

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

### **Peter and Meredith Moses Subdivision Amendment Application # PC-06-17**

#### **Background**

The subject property is Lot 2 of the William Hoyt and Christine Gahagan subdivision approved on June 6, 2002. The applicants are seeking to amend Condition #3 of the Findings of Fact and Decision for the Gahagan subdivision (PC-02-08), which states “The driveway for Lot 2 will be surfaced with non-white crushed stone.”

#### **Application**

Materials submitted in association with the application are listed in Appendix A.

#### **Public Hearing**

A public hearing for this application was held on July 6 and July 20, 2006. Peter and Meredith Moses were present on July 6, and Peter Moses was present on July 20. Nancy Bloch, an adjoining property owner, was also present on July 20.

#### **Site Visit**

A site visit was conducted on July 20, at which the following people were present: Peter and Meredith Moses; Pamela Snow, an adjoining property owner; Planning Commissioners Jeffrey McDonald, Linda Radimer, Robin Pierce, Peter Joslin and Andrew Thurber; and Town Planner Dean Bloch.

#### **Regulations in Effect**

Town Plan as amended March 2002

Land Use Regulations adopted March, 2006.

Sewage Ordinance as amended December, 2004.

Recommended Standards for Developments and Homes adopted September, 1997

#### **Findings**

1. The applicants purchased the subject parcel in May, 2004, and subsequently built a house.
2. After building their house the applicants paved most of their driveway, with the exception of a strip along Popple Dungeon Road, which is surfaced with non-white crushed stone for a distance of approximately ten feet, starting at the edge of the road.
3. The applicants were issued a Notice of Zoning Violation (NOV) on June 2, 2006 for violating Condition #3 of PC-02-08.
4. In response to the NOV, the applicants submitted the current application.

5. There are two reasons that the Planning Commission usually includes a condition on subdivisions regarding non-white crushed stone: A) if there is the potential for stormwater run-off, for example if the development is adjacent to steep slopes, a river, or an important wetland into which run-off would be directed; B) to reduce the visual impact of driveways and roads, which tend to “stand out” when they are surfaced with white crushed stone or asphalt pavement, and such surfaces are generally less consistent with the rural character of the Town than a non-white crushed stone surface.
6. With regard to stormwater run-off, the following factors are noted:
  - A. The subject parcel is located at the intersection of Whalley Road and Popple Dungeon Road. Properties and the roadway in this vicinity are fairly flat.
  - B. There are no streams or rivers in the vicinity of the subject parcel.
  - C. A pond is located on the north side of the house, and a Class III wetland is located adjacent to the pond and approximately 50 feet from the driveway—however the wetland is slightly upslope from the driveway.
  - D. It appears that run-off from the driveway will sheet towards the ditch along Whalley Road, as that is the direction of the grade, and the run-off will settle out in the roadside ditch.
7. The factors noted above lead the Planning Commission to finding that the paved driveway will not create erosion from stormwater run-off on or in the vicinity of the subject parcel.
8. With regard to visual impact, the following factors are noted:
  - A. The driveway is accessed from Popple Dungeon Road (which is a private road).
  - B. The southern edge of the driveway is approximately 50 feet from Whalley Road, and is not highly visible from a public road (Whalley Road).
  - C. The first approximately ten feet of the driveway is graveled with non-white stone.
  - D. The applicants have maintained an unmowed strip of lawn along Whalley Road that is approximately 40 feet deep (measuring from the edge of the roadbed of Whalley Road towards the applicants’ dwelling).
9. The Planning Commission finds that the combined affect of the factors noted above mitigates the visual impact of the paved driveway in the current situation.

## Decision

Based on these Findings, the Planning Commission approves the Subdivision Amendment to allow the paving of the driveway of Lot #2 with the following conditions:

1. The first ten feet of the driveway will remain unpaved.
2. The 40 foot strip of the subject parcel that is adjacent to Whalley Road will be mowed no more frequently than once per year (except for the portion mowed by the Town within Whalley Road right-of-way).
3. All other conditions of PC-02-08 are in full force and effect.

**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 4<sup>th</sup> 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 July 6:** Jeff McDonald, Linda Radimer, Robin Pierce, John Owen, Peter Joslin and Andrew Thurber

**Members Present at the Public Hearing on July 20:** Jeff McDonald, Jim Donovan, Linda Radimer, Robin Pierce, Peter Joslin and Andrew Thurber

**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 copy of the survey by Donald Johnston of South Mountain Surveying & Mapping entitled "Proposed Subdivision and Boundary Line Agreement, lands of William Hoyt Gahagan, Whalley Road, Town of Charlotte, Chittenden County, Vermont" dated May 8, 2002, no revisions, with a hand-drawing by the applicants of the existing driveway on the subject parcel.
- 3. A letter from the applicants to the Zoning Administrator dated June 3, 2006.
- 4. A letter from the applicants to the Zoning Administrator and the Planning Commission dated June 5, 2006 requesting a stay of enforcement of the NOV until the Planning Commission reaches a decision on the current application.
- 5. A letter from the applicants to the Planning Commission dated June 11, 2006 stating the surface area of the driveway.
- 6. A statement of support for the application signed by four neighboring property owners, dated June 13, 2006.