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3 **Town of Charlotte**
4 **DEVELOPMENT REVIEW BOARD**
5 **Meeting Conducted At Town Hall and via Teleconference**
6 **May 11, 2022**

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8 *Approved by the Development Review Board – 6.8.22*

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10 **Development Review Board:** Charles Russell (Acting Chair), JD Herlihy, Gerald Bouchard, Alexa Lewis

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12 **Staff:** Larry Lewack, Town Planner; Danielle Atherton, Recording Secretary

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14 **OTHERS:** Laurie Curler, Genia Curler, Carrie Spear, Paul Plante, Ronda Moore, Bill and Eva Fraser-Harris,
15 Jonathan Fisher, James Faulkner, Frank Tenney, Drew Hamilton, Scooter MacMillan, Sarah Reis, Jack
16 Milbank.

17 **Posted Agenda:**

18 7:00 PM Call to Order; changes to agenda (if any)
19 7:02 PM Public Comment (not pertaining to pending applications)
20 7:05 PM DRB 22-57-BA Fraser-Harris – HEARING – Boundary Adjustment at 3085 Spear St.
21 7:20 PM DRB 22-44-VA Moore – HEARING – Variance to add a deck and exterior steps at 2922
22 Greenbush Rd.
23 8:00 PM DRB 22-13-CU/SP Spear’s Corner Store – SKETCH Continued - Conditional Use and Site
24 Plan Review to add a second affordable apartment above the store at 20 Jackson Hill Rd.
25 8:30 PM Markup & Approve draft Decisions (Public Deliberations; no public testimony or comment
26 will be allowed): DRB 21-45-CU Coleburn – Decision; DRB 22-20-SD Curler – Decision;
27 DRB 22-51-SK Gemini Properties – Sketch Letter.
28 8:50 PM Review & Approve draft meeting minutes: April 27 DRB meeting; May 5 DRB meeting.
29 9:00 PM Adjourn

30 **CALL TO ORDER:** Charles Russell called the meeting to order at 7:02 pm.

31
32 **CHANGES TO AGENDA:** There were no changes to the agenda.

33
34 **Public Comment:** None

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36 **DRB 22-57-BA Fraser-Harris – HEARING – Boundary Adjustment at 3085 Spear St.**

37 Jack Milbank (engineer), Bill Fraser-Harris (applicant), and Drew Hamilton were sworn in by
38 Charles Russell. He confirmed that Board members had no conflicts of interest, and no ex parte
39 communications with the applicant on this project. (There were none declared.)

40 On behalf of the applicant, engineer Jack Milbank explained that Bill Fraser Harris owns and
41 resides at 3085 Spear St, and own and rents 3087 Spear St. They would like the tenant, Drew Hamilton,
42 to purchase the home and are requesting the boundaries to be adjusted in advance of the sale. Both lots
43 are currently just over 10 acres. The proposal was to reduce the lot at 3087 to just over 5 acres, and to
44 increase 3085 to just over 15 acres. There is a 60 ft wide ROW that serves 3085 and the neighbor
45 Jonathan Fisher’s parcel. There were no proposed changes to this ROW.

46 JD Herlihy asked why this is being reviewed as a boundary adjustment, since these parcels were
47 part of a previously approved (1981) subdivision. Charles Russell said this should be classified as a
48 subdivision amendment, which requires more scrutiny. The 3087 lot creates a narrow strip which is
49 discouraged. Charles Russell reviewed the PRD standards. Alexa Lewis noted there was a 600 ft. setback
50 requirement in 1981. The minutes were unclear and the board agreed it’s not practical since at the time
51 the LUR’s required a 100ft setback from a town or private road. Larry Lewack added there are no
52 impacts on areas of high public value. JD Herlihy wanted to know if this is in preparation for a future

