

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Mark Franceschetti and Kathleen Fleming And Kimberlea G. Trotter Revocable Trust Subdivision Modification Application # PC-05-47

Background

Sketch Plan Review was held on October 7, 2004. The Planning Commission granted a six month extension for the submission of the Subdivision Modification application.

Application

The application consists of:

1. An application form and appropriate fee.
2. A plan entitled "Boundary Plat, Showing Boundary Adjustment Between Lands of Mark Franceschetti & Kathleen Fleming and Lands of Kimberlea F. & Samuel J. Trotter (sic), Trustees, 889 and 1035 Bean Road, Charlotte, Vermont" by Land Lines dated October 5, 2005, no revisions.
3. A Conditional Use Determination (#2004-365) from the Agency of Natural Resources issued on May 16, 2005.

Public Hearing

A public hearing was held for this application on November 3, 2005. Mark Franceschetti was present representing the applicants.

Regulations in Effect

Town Plan as amended March 2002
Zoning Bylaws as amended March 2002
Subdivision Bylaws as amended March 1995

Findings

1. The reason for the application is to allow 3/10th of an acre to be conveyed from Kimberlea G. Trotter Revocable Trust to Mark Franceschetti and Kathleen Fleming so that Franceschetti and Fleming can build a garage.
2. The parcel owned by Franceschetti and Fleming was affected by a Subdivision Modification between William Kellner and Joanne Wolfe, Lawrence and Linda Hamilton, and Mark Franceschetti and Kathleen Fleming, for which a plat is recorded in Slide 132.
3. Chapter VIII Section 6 of the Charlotte Subdivision Bylaws states that "no...modifications or revisions shall be made on any subdivision plat after final

approval, unless said plat is first properly submitted in accordance with these Bylaws to the Planning Commission as a modification to the subdivision and the modified plat is approved.”

4. The Subdivision Bylaws do not provide standards for reviewing modified plats, however the standards for Boundary Adjustments (Chapter III Section 4) have been used in the past as guidelines for reviewing Subdivision Modifications.
5. The application will not create any new lots.
6. The application will not impact access to any parcel.
7. The Conditional Use Determination from the Vermont Agency of Natural Resources states “it was found by the Agency of Natural Resources that this conditional use will not result in any undue, adverse effects to the protected functions of the significant wetland located off Bean Road in Charlotte, Vermont.”
8. The application will not adversely impact any significant natural resources.
9. The application will not create a non-complying lot.
10. The proposed lot lines meet the setback requirements of Chapter IV Section 4.2.D. of the Charlotte Zoning Bylaws.

Decision

Based on these Findings, the Planning Commission approves the Subdivision Modification with the following conditions:

1. A mylar of the survey will be submitted to the Planning Commission for review within 160 days, and recorded in the Charlotte Land Records within 180 days.
2. Prior to the submission of the mylar in accordance with Condition #1 above, the applicant shall submit a letter from the surveyor indicating that s/he has set the survey pins in the field as indicated on the survey. If the survey pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that s/he will set the pins when the ground thaws and has been paid to do so.
3. The property associated with this application (3/10th of an acre) will be conveyed within 365 days.
4. Once the land that is the subject of this application is conveyed to Franceschetti and Fleming, it will merge with the remainder of their lot and cannot be conveyed separately unless allowed by an action of the Planning Commission.

Additional Conditions: All plats, plans, drawings, documents, evidence and testimony submitted with the application or at the hearing and used as the basis for the Decision to grant permit, as well as all conditions listed above shall be binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed in accordance with such approved plans and conditions. Any deviation from the approved plans shall constitute a violation of permit and be subject to enforcement action by the Town.

This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the date of the 4th signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Members Present at the Public Hearings on November 3, 2005: Jeff McDonald, Jim Donovan,
Linda Radimer, John Owen, Robin Pierce and Peter Joslin

Vote of Members after Deliberations:

The following is the vote for or against the applications, with conditions as stated in this Decision:

1. Signed:_____ For / Against Date Signed:_____
2. Signed:_____ For / Against Date Signed:_____
3. Signed:_____ For / Against Date Signed:_____
4. Signed:_____ For / Against Date Signed:_____
5. Signed:_____ For / Against Date Signed:_____
6. Signed:_____ For / Against Date Signed:_____
7. Signed:_____ For / Against Date Signed:_____