

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Jason and Andrea Harvey  
and  
William and Caroline Symmes**

**Final Plat Hearing  
For A  
Two-Lot Subdivision  
Application # PC-05-16**

### **Background**

Sketch Plan Review (PC-05-06) was held on February 3, 2005, a site visit was conducted February 16, 2005, and a Sketch Plan Review letter was issued on February 18, 2005.

### **Application**

Materials submitted with the application are listed in Appendix A.

### **Public Hearing**

A public hearing for this application was held on April 7, 2005. Jason Harvey and William Symmes were present representing the applicant. Adjoining property owners Kate Lampton, Jack Wallace and David Garbose were also present. A letter was submitted from adjoining property owner John Bevan.

### **Regulations in Effect**

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

### **Findings**

1. The application proposes the subdivision of a 22.78 acre parcel into two building lots.
2. The subject parcel includes White Birch Lane (fee simple), which is the primary means of access to the proposed building lots. White Birch Lane is a private road; adjoining landowners have deeded rights to use and responsibility for maintaining the road. There is no formal "association" which maintains the road. The applicants also have rights to use Inn Road.
3. The subject parcel is located to the southwest of Mount Philo State Park, and is within the viewshed from the summit of the park.
4. At the public hearing the applicant submitted a revised survey (no revision date) that includes building envelopes.
5. The proposed envelopes are at opposite ends of the property. While the Planning

Commission usually seeks to cluster dwellings, the proposed envelopes will result in both dwellings blending to the greatest degree possible with the landscape. The dwelling on the northern lot will be located within a mature planted forest area. The dwelling on the southern lot will be located adjacent to a woodline near the southern property line, and where the grade becomes somewhat more steep, allowing the house to fit into the hillside and be “backgrounded” by woods to the south.

6. The applicants have indicated that their plan is to do selective cutting and trimming of the woods on the northern lot (from March 10<sup>th</sup> memo and oral testimony).
7. The woods on the northern lot appear to have been part of a plantation, which is now mature, and also have “invasive” species such as Buckthorns, Box Elders and Honeysuckle. As such they have less value than a diversified forest for wildlife habitat, although they still have some value for wildlife cover. As the subject parcel is adjacent to Mount Philo State Park, the woods are also important for screening the proposed dwelling from the park access road and helping the proposed dwelling blend into the landscape from the park summit.
8. The application includes an analysis of the grade and width of White Birch Lane (presumably measured by the applicant). The analysis indicates the road has grades up to 15.3%, and a width between 16-18 feet. The memo submitted with the application indicates that the applicant is not proposing any upgrade of the roadbed or revision to the grade.
9. The “Charlotte Volunteer Fire and Rescue Services, Inc. Recommended Standards For Development and Homes” states that the maximum grade of driveways and roads shall not be more than 8%.
10. The memo from Charlotte Fire and Rescue submitted with the application indicates that emergency vehicles are not likely to be able to operate on grades above 10% if snow or ice is present.
11. The “Charlotte Volunteer Fire and Rescue Services, Inc. Recommended Standards For Development and Homes” does not require a fire pond for subdivisions creating less than six lots.
12. The memo from Charlotte Fire and Rescue submitted with the application recommends a fire pond and dry hydrant system.
13. Considering that the application proposes to add a building lot with access from White Birch Lane which may not be able to be served by emergency vehicles, and that both of the proposed lots may be further subdivided, resulting in the same circumstance (ie: new lots being created that may not be able to be served by emergency vehicles), the Planning Commission finds that the proposed subdivision will result in an unsafe condition.
14. The Planning Commission further finds that the installation of a fire pond (or retro-fitting an existing pond with a dry hydrant system) would mitigate, to a sufficient extent, the unsafe condition created by the proposed subdivision.
15. The potential for a connection between White Birch Lane and the proposed road for the Wallace/Hardy development was discussed at the hearing. There is an intervening property between White Birch Lane and the Wallace/Hardy parcel. The owners of the intervening parcel (Lester and Janice Armell) have indicated that they are not interested in having the connecting road cross their property.
16. The Town’s septic consultant (Vermont Contours, Inc.) has reviewed the septic design, and indicated (in a memo dated 2/28/05 & 3/21/05) that the design is generally acceptable

however it should specify the proposed house locations.

17. The letter submitted by John Bevan refers to an Easement Deed, which is recorded in volume 57 page 122 of the Charlotte Land Records. The Planning Commission understands this to be a valid easement, although the exact location of the easement area is uncertain. It is standard practice for easements of record to be referenced on subdivision plats.

