

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Melrose Huff and Kathleen Mushkat Subdivision Amendment Application # PC-04-04

Background

The subject parcels (Lot 1 and Lot 2) were created by a subdivision of the Barbara Horsford property in November 2001. A shared driveway was requested by the Planning Commission and agreed to by the applicant, however the Road Commissioner was not consulted at the time, and ultimately he felt that the agreed upon location was unsafe, and therefore an Access Permit was never issued.

In November 2002, the Mushkats received approval to move their building envelope (on Lot 2) 30 feet to the north, however the mylar was never submitted, so that approval expired.

The current application has three components:

1. Move the shared curb-cut on Prindle Road about 40 feet to the east (to comply with the Road Commissioner's recommendation);
2. Show the "as-built" location of the force main on Lot 2; and
3. Reapprove the revised building envelope on Lot 2.

An additional application (PC-04-05) was reviewed by the Planning Commission on February 5th 2004 involving Lot 1 and Lot 3. The decision for that application is being rendered in a separate Findings of Fact and Decision.

Application

The application consists of:

1. An application form (two forms signed by each applicant respectively) and appropriate fee.
2. A survey map entitled "Master Site Plan, Huff/Mushkat Subdivision, Town of Charlotte Vermont, Prindle Rd & Roscoe Rd" by William A. Robenstein dated 9/28/2003, revised 05/2003. (Note: the original date or revision dates appear to be inaccurate, as the revision dates appear to precede the original date).
3. A letter from Melrose Huff to the Charlotte Planning Commission dated October 17, 2003 stating that Liam Murphy is authorized to sign for her in all matters before the Planning Commission.
4. A letter from Melrose Huff to Dean Bloch dated January 16, 2004 stating that Liam Murphy is authorized to file applications on her behalf, to appear before Town boards as her sole representative, and to execute any documents on her behalf required in connection with any actions before any Town board.

Public Hearing

A public hearing was held for this application on February 5, 2004. Liam Murphy was present representing Melrose Huff; Kathleen Mushkat was also present.

Regulations in Effect

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

Findings

1. The proposed curb-cut allows for adequate sight distance, and is a better location than what was originally approved by the Planning Commission. There are no negative impacts from moving the curb-cut.
2. Moving the building envelope thirty-feet to the north, as depicted on the survey submitted with the application, does not negatively impact resources on the parcel, and may actually be beneficial in terms of protecting mature trees, reducing erosion, increasing the buffer between the house and Lewis Creek, and improving wildlife habitat.
3. Moving the building envelope thirty-feet to the north does not impact (negatively) any adjoining properties.
4. The survey's depiction of the clearing of the woods around the building envelope on Lot 2 is significantly larger than what earlier surveys depicted. As this area borders Lewis Creek and is susceptible to erosion, and is also considered a forested habitat area, the Planning Commission would be concerned about extensive clearing towards Lewis Creek. However at the public hearing Kathleen Mushkat stated that the actual clearing is much less than what is depicted on the most recent survey.
5. The Planning Commission does not normally require a Subdivision Amendment for showing the "as-built" location (unless it is in a substantially different location than the original design), however the issue was raised by Michael Russell who represented Melrose Huff at a previous hearing regarding moving the building envelope on Lot 2.
6. The "as-built" location of the force main on Lot 2 is the approximate location depicted on the wastewater plan by Ridge Consulting Engineers entitled "Subdivision Plan, Barbara Horsford, Prindle Road, Charlotte, Vermont" dated 12/03/01, revised 12/14/01 (sheet 1 of 2) and the original subdivision plat. The force main easements (recorded in volume 122 pages 14 and 17) indicate that the easements are based on the "as-built" location.

Decision

Based on these Findings, the Planning Commission approves the application for a Subdivision Amendment with the following conditions:

1. The survey will be amended as follows:
 - A. The first 50 feet of the proposed driveway (off of Prindle Road) will be depicted on the survey.
 - B. The depiction of the clearing (of the woods) around the building envelope on Lot 2 will be corrected to match the actual clearing, ie: closer to the envelope.

- C. The title will be amended to “Huff/Mushkat Subdivision Amendment”.
- D. The original and/or revision dates will be verified and corrected if inaccurate.
- 2. A mylar (18” x 24”) of the survey (as amended in Condition 1 above) will be submitted to the Planning Commission for review within 60 days, and recorded in the Town Land Records within 90 days.

Additional Conditions: All plats, plans, drawings, 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 4th signature below approving this decision, as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members Present at the Public Hearing on February 5th: Jeff McDonald, Al Moraska, Jim Donovan, Gordon Troy, 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:_____