

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Rodney and Donna Stearns Subdivision Amendment Application # PC-06-11

Background

The subject parcel is Lot 9 of the Stearns' subdivision (PC-02-16) that was approved in January, 2003. The current application is to amend PC-02-16 for two items: 1) to add two wastewater disposal systems within the wastewater easement area serving Lots 2-8 to serve a development proposed by Ian and Margaret Rutherford in Ferrisburgh); and 2) to add a utility (power) easement extending from the south end of Elcy Lane to the Rutherford project.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing was held for this application on May 18, 2006. Rodney Stearns and Donna Stearns were present representing the applicant. Jack Wallace and Joyce Wallace (adjoining property owners) and Linda Hamilton (of the Conservation Commission) were also present and participated in the hearing.

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. At the public hearing the applicant stated that they are not adding two wastewater disposal systems, but are moving two systems from the "Common Sewage Disposal Area Easement Benefiting Lands of C. Boffa and Others" to the "Common Sewage Disposal Area Easement for Stearns Meadow Lots 2-8."
2. The Town's wastewater consultant has provided three memos regarding this application, dated 3/27/06, 4/3/06 and 5/17/06 (by e-mail). He has also reviewed the application with the Regional Engineers of the Rutland and the Chittenden offices of the State Wastewater Management Division, and with the State Hydro-geologist. All have indicated that the proposed system design is acceptable, and the Rutland Office will issue the state permit once (if) the Town has approved this application. The Town's consultant does recommend that the corners of the new trenches be staked in the field, in order to locate them relative to the existing trenches.

3. The proposed wastewater easement is not within the Open Space Area created by (PC-02-16).
4. The subject parcel has soils of statewide significance, and is used for agricultural purposes.
5. A scenic view is depicted on Maps 12 and 13 in the Town Plan from Spear Street over and past the subject parcel; additionally, the subject parcel is directly in the view from the summit of Mount Philo.
6. These are the only resources of high public value listed in Table 7.1 that would be affected by the application.
7. If a power transformer box is needed for the new utility line to the Rutherford project, the box would detract from the scenic views from Spear Street and the summit of Mount Philo if it is located in the middle of the field to the south of Elcy Lane, as depicted in the submitted survey. The box would also impact agricultural use of the field.

Decision

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

1. The applicants will determine whether an additional transformer box will be needed for the proposed utility line. If an additional box is needed, the new utility easement will turn westward immediately south of the southern terminus of Elcy Lane, will run to the hedgerow at the westerly property line, and then turn southward and run along the hedgerow to the Rutherford property. The transformer box and utility line will be located so as not to disturb the root system of the hedgerow. If an additional transformer box is not needed, the new utility easement may run directly south from Elcy Lane to the Rutherford property as depicted on the submitted survey; the easement shall enter the Rutherford property where there is an existing break in the hedgerow.
2. The survey will be revised to reflect the determination described in Condition 1 above. Additionally, the survey will be amended to depict monuments at the four corners of the wastewater easement area.
3. Two paper copies (one full size and one 11" x 17") and a mylar (18" x 24") of the plat, as amended in accordance with Condition #1 above, 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.
4. Prior to the submission of the mylar, the applicant will request that the Selectboard approve the Amendment to the Sewage Service Agreement, Waiver and Easement, and once approved, the applicant will execute the document and record it in the land records.
5. Prior to the submission of the mylar, the applicant will submit a letter from the surveyor indicating that the survey monuments have been set in the field as indicated on the survey.
6. Prior to the submission of the mylar for recording, the applicant will obtain the appropriate wastewater disposal permits from the State.
7. Immediately prior to the submission of septic permit applications to the Town of Charlotte for the new septic systems, the applicant's engineer will stake the corners of the new systems in the field.

Additional Conditions: All plats, plans, drawings, 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 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 Hearing on May 18th: Jeff McDonald, Jim Donovan, John Owen, Peter Joslin, Robin Pierce 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 survey by Michael Magoon of Land Lines entitled "Stearns Meadow Subdivision Plat" dated April 26, 2001, last revised 4/13/06.
- 3. A plan by JH Stuart Associates entitled "Rodney and Donna Stearns, Proposed Wastewater Plans, Charlotte, Vermont" Dwg. 1A of 2 dated August 2004, last revised 3/23/06.
- 4. A plan by JH Stuart Associates entitled "Ian and Margery Rutherford, Proposed Lot and Site Plan, Ferrisburgh, Vermont" Dwg. 1 of 3 dated August 2004, last revised 3/23/06.
- 5. A letter to Tom Mansfield from John Stuart, P.E. dated March 24, 2006.
- 6. A draft document entitled "Amendment to Sewage Service Agreement, Waiver and Easement."
- 7. A letter to Rodney and Donna Stearns from Dean Bloch dated April 4, 2006.
- 8. Proof of notification to adjoining property owners.
- 9. A memo (undated and unsigned) requesting waivers from particular Final Plat application

requirements.

10. A copy of the application to Vermont Agency of Natural Resources for a Wastewater System and Potable Water Supply Permit Application.