

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

**Samuel W. and Priscilla L. Spear, Property Owner
Stephen C. Brooks, Applicant**

**Subdivision Amendment
Application # PC-07-19**

Background

The property owner received final plat approval on February 13, 2006 for a three-lot subdivision (PC-05-53), recorded in the Charlotte Land Records in volume 161 pages 191-193, and in map slide 148 page 4. The current application requests an amendment of Condition #9 of PC-05-53.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing was held for this application on November 15, 2007. Stephen C. Brooks, the applicant, was present at the hearing. No other parties were present.

Regulations in Effect

Land Use Regulations adopted March, 2006.

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The subject property was Lot #1 of PC-05-53.
2. The pole barn on the subject property is currently located with a zero-foot (0') setback from the southerly lot line of Lot 1.
3. When approving PC-05-53, the Planning Commission allowed the pole barn to remain in its existing location, even though this location did not conform with setback requirements, because the property owner had indicated the structure was old and in fragile condition.
4. In establishing Condition #9 of PC-05-53, the Planning Commission attempted to require that the barn become a conforming structure in the event that the barn is moved. However, Condition #9 eliminated the right of the property owner to 1) obtain a variance under Section 9.7 of the Charlotte Land Use Regulations; 2) obtain approval from the Secretary of Agriculture to locate an agricultural structure; 3) obtain a conditional use approval from the Zoning Board of Adjustment to increase the noncompliance of the structure (in accordance with Section 3.8(B) of the Charlotte Land Use Regulations, or 4) modify or move the barn in a manner that does not increase the degree of noncompliance, in which case the applicant may not need a Zoning Permit.

5. The Planning Commission finds no over-riding reason that, if the property owner or applicant meets the criteria of any of the permits described in Finding #5, that the barn should not be relocated accordingly.

Decision

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

Condition #9 of PC-05-53 is hereby rescinded, however, any proposed relocation or enlargement of the pole barn in a manner that does not meet minimum setbacks established in Table 2.5 of the Charlotte Land Use Regulations (as amended) requires an appropriate permit as required in the Charlotte Land Use Regulations and/or the Act.

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 November 15, 2007: Jeff McDonald, Jim Donovan, Linda Radimer, John Owen, Robin Pierce, Peter Joslin, and Andrew Thurber.

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 application consists of the following:

1. An application form and appropriate fee.
2. A letter dated September 24, 2007 from Samuel W. Spear and Priscilla L. Spear to Town of Charlotte, Planning & Zoning, authorizing Stephen C. Brooks to represent the application for relocating the pole barn.
3. A sketched site plan depicting the proposed relocation of the barn.