

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Richard L and Jill M. Lowrey

**Final Plan Application
For A
Subdivision Amendment
Application # PC-09-01**

Background

The applicants own Lot 5 of a subdivision by Arthur and Martha Burleigh approved in 1988. The building envelope for Lot 5 was previously amended on August 10, 1993. Sketch Plan Review for the current proposal was held on December 19, 2008.

Application

Materials submitted with the applications are listed in Appendix A.

Public Hearing

A public hearing for this application was held on March 19, 2009. Mr. and Mrs. Lowrey were present representing the applicant. Robert Ullrich and Jeffrey Berkowitz, adjoining property owners, were also present.

Regulations in Effect

Town Plan, amended March, 2008

Land Use Regulations adopted March, 2006.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The purpose of the application is to change the location of the wastewater disposal system and the configuration of the building envelope in order to allow the construction of an addition to the house, to be located between the existing house and the existing garage.
2. The applicant has obtained a permit for moving the wastewater disposal system (WW-138-0901).
3. The proposed expansion of the building envelope to the north will retain a 50 foot setback from the northerly property line; the re-configuration of the building envelope does not impact any areas of high public value or increase impacts to the adjoining property owner (who was present at the hearing). Previous conditions of approval, including the subdivision modification approved on August 10, 1993, will be maintained.
4. At Sketch Plan Review, the Planning Commission recommended that the western boundary of the building envelope be shifted to the east. The reasons for this recommendation were: (1) the Town's GIS data indicates there are steep slopes (greater

than 15%) on the western portion of the parcel, and (2) the western portion of the parcel and the adjoining common lot to the west are indicated as forest habitat on map 6 of the Town Plan. The Final Application complies with this recommendation.

5. At the hearing, the Planning Commission noticed that, as proposed by the applicant, the southeastern corner of the existing garage is outside of the building envelope (i.e. within the 50 foot setback from the road right-of-way for Upper Meadows Lane. The applicant indicated that the reason for this is that on the original site plan the road right-of-way and the associated 50 foot setback were mis-located, and therefore their garage was built outside of the building envelope and within the setback.
6. The original subdivision was approved as a Planned Residential Development, which allows the Planning Commission to reduce dimensional requirements, including setbacks.
7. The application did not include a survey depicting the existing and proposed building envelopes.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed Subdivision Amendment with the following conditions:

1. A survey plat will be created by a licensed surveyor with the same lot configuration as the site plan that was submitted with the application, although the following alteration is allowed: the setback from the right-of-way may be reduced to 45 feet, bringing the existing garage into compliance with the setback from the road right-of-way.
2. Two paper copies (one full size and one 11"x 17") and a mylar (18" x 24") of the survey plat will be submitted to the Planning Commission for review within 160 days; the applicant will record the mylar of the plat in the Charlotte Land Records within 180 days.

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.

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 Hearing on March 19 : Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Peter Joslin, Eleanor Russell and Paul Landler

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

The following items were submitted in association with the application:

- 1. An application form for a Subdivision Amendment and appropriate fee.
- 2. A memorandum from David Marshall to Tom Mansfield dated December 19, 2008 re: “Lowrey Building Envelope, Adjustment, 335 Upper Meadows Lane, Cedar Crest at Spear Subdivision, Final Plat—Minor Subdivision Amendment.”
- 3. A plan Civil Engineering Associates, Inc. entitled “Richard and Jill Lowrey, 335 Upper Meadows Lane, Charlotte, Vermont, Replacement Wastewater Disposal System, Charlotte, Vermont, Proposed Conditions Site Plan, Drawing Number C2.0” dated December, 2008, no revisions.
- 4. A copy of a document entitled “Cedarcrest At Spear, Charlotte, Vermont, Declaration of Covenants, Conditions, Easements, Liens, Rights and Restrictions” recorded in volume 54 pages 478-485 of the Charlotte Land Records.