

This 7th day of June A.D. 2019
at 12 o'clock 00 minutes P.m and
recorded in vol. 237 on page 641-46
Attest Mary A Mead Town Clerk

**CHARLOTTE PLANNING COMMISSION
SUBDIVISION REVIEW
FINDINGS OF FACT AND DECISION**

**Richard A., Louise S., & Lucia S. Plante; and Richard Shappy
Final Plan Application for a Boundary Adjustment between 1801, 1807, and 1555 Spear Street
Application # PC-19-52-BA**

Introduction and Procedural History

This proceeding involves the review for a Boundary Adjustment submitted by Richard Shappy (*the authorized representative for Lucia S. Plante and the Estate of Louise Plant*) for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as "the Regulations"). The application was received by the Charlotte Planning & Zoning Office on April 12, 2019. A notice of public hearing was published in "*The Citizen*" newspaper on April 25, 2019. A hardcopy of the notice was mailed to all adjoining landowners on April 30, 2019 and was posted at the following three locations: the Town Office Building, the Brick Store, and Spear's Corner Store on April 17, 2019. An electronic notice of the hearing was also posted on the Town website meeting calendar.

The application proposes to adjust the acreage between three adjoining properties located at 1801, 1807, and 1555 Spear Street. A Sketch Plan Review letter (**PC-18-209-SK**) was issued from the Planning Commission on March 19, 2019 after one public hearing, which took place on February 7, 2019. The site visit with the Planning Commission took place on Saturday February 2, 2019 at approximately 9:00 AM attended by Commissioners: Peter Joslin (Chair), Gerald Bouchard, Dick Eastman, and Marty Illick.

The Boundary Adjustment application was considered by the Planning Commission at a public hearing held on May 16, 2019 at approximately 7:30 PM. Present at the public hearing were the following members of the Planning Commission: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, and Shawn Coyle. Additional participants and attendees included: the Town Planner; the applicants' representative Richard Shappy, Jason Barnard (Co-owner of Barnard & Gervais, LLC), Paul Plante II, and others.

Exhibits

The following exhibits were submitted for the application:

1. Completed application form signed by Richard Shappy (applicant representative) and Lucia S. Plante received on April 12, 2019;
2. Letter of authorization for Richard Shappy to represent landowners Lucia S. Plante and the Estate of Louise Plant (dated November 28, 2018).
3. Vermont Superior Court – Probate Division – Chittenden Unit – Docket No. 400-3-17 Cnpr; In Re: Plant, Louise M.; Certificate of Appointment of Fiduciary (on March 23, 2017 Richard Shappy was appointed by the Court to serve as the Fiduciary for the Louise Plant Estate) Signed by Debra J. Brunell, Register: June 1, 2018;

4. Proposed draft survey map: "Lands of Richard A. & Louise S. Plant and Lucia S. Plante – 1801 & 1807 Spear Street, Charlotte, Vermont" (dated 01-22 2019 / updated 04-16-2019 and 05-10-2019) by Barnard & Gervais, LLC, Enosburg Falls and Hinesburg, Vermont;
5. Sketch Plan Review; Planning Commission Letter (PC-18-209-SK Plante-Shappy), dated March 19, 2019;
6. Map Slide 181, Page 3; Survey - "Lands of Kathleen O'Brien – 1971 Spear Street, Charlotte, Vermont – 2-Lot Subdivision" (dated 10 Apr 2012 / Revised 12 Sep 2012) by Michael J. Gervais, No. 735, Northern Land Surveying, LLC, Enosburg Falls, Vermont;
7. Map Slide 10, Volume 2, Page 52; Survey - "Plat of Land – Johnson in the Town of Charlotte. VT" (dated April 1976) by John A. Marsh, No. 256, Surveyed by Thomas Badenoch, Vermont;
8. Charlotte Land Records – Volume 90, Page 83 (July 28, 1996) Quit-claim deed; Volume 56, Pages 563-567 (July 29, 1988) Decree of distribution of Parcel A, and Parcel B, et al.; Volume 34, Pages 212-213 (March 18, 1977) Warranty deed / Quit-claim deed; Volume 27, Pages 409-411 (January 8, 1958) Warranty deed/conveyance; Volume 27, Pages 337-338 (March 19, 1957) Conveyance; Volume 27, Page 410 (January 7, 1958) "Revised Plan of Land to be Conveyed to Richard & Louise S. Plant, (Husband & Wife) By Alma St. George, (Widow of Walter), Charlotte, Vermont. Surveyed by Hoag & Associates Inc., Burlington Vt. (File #3738-B)";
9. Planning Commission Minutes from meeting held on *May 16, 2019* and *February 7, 2019*;

