

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

Matt Daley

**Final Plan Application for a Minor Subdivision Amendment for 4224 Greenbush Road
Application # PC-19-69-SA**

Introduction and Procedural History

This proceeding involves the review for a Minor Subdivision Amendment submitted by Matthew Daley for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as “the Regulations”). This application requests the Planning Commission authorize the expansion of the existing building envelope to accommodate the construction of a swimming pool to the rear of the house on the property located at 4224 Greenbush Road in the Rural (RUR) zoning district.

The application was received by the Charlotte Planning & Zoning Office on May 16, 2019. A notice of public hearing was published in “*The Citizen*” newspaper on May 23, 2019. A hardcopy of the notice was mailed to all adjoining landowners on May 16, 2019 and was posted at the following three locations: the Town Office Building, the Brick Store, and Spear’s Corner Store on May 22, 2019. An electronic notice of the hearing was also posted on the Town website meeting calendar

A Sketch Plan Review letter (**PC-19-44-SK**) was issued from the Planning Commission on March 10, 2019 after one public hearing, which took place on April 18, 2019. The site visit with the Planning Commission took place prior to that hearing at 6:30 PM and was attended by Commissioners: Charlie Pughe (Vice Chair), Gerald Bouchard, David Kenyon, and Marty Illick. The applicant Matt Daley, Lauren Daley, and the Town Planner were also in attendance.

This Subdivision Amendment application was considered by the Planning Commission at a public hearing held on June 6, 2019 at approximately 7:45 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 applicant Matt Daley, and others.

Exhibits

The following exhibits were submitted for the application:

1. Completed application form signed by Matthew Daley received on May 16, 2019;
2. Proposed draft survey map: “Site Plan – Matthew Daley – Building Envelope Revision – Greenbush Road – Charlotte, Vermont” (dated May 10, 2019 / Sheet C-1) by McCain Consulting, Inc., Waterbury, Vermont;
3. Sketch Plan Review: Planning Commission Letter (**PC-19-44-SK** Daley), dated May 10, 2019;

4. Planning Commission Decision (**PC-11-06** Lawrence-Billiard); “Findings of Fact and Decision In Re Application of James Lawrence & Judith Billiard - 4206 Greenbush Road; Final Plat Hearing for a Two-Lot Subdivision and Planner Residential Development”, approved on March 25, 2011;
5. Map Slide 175, Page 4; Survey - “James M. Lawrence and Judith Billiard – Greenbush Road – Charlotte, Vermont” (dated April 1, 2011) by Keith R. Van Iderstein, L.S., No. 719, McCain Consulting, Inc., Waterbury, Vermont;
6. Wastewater System and Potable Water Supply Permit (Case Number: WW-138-1105) – Judith Billard & James Lawrence, 4206 Greenbush Road, Charlotte, VT 05445 (Approved March 18, 2011);
7. Charlotte Land Records – Volume 223, Pages 155-157 (27 Apr 2016) Warranty deed / Conveyance from Billiard / Lawrence to Daley; Volume 192, Pages 493-498 (12 Apr 2011) Open Space Agreement; Volume 171, Pages 119-121 (7 Dec 2007) Quit Claim deed;
8. Planning Commission Minutes from meeting held on *April 18, 2019* and *June 6, 2019*;

Regulations in Effect

Charlotte Town Plan, 2018

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Vermont Agency of Natural Resources, Wastewater System and Potable Water Supply Rules, 2019

Findings

Background

1. Matthew and Lauren Daley own a 10.83 acre property located at 4224 Greenbush Road within the Rural Zoning district (RUR). The parcel comprises approximately 9.5 acres of conserved land in an open space agreement with the Town of Charlotte and 1.2 acres of developable area containing a 0.19 acre building envelope.
2. The property (indicated as **Lot 2** in **Exhibits 2** and **5**) was created in 2011 as a parcel per Planning Commission decision (**PC-11-06**). Because of the non-conforming Rural District (RUR) *Minimum (Road) Frontage* of 165.36 feet, the 2011 subdivision application was required to be reviewed as a Planned Residential Development (PRD).
3. This application proposes to expand the existing 0.19 acre building envelope to accommodate the construction of a 16' x 36' swimming pool with an additional four foot (4') wide concrete apron along its perimeter. Prior to the Sketch Plan Review (**PC-19-44-SK**), the Zoning Administrator had advised that an isolation distance from the pool should be thirty-five feet (35') from the wastewater mound and a ten feet (10') from the existing septic tank.
4. However, the setback for the proposed pool from onsite infrastructure is addressed in the 2019 Wastewater System and Potable Water Supply Rules:

§ 1-912 - Table 9-5 (Horizontal Isolation Distances, in Feet, for Features and Objects) of the Specific Technical Standards for Wastewater Systems for the State of Vermont, Agency of

Natural Resources, Environmental Protection Rules, *Chapter 9* indicates that foundation(s), footing(s), or perimeter(s) of a building or structure without drains would require a thirty-five foot (35') isolation distance if it is located downslope of a leachfield, or a twenty-foot (20') isolation distance if it is located upslope of a leachfield.

