

# CHARLOTTE PLANNING COMMISSION

## FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

### **Diana McCargo & Pet Dia Boundary Adjustment Application # PC-03-21**

#### **Background**

The applicants own adjoining properties, and propose to convey 1.5 acres from the McCargo parcel to the Pet Dia parcel.

#### **Application**

The application consists of:

1. An application form and appropriate fee.
2. A map by Civil Engineering Associates entitled "Proposed Boundary Adjustment, Property of Diana McCargo, Mount Philo Road, Charlotte, Vermont, Proposed Site Plan of Boundary Adjustment" (C1) dated June, 2003, no revisions.

#### **Hearing**

The application was heard at the Planning Commission's meeting on September 4, 2003. Diana McCargo, Peter Swift and Liam Murphy were present representing the applicants. Charlotte bylaws do not require Boundary Adjustment hearings to be warned publicly.

#### **Regulations in Effect**

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

#### **Findings**

1. At the hearing on September 4, the applicant submitted a survey by Stuart Morrow entitled "Boundary Line Adjustment Plat, Between Properties of Diana Lewis McCargo and PETDIA, LLC, Charlotte, Vermont" dated July 2003, no revisions.
2. Boundary Adjustments are controlled by Chapter III Section 4 of the Charlotte Subdivision Bylaws.
3. The subject parcels were created prior to the adoption of subdivision or zoning bylaws.
4. Parcel #2 (Pet Dia parcel) is a non-complying lot because it contains less than the acreage required in Chapter IV Section 4.2.D.1. of the Charlotte Zoning Bylaws.
5. The proposed adjustment would make Parcel #2 less non-complying by making it 3.51 acres.
6. Parcel #1 (McCargo parcel) is currently a complying lot.
7. The road indicated on the submitted survey as "Uncle Tom's Road" is Town Highway

- 16, which is classified as a legal trail, and is also known as Spear-Gervia Road. It is not clear from the survey whether Diana McCargo owns the land under T.H. 16 and the town owns a right-of-way, or whether the town owns land fee simple.
8. Chapter IV Section 4.2.D.3. of the Charlotte Zoning Bylaws requires 300 feet of lot frontage.
  9. The survey submitted at the hearing indicates that Lot 1 would have 252.85 feet of frontage on Mount Philo Road as a result of the Boundary Adjustment if the town owns T.H. 16 fee simple. If Diana McCargo owns the land under T.H. 16, Lot 1 would have sufficient frontage on Mount Philo Road to comply with the bylaws. At the hearing Diana McCargo stated that she owns the land under the T.H. 16.
  10. The purpose of the adjustment is to build a new house on Lot 2 further away from Mount Philo Road, and remove the existing house on Lot 2. This house is not listed as a historic site on the map entitled "Cultural and Recreational Resources" (Map 12) in the Charlotte Town Plan.
  11. The proposed house site on Lot 2, as indicated on the submitted site plan, meets the required setbacks.
  12. The new house on Lot 2 would use the existing wastewater disposal system. An easement will be necessary for the wastewater disposal system which serves Lot 1, since this would be located on the portion of Lot 1 which will be conveyed to Lot 2.
  13. The proposed Boundary Adjustment will not create any new lots.
  14. The application does not propose any change of access, and the Boundary Adjustment will not impact access to any parcel.
  15. The proposed Boundary Adjustment will not adversely impact any significant natural resources.
  16. The deed (and map referenced in the deed) for Lot 1 indicates that it is 32.68 acres rather than 11.28 acres.

## Decision

Based on these Findings, the Planning Commission approves the Boundary Adjustment with the following conditions:

1. The survey will be amended as follows:
  - A. A note will be added indicating "Uncle Tom's Road" is a town trail.
  - B. The survey will clarify whether Diana McCargo or the town owns the land under T.H. 16. If Diana McCargo owns the land, the frontage on Mount Philo Road will be indicated.
  - C. A note will be added indicating that what is depicted of Lot 1 is a portion of a 32.68 acre parcel depicted on the survey by Pinkham Engineering entitled "Property Survey of Land to be Conveyed to Todd and Diana Hardie from Estate of Thomas J. Schermerhorn, Mt. Philo Road, Charlotte, Vermont" dated 4/4/85, revised 4/12/85 recorded in slide 39 in the Charlotte Land Records.
  - D. "John A. Paul" will be changed to "John A. Pane"
  - E. The survey will be stamped and signed.
2. A mylar of the survey with amendments as noted in Condition #2 above will be submitted to the Planning Commission within 60 days and recorded in the Land Records within 90 days, and prior to the submission of a Zoning Permit application for the

proposed dwelling.

3. Survey markers will be installed prior to conveyance of the property associated with this application (ie: 1.48 acres).
4. The property associated with this application (ie: 1.48 acres) will be conveyed within 180 days.
5. Once the 1.48 acres that is the subject of this application is conveyed to the owner of Lot 2, it will merge with Lot 2 and cannot be conveyed separately from the remainder of Lot 2.
6. A Zoning Permit application may be submitted for the new dwelling after the mylar of the survey is recorded, however no application for a Certificate of Occupancy will be submitted prior to the conveyance of the property associated with this application (ie: 1.48 acres) and the existing dwelling on Lot 2 is removed and the house-site (of the dwelling to be removed) is graded.

**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.

**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 and 4475.**

**Members Present at the Public Hearings on September 4, 2003:** Jeff McDonald, Jim Donovan, Gordon Troy, Gene Diou, Linda Radimer, Robin Pierce

**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: \_\_\_\_\_
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