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3 **Town of Charlotte**
4 **DEVELOPMENT REVIEW BOARD**
5 **Meeting Conducted at Town Hall and via Teleconference**
6 **April 27, 2022**

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8 *As approved by the Development Review Board 6.8.22*

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

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

13 **OTHERS:** Carrie Spear, Scooter Macmillan, Paul Plante, Alex Bunten, Frank Tenney, Paula Joslin, Deborah
14 Kassabian, Liam Murphy, Peter Joslin, Sarah Reis, James Faulkner, Damien _____, Chennah Sharpe,
15 Adam Spell, Will Bown, Robert Curler, Jason Barnard, Will Coleburn, Laurie Curler

16 **Posted Agenda:**

17 7:00 PM Call to Order; changes to agenda (if any)
18 7:02 PM Public Comment (not pertaining to pending applications)
19 7:05 PM 21-45-CU Coleburn – CONTINUED HEARING - Conditional Use Review to add a 2nd floor
20 addition to existing cottage at 1108 North Shore Rd.
21 7:15 PM DRB 22-20-SD Curler – REOPENED HEARING - subdivide an existing 72± acre lot to create
22 two parcels. Public deliberations by Board to follow hearing.
23 7:30 PM 22-13-CU/SP Sketch review of Spear’s Corner Store – Conditional Use and Site Plan Review
24 to add a 2nd apartment above the store at 20 Jackson Hill Rd.
25 8:00 PM 22-51-CU/SPA Sketch review of Gemini Properties LLC – Conditional Use Review and Site
26 Plan Amendment for an accessory use for the restaurant to use the outdoor space behind the
27 restaurant for events at 3488 Ethan Allen Highway.
28 8:30 PM Markup & Approve draft decisions (Public Deliberations; no public testimony or comment
29 will be allowed): DRB 21-311-BA Hamilton-Franceschetti – Decision; DRB 22-49-SK TOC
30 Town Garage – SK Letter; DRB 22-25-SK Palmer – SK Letter
31 8:50 PM Review & Approve meeting minutes: April 13 DRB meeting
32 9:00 PM Adjourn
33

34 **CALL TO ORDER:** Charles Russell called the meeting to order at 7:02 p.m.

35
36 **Public Comment:** There was no public comment

37
38 **21-45-CU Coleburn – CONTINUED HEARING - Conditional Use Review to add a 2nd floor addition to**
39 **existing cottage at 1108 North Shore Rd.**

40 Will Coleburn provided the board with documentation from the Wastewater Committee which
41 approved a second bathroom. **MOTION** by Gerald Bouchard; seconded by Alexa Lewis, to close 21-45-CU
42 Coleburn. VOTE: 5 ayes, motion carried.

43
44 **DRB 22-20-SD Curler – REOPENED HEARING - subdivide an existing 72± acre lot to create two**
45 **parcels. Public deliberations by Board to follow hearing.**

46 Robert Curler was sworn in. Charles Russell explained this hearing was reopened to allow more
47 testimony and to further the discussion. Application requires a setback waiver for the existing buildings.
48 The original application was presented to comply with PRD rules. At Sketch Plan Review, the Planning
49 Commission said that was not necessary. JD Herlihy referred to the LUR’s: Section 6.2, Chapter 7 and
50 Section 3.6.B, which state setbacks can be waived, but only in the context of a PRD.

51 Charles Russell didn't feel section 3.6.B.1 is clear; he's inclined to interpret the contradictory
52 language in favor of the applicant. Gerald Bouchard referred to section 6.2, and he didn't feel a setback
53 waiver infringes upon public health, safety and welfare. JD Herlihy added the DRB does have the power to
54 waive, but not so broad to widely waive any standard without it being specifically outlined. Alexa Lewis felt
55 it was a language issue since nothing is changing, it is pre-existing with no further development, and that the
56 issue is only the subdivision line. JD Herlihy felt PRDs are for cluster development and didn't agree that
57 carving out 5 acre lots and applying waivers warrants a PRD. Regulations need to be applied consistently
58 and previously the board was careful to put conditions on other properties to prevent this. Christina
59 Asquith agreed the DRB needs to set a precedent and to be consistent. The board's job was not to solve a
60 problem, but to uphold regulations. Jason Barnard agreed this should be a PRD, but the DRB should waive
61 the setbacks. He felt there is a hardship since the client can't obtain financing. JD Herlihy disagreed.

62 Charles Russell suggested adding conditions to the approval, such as notifying the neighbors that the
63 property line is too close to structures. JD Herlihy suggested the applicant to propose the conditions to be
64 reviewed by the board, such as no rebuilding at the same location if the building collapses. He added the
65 goal is for non-conforming lots to work toward conformity. This is opposite of the statute and he would like
66 a condition that over time it will convert to conforming.

67 **MOTION** by Gerald Bouchard; seconded by Alexa Lewis, to close the hearing and ask the applicants
68 to propose conditions to meet Board concerns by May 7. **VOTE:** 5 ayes, motion carried.

69

70 **22-13-CU/SP Sketch Plan review for Spear's Corner Store - Conditional Use and Site Plan Review to**
71 **add a second apartment above the store at 20 Jackson Hill Rd.**

72 Liam Murphy represented applicant Carrie Spear. The proposal was to add a 3-bedroom apartment
73 on the 2nd floor, and make the existing 2-bedroom apartment affordable. There are no exterior changes.
74 Staff raised 3 issues.

