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3 **Town of Charlotte**
4 **PLANNING COMMISSION**
5 **Meeting Conducted at Town Hall and via Teleconference**
6 **November 2, 2023**

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8 ***DRAFT – subject to approval by the Planning Commission***

9 **Planning Commission:** Charlie Pughe (Chair), Robert Bloch, Carrie Spear, Kyra Wegman, Gerald Bouchard. *Absent:* Linda Radimer and Matt Krasnow (Vice Chair).

10 **Staff:** Larry Lewack, Town Planner

11 **OTHERS:** Paul Plante, Frank Tenney, Charles Russell, Claudia Mucklow, Charles Russell, Alexa Lewis, Jessie Price, Jesse Lukas

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14 ***Posted Agenda:***

15 7:00 PM Call to Order

16 7:02 PM Changes to Agenda (if any); Public Comment

17 7:05 PM Continue work on Thompson’s Point & Nonconforming Structures LURs: using rubric from Sept. 21 mtg. Determine next steps, schedule/work plan

18 8:15 PM GMG Solar project: review & discuss possible town involvement

19 8:30 PM Brief updates on Village Master Plan outreach, state planning grant

20 8:45 PM Review & approve draft meeting minutes: June 29, Oct. 19 mtgs.

21 8:45 PM Adjourn

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24 **Call to Order:** Charlie Pughe called the meeting to order at 7:03 p.m.

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26 **Changes to Agenda (if any):** Charlie asked to discuss Nonconforming Structures before Thompson’s Point.

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29 **Public Comment:** Frank Tenney pointed out that the link on the Town website included in the Meeting Calendar page for this meeting was faulty. Larry Lewack apologized for the broken link, and demonstrated where Planning Commission meeting packet materials for tonight’s meeting could be located elsewhere on the website.

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34 **Continue work on Nonconforming Structures LURs: using rubric from Sept. 21 mtg.:**

35 Charlie reviewed that the challenge with Nonconforming (NC) structures is defining standards for how the DRB can apply flexibility in allowing additional encroachment into setbacks. There are five typical scenarios which we should consider:

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38 a) Demolish & rebuild an existing nonconforming structure within the same footprint as the existing structure. (No DRB review needed; just needs a zoning permit.)
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40 b) Expand a NC structure further into the setback: always requires Conditional Use review by DRB per Sec. 3.8.B; need standards that define when this is OK, and when not OK.
- 41
42 c) Expand a NC structure parallel along the setback line. (Current rules say this is allowed, but do not specify that this can be approved with just a zoning permit.)
- 43
44 d) Demolish & rebuild a nonconforming structure in a different footprint than the original structure, when the proposed footprint is still within a setback: always will require Conditional Use review per Sec. 3.8.B; would benefit from standards that define when this is OK, and when not OK.
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48 e) Expand a structure that now conforms with all setbacks to encroach into a setback: (*Ed.*
49 *note:* requires variance approval under current rules; not within scope of Sec. 3.8.B)

50 Charlie drew an illustration of scenario (c) to use as a reference for discussion. This
51 triggered Charles Russell to read from current Land Use Regulations (LURs) which state that
52 "...any alteration which does not encroach further into the setback or increase height of a
53 nonconforming part of a structure is permitted" (i.e. with a zoning permit). Larry confirmed that
54 current LURs allow expansions that run parallel to a setback line; any further encroachment into
55 that (or another) setback requires Conditional Use approval.

56 Charlie summarized current practice on scenarios (b) and (d): that the DRB may grant
57 conditional use approval to expand (or demolish & rebuild) into the same, or a different setback.
58 Frank Tenney gave an example: what happens when a house is built into the front yard setback--
59 would expansion be permitted in the back? Robert responded that if that project would extend
60 into the rear setback, that would create a new encroachment in the back, thus requiring variance
61 approval. Frank stated that the Development Review Board (DRB) could approve that scenario,
62 and asked for guidelines.

63 Charlie asked about a house that meets all setback standards now; should that applicant be
64 allowed to build an addition into a setback (scenario [e])? Larry responded that would be treated
65 as a variance request, which has separate standards that are very difficult to satisfy. Charlie
66 moved on to a home that is Nonconforming on at least one side, how would someone be allowed to
67 expand? He suggested we set a standard that expansion into a setback could only be allowed if the
68 owner agreed to demolish equivalent square footage in their current structure.

69 Charles offered LURs used by Hinesburg. Hinesburg allows for relocation of a NC structure
70 (scenario [d] above) if the project reduces nonconformity, and reduces the total footprint within
71 the setback. Larry stated that most CU projects seek to reduce setback encroachment, and noted
72 that current Sec. 3.8.B rules do not provide standards for the DRB to evaluate such projects.

73 Charlie circled back to the idea of requiring a homeowner to demolish part of an existing
74 structure to gain approval for encroachment into a setback. Larry pointed out the impracticality of
75 requiring removal of a section of a finished space in an existing structure to get conditional use
76 approval to add an equal amount of space in another part of the house, if that would encroach
77 further into the setback. Most homeowners would likely not build that renovation/addition, if
78 that was what we required.

79 Frank pointed out that because many nonconforming structures sit on small lots, building
80 and lot coverage standards already limit the size of structures on these lots. Frank asked about
81 centering a structure, decreasing nonconformance, while increasing setback encroachment
82 (scenario [d] above). Frank asked why the current rules restrict height increases in the NC part of
83 a structure if the increased height would be within the maximum height for the district. Charlie
84 responded that height increase can be unwanted by a neighbor. Frank said the same is true of
85 width increase. (*Ed. note:* height increase in the NC part of a structure, or building further into the
86 setback both now require conditional use review, which provides neighbors the chance to
87 comment in a DRB public hearing.)

