

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Mark Franceschetti and Kathleen Fleming
889 Bean Road
and
Kimberlea G. Trotter Revocable Trust
1035 Bean Road**

**Subdivision Amendment
Application # PC-12-09**

Background

The parcel owned by Franceschetti and Fleming was affected by a Subdivision Modification between William Kellner and Joanne Wolfe, Lawrence and Linda Hamilton, and Mark Franceschetti and Kathleen Fleming, for which a plat is recorded in Slide 132.

The Planning Commission approved a project in 2005 (PC-05-47) that allowed the conveyance proposed by the current application, however, the parties did not transfer the land within 365 days as required by condition #3 of the Findings of Fact and Decision; therefore that approval expired. Sketch Plan Review for the current project was waived by the Town Planner.

Application

Materials submitted with the applications are listed in Appendix A.

Public Hearing

The Planning A public hearing was held for this application on April 5, 2012. Mark Franceschetti was present representing the applicants. No other parties were present or submitted written comments regarding the application.

Regulations in Effect

Town Plan amended March, 2008

Land Use Regulations adopted March, 2010.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The reason for the application is to allow 3/10th of an acre to be conveyed from Kimberlea G. Trotter Revocable Trust to Mark Franceschetti and Kathleen Fleming so that Franceschetti and Fleming can build a garage.
2. The Franceschetti/Fleming lot is currently 1.74 acres, and will become 2.04 acres.
3. The Kimberlea G. Trotter Revocable Trust parcel is currently 23.70 acres, and will become 23.40 acres.

4. Section 6.1(C)(4) of the Charlotte Land Use Regulations (“Regulations”) states (in part): “applications for Subdivision Amendments will be reviewed under the standards of Chapter VII.”
5. The Franceschetti/Fleming parcel is currently less than the minimum lot size required for the Rural District, but the proposed conveyance will result in the parcel becoming more conforming.
6. The Kimberlea G. Trotter Revocable Trust parcel is currently conforming and it will remain conforming after the proposed conveyance.
7. The applicant obtained a Conditional Use Determination (#2004-365) from the Vermont Agency of Natural Resource Department of Environmental Conservation in 2005 for the proposed garage. The Notice of Issuance states “it was found by the Agency of Natural Resources that this conditional use will not result in any undue, adverse effects to the protected functions of the significant wetland located off Bean Road in Charlotte, Vermont.”
8. The application will not adversely impact any areas of high public value.

Decision

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

1. A mylar of the survey will be submitted to the Planning Commission for review within 160 days, and recorded in the Charlotte Land Records within 180 days.
2. Prior to the submission of the mylar in accordance with Condition #1 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.
3. The property associated with this application (3/10th of an acre) will be conveyed within 365 days.
4. Once the land that is the subject of this application is conveyed to Franceschetti and Fleming, it will merge with the remainder of their lot and cannot be conveyed separately unless allowed by an action of the Planning Commission.

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.

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 Hearings on April 5, 2012: Jeff McDonald, Jim Donovan, Ellie Russell, and Gerald Bouchard

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:_____
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 and appropriate fee.
2. A plan entitled “Boundary Plat, Showing Boundary Adjustment Between Lands of Mark Franceschetti & Kathleen Fleming and Lands of Kimberlea F. & Samuel J. Trotter, Trustees, 889 and 1035 Bean Road, Charlotte, Vermont” by Land Lines dated October 5, 2005, no revisions.