- 75 • The minimum lot size has to be ¼ acre and the lot is currently smaller. They propose to expand the
76 lot on the north side to enlarge the lot to that size.
- 77 • They do not want to create a new parking area since there are currently 3 parking spaces available
78 across the street.
- 79 • An affordable easement deed was drafted; they need to determine who the enforcement authority
80 will be.

81 Charles Russell asked if this will be a non-contiguous PUD. Liam Murphy replied they are not borrowing
82 density, but it could be papered that way. JD Herlihy wanted clarification that only ¼ acre was needed since
83 now there will be 2 dwelling units, it could be interpreted that they may need ½ acre. He asked if they can
84 take the residential use and accept it as a pre-existing non conformity, and only add ¼ acre for affordable
85 use. Frank Tenney asked what the density was for the commercial use added to that, and currently the
86 commercial use has 1 acre zoning density. Liam Murphy replied it is a pre-existing historic structure being
87 adapted for re-use. He would like clarification if it's a non-contiguous PUD, what is the lot size requirement
88 is for density, and the concerns about crossing the road for parking.

89 JD Herlihy referred to section 3.7. The lot is 30 feet wide; per state statute and the Charlotte LURs,
90 lots less than 40 feet wide cannot be developed. He wasn't sure if splitting acreage would affect that. He
91 also referred to a letter from the town lawyer which stated the southern lot was merged. Liam Murphy said
92 he has paperwork to show that is incorrect and he will submit that to the board. Charles Russell explained
93 since they don't have 40 feet it would be 2 boundary adjustments, affordable housing, and a PUD. Gerald
94 Bouchard would like clarification on the lot size, since the numbers differ from the planning and zoning and
95 the staff report. Charles Russell stated the board needs more information before proceeding and this will be
96 added to the agenda for the DRB's next regular meeting on May 11. Liam Murphy asked the board to let
97 them know what is needed to proceed, since many of these questions can be answered by the town itself.

98 **MOTION** by Gerald Bouchard; seconded by Alexa Lewis, to continue the sketch plan review
99 discussion to May 11. **VOTE:** 5 ayes, motion carried.

100
101 **22-51-CU/SPA SKETCH Gemini Properties LLC – Conditional Use Review and Site Plan Amendment**
102 **for an accessory use for the restaurant to use the outdoor space behind the restaurant for events at**
103 **3488 Ethan Allen Highway.**

104 Deborah Kassabian presented her request for Conditional Use Review to allow outdoor events
105 behind the restaurant. The plan was to increase the parking capacity in the non-wetland and non-buffer
106 zones. Currently they have an amendment pending for their wastewater permit to expand restaurant
107 capacity, a pending request for possible use of the flea market lot for overflow parking, and would like
108 support to have a town event ordinance for these activities.

109 Adam Spell, representing the Backyard Bistro restaurant, clarified this is not just for music events, it
110 could include memorial services and corporate events. He explained they will hire event staff to direct and
111 control parking, volume levels, ensure pedestrian safety, protect access for emergency vehicles at all times,
112 and follow industry standards for portable toilets. Alexa Lewis added that since there will be increased
113 parking, there will be a need for temporary lighting, and asked that VTrans weigh in on the driveway.
114 Deborah Kassabian replied that solar lights were added for past events, and she will comply with whatever
115 is required for lighting. She doesn't believe a wider driveway is needed. JD Herlihy asked if they should limit
116 the events allowed per year. Alexa Lewis felt if approved, there should be a mechanism to revoke the
117 permit, if operations don't meet standards. Gerald Bouchard suggested the permit to be reviewed after 9
118 months. Adam Spell said he doesn't believe conditional use permits should have restrictions, and there are
119 currently enforcement options; the zoning administrator can go after them if they violate standards.

120 JD Herlihy suggested spike in traffic volumes during events should be documented with a traffic
121 study from an engineering firm. Driveway design may not be adequate for additional traffic generated by
122 concert events; this should also be addressed in traffic study. Ability to serve review from the fire
123 department will be needed. The perimeter of proposed new parking area boundaries must be clearly
124 defined, with runoff/erosion control strategies to protect the turf. The Board will consider restrictions on
125 hours of use, similar to the restaurant. Frank Tenney supports the project and advises the board to consider
126 application of Section 2.3 re: accessory uses. Peggy Sharpe and Chris Boffa supported this application.

127 ***Next step:*** Charles Russell said applicants will receive a sketch plan letter next month with guidance
128 about what must be included in their final plan application for Conditional Use & Site Plan Amendment.

129
130 **Markup & Approve draft Decisions** (*Public Deliberations; no public testimony or comment will be allowed*):
131 DRB 21-311-BA Hamilton-Franceschetti – Decision; DRB 22-49-SK TOC Town Garage – SK Letter; DRB 22-
132 **25-SK Palmer – SK Letter.**

133 The board made edits to the drafts; they were tentatively approved pending final edits via email.
134

135 **Review & Approve meeting minutes: April 13 DRB meeting**

136 The board agreed to postpone consideration until the next meeting, due to time constraint.
137

138 **Adjournment:**

139 **MOTION** by Gerald Bouchard; seconded by Alexa Lewis, to adjourn the meeting. VOTE: 4 ayes, motion
140 carried. The meeting was adjourned at 10:15 pm.

141

142 ***Minutes respectfully submitted:***

143 Danielle Atherton, Recording Secretary, with edits by Larry Lewack, Town Planner.