## **Decision**

Based on these Findings, the Planning Commission approves Final Plat Application PC-05-16 with the following conditions:

1. The subdivision plat will be amended as follows:
  - A. A reference will be made to the Easement Deed recorded in volume 57 page 122 of the Charlotte Land Records.
  - B. The building envelope on the northern lot will be 75 feet from the northernmost property line.
  - C. Dimensions on the building envelopes and distances from the envelopes to the two closest property will be labeled.
  - D. The northern lot will be relabeled as "Lot 2" (matching the site plan).
2. Two paper copies (one full size and one 11"x 17") and a mylar (18" x 24") of the plat, as submitted at the hearing and amended as indicated in Condition #1 above, will be submitted to the Planning Commission for review within 60 days; the applicant will record the mylar of the plat in the Charlotte Land Records within 90 days.
3. Prior to the submission of the mylar in accordance with Condition #2 above, the septic design will be amended to show the house locations and resubmitted to the Planning Office for administrative approval.
4. Prior to the submission of the mylar in accordance with Condition #2 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.
5. Prior to the submission of the mylar in accordance with Condition #2 above, the applicant will execute and record in the Charlotte Land Records a Fire Pond Agreement, Waiver and Easement (in a form to be approved by the Town Attorney).
6. Prior to the submission of a Zoning Permit application for each lot within the subdivision, the applicant will set wooden stakes at the corners of the building envelope on that lot.
7. Prior to the submission of an application for Certificate of Occupancy for a dwelling on either Lot 1 or Lot 2, a fire pond and dry hydrant system will be constructed (in compliance with the design within the "Charlotte Volunteer Fire and Rescue Services, Inc. Recommended Standards For Development and Homes" in a location that is accessible to the Charlotte Fire Department. Alternatively, the applicant may obtain permission from John and Rosemary Bevan (in the form of an affidavit) to use their existing pond; the applicant shall bring the pond into compliance with the Fire and Rescue Standards design described above if it does not already comply, and install a dry hydrant system and access.
8. The first application for a Certificate of Occupancy within the subdivision shall include a

letter from an appropriately certified engineer stating that the fire pond and dry hydrant have been constructed in conformance with the Standards, and a letter from the Charlotte Fire Department certifying that the fire pond/dry hydrant system is operational.

- 9. The dwellings and all outbuildings shall be located within the approved building envelopes on each lot.
- 10. Trees may be cleared within each building envelope. Outside of each building envelope only cutting of the invasive species (Buckthorns, Box Elders and Honeysuckle) and diseased or dead trees is allowed. Prior to any additional cutting, the applicant shall submit a cutting plan to the Planning Commission for administrative approval.
- 11. No pole-mounted light fixture will be taller than 8’ off the ground, and no building-mounted light fixture will be taller than 20’ off the ground. Fixtures will be shielded to direct light downward.
- 12. All new utility lines will be underground.
- 13. Driveways shall be surfaced with non-white crushed stone.

**Additional Conditions:** All plats, plans, drawings, documents, testimony, evidence and conditions listed above or submitted at the hearing and used as the basis for the Decision to grant permit 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.

**You and any interested parties are entitled to appeal this decision to the Environmental Court within 30 days of the date of 4<sup>th</sup> signature below approving this decision, as per requirements of 24 VSA Chapter 117, Sections 4471.**

**Members Present at the Public Hearing:** Jeff McDonald, Jim Donovan, Linda Radimer, and John Owen

**Vote of Members after Deliberations:**

The following is the vote for or against the application, 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:\_\_\_\_\_

## APPENDIX A

1. An application form and appropriate fee.
2. A map entitled “Boundary/Subdivision Survey, White Birch Lane—Charlotte, VT, Lands of J.& A. Harvey / W. & C. Symmes” by Kevin Larose of Lincoln Applied Geology, Inc. dated 3/4/05, no revisions.
3. A septic design entitled “Harvey/Symmes Property, Charlotte, Vermont” by Kevin Larose of Lincoln Applied Geology. Sheet 1 is entitled “Site Plan” and is dated February 2005, no revisions; Sheet 2 is entitled “Sewage Disposal System, Detail Sheet” and is dated January 2005.
4. A memo to the Charlotte Planning Commission from William D. Symmes and Jason Harvey dated March 10<sup>th</sup>, 2005.
5. A letter to Dean Block (sic) from Christopher W. Davis, Chief, Charlotte Volunteer Fire Department dated March 28, 2005.