53 subdivision on the 15-acre lot. Bill Fraser-Harris said he doesn't have any intent on a future subdivision
54 currently. The board was unsure if the meeting needs to be re-warned since its now a subdivision
55 amendment. Gerald Bouchard didn't think the meeting needed to be re-warned, and JD Herlihy felt it did
56 since they aren't continuing as a boundary adjustment, it is now a subdivision amendment. His concern
57 was if it wasn't re-warned, the validity of the permit could come into question. Charles Russell stated
58 legal would be consulted on that matter. Alexa Lewis added the application can't be modified on the spot
59 since it's a completely different application. The customer needs to re-apply. Larry Lewack apologized to
60 the applicant for not flagging this earlier. He stated the applicant needs to pay the additional fee and do
61 additional paperwork. Jonathan Fisher was in favor of the new boundary line, but would like the plan
62 modified to show the 60 ft. ROW that abuts his property. Drew Hamilton asked to move this process
63 along quickly to avoid delaying the sale. Gerald Bouchard felt it should be a PRD and that the boundary
64 shape should be changed. JD Herlihy added that if they still have a 5-acre lot, there is no need for a PRD.

65 Bill Fraser-Harris asked for clarification on their next steps. Engineering, application fees, and a
66 pending sale have been costly. There are reasons they chose the lot 2 shape. If that has to change, they
67 have to re-negotiate. The board agreed that irregular shaped lots are not encouraged, but they agreed to
68 accept the lot sizes as is in the current application. Larry Lewack will follow up with Bill on next steps.

69 **MOTION** by Gerald Bouchard; seconded by JD Herlihy, that the hearing be continued until 5/25.
70 VOTE: 4 ayes, motion carried.

71
72 **DRB 22-44-VA Moore – HEARING – Variance to add a deck and exterior steps within the side yard**
73 **setback at 2922 Greenbush Rd.**

74 JD Herlihy recused himself from consideration of this project, since he is an abutting landowner.
75 Charles Russell swore in Ronda Moore. He confirmed that Board members had no conflicts of interest,
76 and no ex parte communications with the applicant on this project. (There were none declared.)

77 Charles Russell believes that instead of a Variance, this application should be classified under
78 Conditional Use. This would be to her benefit since they are easier to obtain. Ronda Moore explained the
79 neighbors wouldn't be able to see the new set of stairs proposed in this application. The stairs would
80 connect a deck on the west side of the ice house to the rear yard. This is to eliminate dangerous features
81 that an elderly person may encounter. Her current steps off the back deck collect run off that freezes in
82 the winter. Adding a deck and stairs from the back of the 'ice house' would be safer. The deck's elevation
83 is 8 ft and would need 17 steps. Larry Lewack stated there needs to be a determination if this needs to be
84 re-warned, and the applicant needs to submit a conditional use application. Staff will check with the
85 lawyer if it needs to be re-warned.

86 **MOTION** by Gerald Bouchard; seconded by Alexa Lewis, to continue the hearing on May 25th.
87 VOTE: 3 ayes, motion carried.

88
89 **DRB 22-13-CU/SP Spear's Corner Store – Sketch Review continued - Conditional Use and Site Plan**
90 **Review to add a second 'affordable' apartment above the store at 20 Jackson Hill Rd.**

91 Carrie Spear was sworn in by Charles Russell. Larry Lewack explained that even with the density
92 bonus for affordable housing, the store doesn't currently meet criteria for adding the 2nd apartment as
93 affordable housing. The lot is now .092 acres, and less than 40 ft. deep. In order to satisfy the minimum
94 lot requirements, the store lot needs to be enlarged, which will require a boundary adjustment. Following
95 the last meeting, the buyers' attorney proposed adding a small slice of the Spear's land from the 'green'
96 lot north to the store lot. However, this won't work, because town regulations state when a town
97 highway cuts through a parcel, it legally divides parcels. Staff suggested, and applicants have agreed, to
98 reconfigure the store lot by adding an L-shaped piece from the small lot south of the store to the store lot.
99 This would result in two lots of .3 acres, with setbacks that meet the East District Commercial district
100 dimensional standards. Frank Tenney commented there is an abandoned house on the second lot which
101 could be re-built & sold separately from the store lot without Board approval.