Regulations in Effect

Charlotte Town Plan, 2018

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Findings

Background

1. Louise S. and Richard A. Plant own a 1.0 acre property located at 1801 Spear Street and an adjoining 138.9 acre property (to the east and north) located at 1555 Spear Street.
2. Lucia S. Plante owns a 0.97 acre property located at 1807 Spear Street, which adjoins to the south of the 1801 Spear Street property, and to the east of the 1555 Spear Street property.
3. Each of the three aforementioned properties exist within the Town of Charlotte Rural Zoning district (RUR).
4. This application proposes to adjust acreage from the 1555 Spear Street property, where: 1801 Spear Street increases from 1.0 acre to 5.1 acres; and 1807 Spear Street increases from 0.97 acres to 5.09 acres; and 1555 Spear Street decreases from 138.9 acres to 130.68 acres.

2.3 Application of District Standards – Table 2.5 Rural District (RUR) – (E) Dimensional Standards

1. The Rural District dimensional standard for the *Minimum Setback/Side* and *Minimum Setback/Front* is 50 feet.

2. The Rural District dimensional standard for the *Maximum Lot Coverage* is 30%. The proposed building envelopes for the 1801 and 1807 Spear Street properties will allow for structures and improvements to conform with the lot coverage requirement. As the lots are proposed to be increased to approximately 5.1 acres, their building envelopes should remain at a maximum of 1.53 acres for the 1801 Spear Street property, and 1.52 acres for the 1807 Spear Street property.

7.2 General Standards - Areas of High Public Value

The following Areas of High Public Value (AHPV) were identified on the properties:

1. Land in active agricultural use: The entire 8-acres of land (outside of the existing lots) to be adjusted from the undeveloped *138.9 acre* property of 1555 Spear Street to the 1801 and 1807 Spear Street properties is enrolled in the Vermont Agency of Natural Resources (ANR), Use Value Appraisal (UVA) Program (i.e. current active agricultural use, or “current use”).
2. Primary Agricultural Soils (Prime and Statewide - PAS): About 0.4 acres of Prime Agricultural soils exist on the southern property boundary, and about 0.2 acres of Statewide soils exist along the western boundary of the 1801 Spear Street property. On the 1807 Spear Street property, about 0.7 acres of Prime Agricultural soils exist along the eastern portion, where about 0.2 acres of Statewide soils exist along the western boundary. Once the properties are each adjusted to become approximately 5.1 acres in size, the majority of their soils will consist of Primary Agricultural soils. Substantial acreage of Primary Agricultural soils exist on the 1555 Spear Street property (according to the *USDA Natural Resources Conservation Service (NRCS)* GIS database).
3. Surface Waters, Wetlands, and associated buffer areas: Class II wetland is estimated to exist along a Vermont Agency of Natural Resources (VT ANR) designated “small stream”, which traverses through the center of the 1555 Spear Street property (according to the Vermont Department of Environmental Conservation’s *Vermont Significant Wetlands Inventory (VSWI)*).
4. Wildlife Habitat: About 0.2 acres of *Significant Forest Habitat* exists along the northern side of the existing *1801 Spear Street property*. After the proposed boundary adjustment, the proposed 5.1-acre property would then contain about 1-acre of habitat. The 1555 Spear Street property comprises approximately 77 acres of *Significant Forest Habitat*, 20 acres of *Significant Linkage Habitat*, and 11 acres of *Significant Aquatic Habitat* (according to the “*Charlotte Significant Wildlife Habitat Map and Database*”).
5. Water supply source protection areas (SPAs) – The entirety of all three parcels fall within the surface water source protection area for the Champlain Water District – Zone 3 (System ID: VT0005092).
6. Scenic Views and Vistas: Spear Street, abutting to the west of the property is classified as a “*Most Scenic Public Highway*” according to the 2018 Charlotte Town Plan.

