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3 **Town of Charlotte**
4 **DEVELOPMENT REVIEW BOARD**
5 **Meeting Conducted at Town Hall and via Teleconference**
6 **June 29, 2022**

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8 *Approved by the Development Review Board – 7.13.2022*

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

11 **Staff:** Rebecca Kaplan, P&Z Clerk; Larry Lewack, Town Planner; Danielle Atherton, Recording
12 Secretary.

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14 **OTHERS:** Brigit Robinson, Lawrence Robinson (in-person); Keith Osborne, Paul Plante, Frank
15 Tenney, James Faulkner, Larry Lewack, Kiona Baez Heath (via Zoom).

16
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 Discussion on the DRB application process
21 8:00 PM DRB 22-117-SK SKETCH CONTINUED Robinson Subdivision Amendment with
22 Boundary Adjustment at 295 Meadowside Dr.
23 8:10 PM Markup & Approve draft Decisions (Public Deliberations; no public testimony or
24 comment will be allowed): DRB 22-117-SK Robinson Sketch Letter DRB 22-97-CU
25 Robinson Decision
26 8:25 PM Review & Approve meeting minutes: DRB Minutes June 22
27 8:30 PM Adjourn

28
29 **CALL TO ORDER:** Charles Russell called the meeting to order at 7:00 p.m.

30
31 **CHANGES TO THE AGENDA:** There were no changes.

32
33 **Public Comment:** There was no public comment.

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35 **Discussion on the DRB application process:** Keith Osborne, the Zoning Administrator, explained
36 that once an application is deemed complete it is then referred to Larry Lewack and Rebecca
37 Kaplan. He determines how the application should be reviewed, two entities can change that
38 determination, himself or the DRB.

- 39
- 40 • Alexa Lewis asked prior to the application, there must be a conversation with the applicant.
41 She asked who was likely to have those conversations, and if there is guidance given to tell
42 them what kind of application to consider. Keith Osborne replied that either he, Larry
43 Lewack or Rebecca Kaplan would have those discussions. Sometimes there are discussions
44 amongst staff, other times it's straight forward.
 - 45 • Alexa Lewis asked if there are many options to suit the process, can the applicant choose
46 how to file? Whether it be a variance, a waiver to a subdivision, or a conditional use review.
47 Keith Osborne replied he has never had an applicant drive what application is filed. His final
48 interpretations are based on the LURs. If there is more than one option, he would inform
49 the applicant. Alexa Lewis felt that would be helpful so the applicant isn't surprised if there
is a change, and they would be less likely to appeal.

- 50 • Larry Lewack explained there is collaboration amongst the staff before it comes to the DRB.
51 He felt it's very important to not give an applicant an opinion on their application without
52 collaboration first. He typically handles the Site Plan Reviews and Subdivisions. Rebecca
53 Kaplan typically handles Conditional Use Reviews.
- 54 • Christina Asquith asked how waiver applications are handled since many Board members
55 have expressed discomfort over that precedent. Keith Osborne replied that he isn't in favor
56 of waivers and he has not issued a recommendation that required a waiver.
- 57 • Keith Osborne added that typically in other towns the subdivision regulations are separated
58 from the LURs. The subdivision regs and LURs are sutured together in Charlotte which
59 leads to a lot of confusion.
- 60 • Alexa Lewis stated many times they had to tell the applicants to do a different application or
61 process. Keith Osborne felt it's pretty straightforward and there isn't much room for
62 interpretation, unless the Board changes his interpretation. Alexa Lewis asked if they
63 should be considering approval on the existing application or should they be trying to fit it
64 into a new category/application. Christina Asquith felt that the Board should try to prevent
65 long processes for the applicant by not exploring other options that the applicant isn't even
66 asking for. Keith Osborne explained when an application is changed it has to be re-warded,
67 which pushes the application further out. JD Herlihy agreed that the Board should just look
68 at what is in front of them, knowing the ZA has done the background work that was
69 necessary to file the correct application.