88 Larry shared proposed amendments for to Sec. 3.8.B with standards that state (among
89 others) if the proposed additional encroachment is the minimum needed, would not have any
90 adverse impact on a neighboring property, encroach on setbacks to a body of water, and is not 'out
91 of scale' to existing nearby structures, the DRB could approve it. Charlie asked about *minimum*
92 *needed*, which Larry responded that would be a judgment call. Charlie also conveyed concern
93 about the use of the phrase *undue adverse impact on adjoining property*. Larry said that would also

94 be at the discretion of the DRB. He admitted these may not be the right standards, but wanted to
95 provide some rational basis for what questions the DRB could ask in evaluating such projects.

96 Charlie redirected conversation back to scenario (b). Larry noted that most people want to
97 add on to their existing homes; where that occurs is usually driven by current uses within the
98 building. Standards are needed for how and when that would be allowed. Fewer people can afford
99 to demolish & rebuild the structure elsewhere on the lot (scenario [d]), but we need to define
100 standards for when that would be allowed. He has never seen an example where someone
101 proposes to chop-off a part of their building to get approval to construct an addition.

102 Alexa responded to a question previously posed by Frank regarding development of a
103 nonconforming small lot (Sec. 3.7 of the LURs). Larry added that this section was recently changed
104 on the advice of the town's attorney; our current rule is permissive (allows development of a small
105 nonconforming lot if there is septic capacity & access to water), and conforms to state statute.
106

107 **Thompson's Point LURs, using rubric from Sept. 21 mtg.:**

108 Charlie directed the conversation to Thompson's Point. Due to the late hour, Charlie asked
109 that the Town Planner compile & forward Town Plan references to Thompson's Point, and a
110 summary of the scope of the state Shoreland Protection Act rules. Charlie mentioned mean high
111 water level for Charlotte conflicts with other measures of mean high water. Charlie is compiling a
112 list of all Thompson's Point leases. This information will be shared with PC members ahead of our
113 revisiting this analysis at our Nov. 16 meeting.

114 Larry spoke to the Table 2.7 purpose statement noted by the Thompson's Point
115 Leaseholders Association (TPLA) Steering Committee. Specifically, there is no statement in the
116 Town Plan that states Thompson's Point has remained essentially unchanged over the years.
117 Charlie said that statement might be from an older Town Plan. Charles pointed out that the
118 purpose statement doesn't say that that area SHOULD remain unchanged.

119 Larry said that Zoning Administrator has compiled a document with ZBA & DRB decisions
120 from Thompson's Point over the past three years. This showed most applications for cottage
121 replacements, or additions have been approved. Kyra asked about the TPLA Steering Committee's
122 reference to allowing pruning without Tree Warden approval. Kyra questioned why leased land
123 wouldn't be maintained by the Town. Jessie Price, Thompson's Point leaseholder, responded that
124 the TPLA Committee now agrees with the town's current proposal to drop the requirement for
125 Tree Warden prior approval for landowners to prune trees on their leased lots.
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127 **GMG Solar project: review & discuss possible town involvement:**

128 Robert asked what the Planning Commission role in the project is. Larry answered that it is
129 solely a state Public Utility Commission decision. The Planning Commission may coordinate a
130 Town response, if there were significant local concerns about a project. Jesse Lukas provided a
131 brief overview of the project: GMG is seeking a Certificate of Public Good to install a 35.0 kW solar
132 net-metered electric power system. Gerald Bouchard asked about energy credits. Charlie
133 responded that the Town would not directly benefit from renewable energy credits, as the project
134 will be grid-connected & Green Mountain Power will market them nationally. Charlie asked about
135 visibility of the solar array from Greenbush Rd. Panels will be somewhat visible in the winter, but
136 they will be effectively screened by existing vegetation in the warm weather months.
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138 **Brief updates on Village Master Plan outreach, state planning grant:**

139 Regarding the Village Master Plan project, Larry shared an updated timeline and report
140 created by Darren Schibler from the Chittenden County Regional Planning Commission following
141 the Steering Committee's first meeting, which was held on October 25th. The main topic was

142 making plans for outreach and public engagement, starting this fall. An outreach flyer describing
143 the project will be developed & distributed at upcoming town events. A design charette will be
144 scheduled for sometime this winter. Robert added that the scope of the project will initially focus
145 on the current boundaries of the Village districts. Kyra asked how the town can change the rules
146 that affect what private property owners can do. Charlie pointed out that most Village properties
147 are mainly in private ownership now . Changing LURs to allow greater density, and (if there is
148 support from the community, expand zoning district boundaries) will allow certain types and
149 scale of development that are not feasible now. That's largely the point of this project.

150 Regarding the state planning grant, Larry said the application was submitted on 10/31 for
151 \$20,000. If awarded, funds will be applied to rewrite the Town Plan in 2025.

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153 **Review/approve draft PC meeting minutes: for June 29, October 5, mtgs.:**

154 The needed quorum to approve the June 29th draft minutes was not in attendance.

155 **MOTION by Gerald Bouchard seconded by Robert Bloch to approve the PC meeting**
156 **minutes for October 19, 2023, as amended. VOTE: 4 ayes, motion carried.** Kyra Wegman
157 abstained due to absence.

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159 **Adjournment:**

160 **MOTION by Robert Bloch; seconded by, Kyra Wegman, to adjourn the meeting. VOTE:**
161 **5 ayes, motion carried.** The meeting was adjourned at 8:52 p.m.

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163 Minutes respectfully submitted:

164 Nicole Burnell, Recording Secretary, with edits by Larry Lewack, Town Planner