102 The staff report recommended they move the parking behind the store. Carrie Spear agreed that
103 adding a new parking area would be safer. However, other Board members commented they do not have
104 an issue with applicant's locating parking within the existing lot across Jackson Hill road, as proposed.

105 Larry Lewack stated reviewing this application as a PUD could allow simultaneous permitting for
106 both lots, and would open the door to approving the southern lot for re-development of the abandoned
107 house. JD Herlihy and Charles Russell agreed the PUD would solve the issue of the lots being non-
108 conforming. JD Herlihy added that density can't be reduced by adaptive re-use. He asked if you have a
109 small non-conforming lot, and are adding ¼ acre to that lot, is it sufficient to bring in the additional use of
110 the affordable housing? His concern was that they are ignoring all the other uses on the lot. Larry
111 Lewack noted those uses are pre-existing, and not being modified for this application. Charles Russell
112 would like to consult on that point with the town attorney.

113 **Next steps:** Larry Lewack said he will prepare the sketch plan letter providing suggestions for the
114 applicants to proceed with a final plan application, and bring the draft back to the Board for approval
115 before sending it out.

116

117 **Markup & Approve draft Decisions:**

118 **DRB 21-45-CU Coleburn – possible conditions?**

119 This application was placed on hold when it was first discussed to make sure the Thompson's
120 Point wastewater committee approved the extra bathroom, which they did. There were no additional
121 conditions to be added. Staff has drafted a decision, which will be available for Board review &
122 discussion at the next meeting.

123

124 **DRB 22-20-SD Curler – draft Decision**

125 JD Herlihy is concerned that the decision as drafted does not address that we're setting a
126 precedent to approve lots with reduced setbacks. He doesn't agree that the Board should approve a
127 subdivision to create a non-conformity (reduced setbacks) in the rural district without the project being
128 reviewed as a PRD. Without cluster development, he believes it contradicts the town plan and the LUR's.
129 The board disagreed.

130 **MOTION by** Charles Russell; seconded by Alexa Lewis, to approve the decision as drafted for the
131 Curler subdivision. **VOTE:** 3 ayes, 1 nay, motion carried. (Note: DRB member Christina Asquith,
132 although not present for this discussion, was part of earlier hearings and discussions and subsequently
133 added her 'yes' vote prior to the decision being finalized, thus making the final vote **4 ayes, 1 no.**)

134

135 **DRB 22-51-SK Gemini Properties – Sketch Review letter**

136 The board made edits to the draft Sketch Review letter. Gerald Bouchard would like to put a 1-
137 year or less term on this, similar to a liquor license. JD Herlihy added that a permit can be taken away,
138 but a time limit can't be put on a conditional use. Alexa Lewis felt they should consult with the
139 Selectboard on special event permits. She was also concerned with limiting the hours to avoid potential
140 noise issues. Charles Russell added that if there were issue with noise and traffic which don't meet the
141 standards, they could get written up and fined. The wastewater issue was discussed, concerns about
142 prevention from outdoor event patrons to be allowed to use the inside facilities. This would require
143 some sort of enforcement. Adequate number of port-a-potties must be addressed to allow for 100 extra
144 people. JD Herlihy would like to see the wastewater permit detailing these scenarios and asked them to
145 show how they will meet the capacity needs. JD Herlihy also would like them to provide a better
146 description on how they will minimize the impact of adding so much new parking on the wetlands. Frank
147 Tenney suggested we review the ZBA decision on the Varney farm (Edgewater LLC, 2016) for precedent.

148

149 **MOTION by** Gerald Bouchard; seconded by JD Herlihy, to adjourn the meeting. **VOTE:** 4 ayes, motion
150 carried. The meeting was adjourned at 10:06 pm.

151

152 ***Minutes respectfully submitted:***

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