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 fifty feet (50').
2. The Rural District dimensional standard for the *Minimum (Road) Frontage* is three-hundred feet (300').

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 property has an existing (0.16 acre estimated-sized) building envelope approved in decision **PC-11-06** (see **Exhibit 4**) that contains the primary house and will contain a future 1259.5 square foot three-car garage that was approved for construction on March 28, 2019 (see permit # **19-43-ZP**).
2. The Planning Commission had advised the applicant during the Sketch Plan Review (see **Exhibit 3**) that where the PRD status of the property (approved in decision **PC-11-06**) may allow for Rural (RUR) district dimensional modifications to the side yard setback. It was recommended that every effort should be made within the project design to honor the 50' side yard setback (see **Finding 8.4(C)** below).
3. The applicant's submitted survey (see **Exhibit 2**) proposes an additional separate small building envelope that would exclusively confine the pool in a location west of the existing building envelope, and also within the fifty foot (50') side yard setback of the southern property boundary (see **Finding 8.4(C)** below)

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 proposed project would have minimal to no impact on the *Areas of High Public Value* identified within the Planning Commission decision **PC-11-06** (see **Exhibit 4**) including:

- a. The *Scenic View* from Greenbush Road. The existing primary house and the approved three-car garage would screen the proposed building envelope for the pool (see **Finding 7.2(E)1** above);
- b. The *Agricultural Use*. The property is not currently enrolled in the Vermont Agency of Natural Resources (ANR) Use Value Appraisal (UVA) Program (i.e. "current use" program);
- c. The *Agricultural Soils*. The proposed location of the pool is planned to overlap a formerly existing tennis court (an impervious surface indicated in **Exhibit 5**);
- d. The *Significant Linkage Habitat*, which is not located within the project area; and
- e. The *Conserved Land*, which does not adjoin the proposed building envelope that would confine the swimming pool.

8.4(C) Planned Residential Developments (PRDs) – Rural District and Shoreland District Standards

(1) "... modifications to standards shall be allowed by the Commission to the extent that such modifications better achieve the standards set forth under Chapter 7. A minimum of 50% of the lot(s) shall be designated as open space in accordance with Section 8.6."

1. The property has met PRD provisions in Planning Commission decision **PC-11-06**, where the zoning district dimensional standards (covered in Chapter II of the Regulations), including lot size, coverage, frontage, and setback requirements may be modified to provide flexibility in the subdivision design.
2. Although a non-conforming side yard setback is proposed from the pool to the southern property boundary (see **Finding 7.2(E)** above), this Minor Subdivision Amendment application is approvable under the PRD provisions of the Regulations.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for the Minor Subdivision Amendment 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 of Planning Commission approval (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. Completing the rectangular delineation line of the "Proposed Pool" building envelope that is missing along a portion of the southern and eastern perimeter.

- b. Adding the acreage and perimeter of the "Proposed Pool" building envelope that will confine the swimming pool.
- c. Adjusting the angled dimensional line of the "Proposed Pool" building envelope in the submitted survey (see **Exhibit 2**) to be perpendicular to the southern property boundary.
- d. Updating the distance measurement of the dimensional line from the edge of the "Proposed Pool" building envelope to the southern property boundary, to indicate how far the pool will encroach into the 50' setback.

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 June 6, 2019: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Marty Illick, 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: | <u>Gerald Bouchard</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>7/3/2019</u> |
| 2. Signed: | <u>[Signature]</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>7/3/2019</u> |
| 3. Signed: | <u>[Signature]</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>7/3/19</u> |
| 4. Signed: | <u>Marty Illick</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>7.5.19</u> |
| 5. Signed: | _____ | For / Against | Date Signed: | _____ |
| 6. Signed: | _____ | For / Against | Date Signed: | _____ |
| 7. Signed: | _____ | For / Against | Date Signed: | _____ |