70

71 Application Materials:

- 72 • Gerald Bouchard would like to see on the application whether there is a homeowner's
73 association.
- 74 • JD Herlihy would like the case determination easier to locate. Keith Osborne offered to write
75 a written determination on every application.
- 76 • Charles Russell would like the time/date stamped on when each document was created.
- 77 • Alexa Lewis would like a checklist so they can tell what is included, such as notification of
78 abutters, wastewater determinations/capacity, ability to serve.
- 79 • Christina Asquith asked if the personal situation of the applicant, the use of the property
80 and family history is relevant to the decision. Keith Osborne replied that is irrelevant. If
81 that's the case, she asked that it not be in the staff report. Charles Russell agreed.

82

83 Waivers & Conditional Use

- 84 • Alexa Lewis felt the regulations are quite limited. She read the "bylaws in effect" as things
85 that are not just outside of the LURs but that are in the LURs. JD Herlihy replied the five
86 elements are from the state statute. The way it's written it leads to other bylaws in town,
87 but in the state statute the bylaws in effect are inclusive of the zoning bylaws.
- 88 • Charles Russell added the wording "may be" and "shall" are confusing. In non-conforming
89 structures, it allows to increase the volume of a non-conformance. Alexa Lewis asked why
90 the Board would allow non-conforming structures to do what conforming structures can't.
91 Charles Russell replied that the section would not be in there if it wasn't allowed and that
92 it's unreasonable to not allow changes that supports the goal of cluster development. JD
93 Herlihy added there has to be some flexibility for non-conforming pre-existing lots which
94 were in existence before the LURs came into effect. Frank Tenney added, historically they
95 had approved additions to non-conforming structures that didn't get closer to the setbacks
96 with only a permit, not conditional use review.

97

98 **DRB 22-117-SK SKETCH CONTINUED Robinson Subdivision Amendment with Boundary**
99 **Adjustment at 295 Meadowside Dr.** Charles Russell stated the variance route was withdrawn.
100 The two options now are a waiver or a boundary adjustment. Gerald Bouchard was leaning
101 towards a waiver since there is nothing close to the fence and it's all downhill. The rest of the
102 Board disagreed and decided a subdivision amendment boundary adjustment was the best route.
103 Larry Lewack added that this requires Act 250. The Board can't discuss the implications of Act 250
104 because they can't speak on their behalf, but it requires a brief administrative review and
105 paperwork. They typically accept amendments to approved subdivisions that are not violating any
106 of their regulations. JD Herlihy asked if it incorporated approval from the fire department and if so,
107 he would like a copy of those recommendations. Kiona Baez Heath and Lawrence Robinson asked
108 for the process steps, and Larry Lewack will email both parties on 6/30/22. Since the next meeting
109 isn't for 2 weeks Charles Russell suggested to waive the sketch plan meeting and JD Herlihy agreed.
110 Larry Lewack said the zoning administrator approved the Robinson's to close up the accessory
111 dwelling while these are pending.

112 **MOTION by** JD Herlihy; seconded by Alexa Lewis, to classify this application as a minor
113 subdivision amendment. VOTE: 5 ayes, motion carried.

114
115 **Markup & Approve draft Decisions (Public Deliberations: no public testimony or comment**
116 **will be allowed): DRB 22-117-SK Robinson Sketch Letter DRB 22-97-CU Robinson Decision:**

117 **MOTION by** JD Herlihy; seconded by Gerald Bouchard, to reopen DRB 22-97-CU. VOTE: 5 ayes,
118 motion carried. This is to allow us to accept the fire department's 'ability to serve' letter.

119
120 **Review & Approve meeting minutes: DRB Minutes June 22:** **MOTION by** Gerald Bouchard;
121 seconded by JD Herlihy, to approve DRB Minutes for June 22 as amended. VOTE: 5 ayes, motion
122 carried.

123
124 **Adjourn:** **MOTION by** Charles Russell; seconded by Christina Asquith, to adjourn the meeting. The
125 meeting was adjourned at 8:30 pm.

126
127 ***Minutes respectfully submitted:***

128 Danielle Atherton, Recording Secretary, with edits by Rebecca Kaplan, DRB Clerk