ability to have
96 renewable energy, and the wastewater capacity. Michael D'Amico from the Homeowners
97 Association wanted it on the record that no renting of any household structure is allowed. **MOTION**

98 by Christina Asquith; seconded by Gerald Bouchard, to close the hearing for DRB 22-97-CU
99 Robinson. VOTE: 5 ayes, motion carried.

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101 **DRB 22-116-SK Clark – SKETCH – Sketch Plan Review for minor subdivision at 1429 Mt. Philo**
102 **Rd.**

103 There was no one present to speak on behalf of Clark. Shawna McKeon is a homeowner in
104 the area. She believed the property was recently sold and that could be why they aren't present.
105 She had concerns with the access, since the Clark property is located in front of her home. It would
106 greatly impact her residence if this were made into a road, which is currently treated as a private
107 road. She believed the Clarks sold the existing lot, and the adjacent lot as well. Christina Asquith
108 confirmed, according to Zillow, the lot was sold today. The Board agreed to move on from this
109 application.

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111 **Markup & Approve draft Decisions (Public Deliberations; no public testimony or comment**
112 **will be allowed): DRB 22-95-SP Town Garage Decision; DRB 22-98-SA Montgomery-Horsford**
113 **Decision.** The Board made edits to the drafts.

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115 **Review & Approve meeting minutes: DRB Minutes May 25; DRB Minutes June 8.**

116 **MOTION by** Gerald Bouchard; seconded by Christina Asquith, to approve the meeting minutes as
117 amended for May 25. VOTE: 5 ayes, motion carried.

118 **MOTION by** Gerald Bouchard; seconded by Alexa Lewis, to approve the meeting minutes as
119 amended for June 8. VOTE: 5 ayes, motion carried.

120

121 Charles Russell would like a meeting next week for a Board discussion on process. On
122 tonight's agenda, Christina Asquith felt there were some surprises. She wasn't aware there was a
123 Homeowners Association, the second permit wasn't clear up front, and she wasn't aware about the
124 Zoning Administrator still holding the position. She would welcome next week to have clarity on
125 the agenda ahead of time. Charles Russell would like one consolidated document. The drop box
126 makes it easy to miss things.

127 **MOTION by** Gerald Bouchard; seconded by Alexa Lewis, to adjourn the meeting. VOTE: 5
128 ayes, motion carried. The meeting was adjourned at 8:50pm.

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