7.2(E) General Standards – Building Envelopes

“All proposed lots intended for development shall include designated building envelopes within which all structures and parking areas shall be located. . . The Commission also may require the

identification of specific building footprints if such information is needed to determine conformance with these regulations.”

1. The existing lots do not have designated building envelopes. However, the Planning Commission had advised the applicant during the Sketch Plan Review (see **Exhibit 5** above) that approximate one (1) acre building envelopes should be created around the developed areas of the 1801 and 1807 Spear Street properties to protect the agricultural field and the *Primary Agricultural Soils (PAS)* discussed in **Findings 7.2(1)** and **7.2(2)** above.

7.3(D) District Standards – Rural, Shoreland, & Conservation Districts

(1) “Building envelopes, to the extent feasible, shall be located, sited and configured so as not to create any undue adverse impacts on Areas of High Public Value. In the event that no other land in the parcel to be subdivided is suitable for development, building envelopes shall be designed to minimize encroachments into these areas and to minimize undue adverse impacts.”

1. The applicant followed the Planning Commission’s recommendation to protect the Areas of High Public Value (see **Findings 7.2(1)** and **7.2(2)** above) by proposing (along their western portions) a 1.3 acre building envelope for the 1801 Spear Street property, and a 0.99 acre building envelope for the 1807 Spear Street property. These are indicated in the final draft survey shown in **Exhibit 4** above.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for the Boundary Adjustment subject to the following conditions:

1. Two paper copies (one full size and one 11”x 17”), an electronic copy, and a mylar (measuring 18” x 24”, with a margin of 2” outside of the border line for binding on the left edge of the sheet with a 1” border on all remaining edges) of the 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, after being signed by the Chair or Vice-Chair of the Planning Commission. Approved plats not filed and recorded within this 180 day period shall expire.
2. Prior to the submission of the mylar to the Planning Commission, the applicant shall revise the survey plat by:
 - a. Adding a map symbol for the purple building envelope line to the Legend.
 - b. Adding additional building envelope lines that follow the fifty-foot (50’) setback from:
 - i. the southern property boundary of the 1801 Spear Street property, and
 - ii. the northern property boundary of the 1807 Spear Street property.

These shall represent the future conforming setbacks of the building envelopes, in the event that either of the existing houses are demolished or removed. The existing parallel non-conforming building envelope lines indicated in the draft survey (see **Exhibit 4**) should be left on the survey map, in case either of the existing houses are not demolished and remain in place.

- c. Adding note stating that subsequent to the demolition or removal of either of the existing houses upon the 1801 and 1807 Spear Street properties, the setbacks of their respective building envelope lines shall hence conform to the Rural (RUR) district standard of fifty-feet (50'), in accordance with Planning Commission decision PC-19-52-BA.
- 3. Prior to the submission of the mylar to the Planning Commission, the applicant shall submit a letter from the surveyor indicating that he or she has set the survey pins in the field as indicated on the survey.
- 4. Any future subdivision of the 1555 Spear Street property will require a master plan to be reviewed as a PRD (pursuant to **Section 8.4(B)(5)(a)** of the Regulations). This would include the designation of 50% open space to protect the identified Areas of High Public Value that are discussed in **Finding 7.2** above. **Section 8.1(B)** of the Regulations regard the purpose of the Planned Residential Development (PRD) as follows:

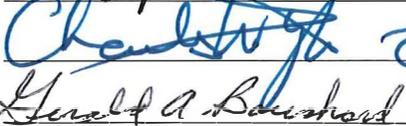
"PRD provisions are intended to allow clustering of residential development and innovative design to promote the most appropriate use of land and the preservation of Areas of High Public Value identified in Table 7.1;"

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 the 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 the permit and would be subject to enforcement action by the Town. **This approval shall expire if the mylar is not filed and recorded in the Charlotte land records within 180 days.**

This decision may be appealed to the Environmental Division of the Vermont Superior Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the latest date of 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 May 16, 2019: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, and Shawn Coyle.

Vote of Members after Deliberations: The following is the vote for or against the application, with conditions as stated in this Decision:

1. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>6/6/19</u>
2. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>6/6/19</u>
3. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>6/6/19</u>
4. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>6/6/19</u>
5. Signed:	_____	For / Against	Date Signed:	_____