

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Trafton M. and Laura L. Crandall Subdivision Modification and Amendment Application # PC-04-11

Background

Lots 1 and 2 were originally created as part of a three-lot subdivision by Nicholas Cowles approved on April 28, 1987; Lot 1 was 26.64 acres and Lot 2 was 5.4 acres. On May 10, 1988, Nicholas Cowles received approval from the Planning Commission to revise the lot-line so that Lot 1 became 10 acres and Lot 2 became 22 acres, however Lot 1 had a deferral permit and was not considered a building lot at that time. Lot 2 has since been further subdivided, so that it is now 14 acres. The applicant is currently proposing to again revise the lot-line, so that Lot 1 becomes 5.35 acres and Lot 2 becomes 19.47 acres. Lots 1 and 2 are currently both owned by the applicant.

Sketch Plan Review was held on April 1, 2004, at which time the Planning Commission classified the project as a Subdivision Modification because it will modify a subdivision that was previously approved by the Planning Commission (ie: Cowles—approved in 1987 and modified in 1988, and Swift—approved in 1994); the Planning Commission also classified the project as a Subdivision Amendment because Lot 1 had not been approved previously as a building lot, and from the information submitted with the application it is clear that the applicant is proposing that Lot 1 be considered a building lot.

Application

The application consists of:

1. An application form and appropriate fee.
2. A survey map entitled “Crandall Residence, Orchard Road, Charlotte, Vermont, Boundary Line Adjustment” by Leonard H. Amblo of Button Professional Land Surveyors, PC dated 4/10/04, no revisions
3. A site plan map entitled “Crandall Orchard Road, Charlotte, Vermont, Boundary Line Adjustment” by Trafton M. Crandall of Llewellyn-Howley, Inc. dated 1/28/04, last revised 4/20/04.
4. A site plan map entitled “Crandall Orchard Road, Charlotte, Vermont, Site Plan “Lot 1”” by Trafton M. Crandall of Llewellyn-Howley, Inc. dated 1/28/04, last revised 4/17/04.
5. A site plan map entitled “Crandall Orchard Road, Charlotte, Vermont, Site Plan “Lot 2”” by Trafton M. Crandall of Llewellyn-Howley, Inc. dated 1/28/04, last revised 4/17/04.

Public Hearing

A public hearing was held for this application on May 20, 2004 and continued to June 3, 2004. Trafton and Laura Crandall were present on both dates. Adjoining property owners Ian and Amy deGroot were present on May 24th; Nicholas Cowles and Amy deGroot were present on June 3rd. Peter Swift and Tony Blake, who own property in the vicinity of the subject parcels, were also present on June 3rd.

The Planning Commission, on its own motion, reopened the public hearing on July 15, 2004 to obtain the following information: to obtain an opinion from Town counsel as to whether or not Lot 1 is considered a “buildable lot”; to request a field delineation of the wetland on Lot 1; to request a depiction of wetland and prime soils on the site plan; to obtain information with regard to any restrictions resulting from land conservation or similar protective covenants; to address the issue of water supply; and to schedule a site visit. The hearing was continued to July 29, 2004, and a site visit was also conducted on July 29th. Trafton and Laura Crandall were present at the hearing on both dates and at the site visit.

Regulations in Effect

Town Plan as amended March 2002

Zoning Bylaws as amended March 2002

Subdivision Bylaws as amended March 1995

Findings

1. On May 10, 1988, the Planning Commission approved the application by Nicholas Cowles for a Boundary Adjustment with a motion that included the following statement: “Lot 1 has a deferral of permit not intended as a building lot.”
2. Other than the motion described in Finding #1 above, there is no restriction to the development of Lot 1 that has been recorded in the town’s land records. The Planning Commission therefore finds that Lot 1 is developable provided that it meets the standards necessary to obtain State and Town permits, and that those permits are obtained.
3. The applicant is proposing to revise the lot-lines between Lot 1 and Lot 2 (both owned by the applicant), so that Lot 1 becomes 5.35 acres and Lot 2 becomes 19.47 acres. The applicant is additionally proposing a building envelope, wastewater disposal system (off-site), water well and driveway for Lot 1.
4. Chapter VIII Section 6 of the Charlotte Subdivision Bylaws requires an application be made to the Planning Commission for a modification to an approved subdivision.
5. Chapter VI Section 2.A. of the Charlotte Subdivision Bylaws provides the following standard: “The proposal gives due regard to the preservation of existing significant natural features, including: agricultural lands, open spaces, view sheds, wildlife habitat, flood plain areas, large trees, groups of trees, hedge rows, rock outcroppings, steep slopes, ridge tops, streams, the lake shore and wetlands.”

6. Wetlands on Lot 2 had been field delineated for the subdivision by Peter Swift, but wetlands on Lot 1 had not been delineated prior to this application.
7. At the request of the Planning Commission the applicant had wetlands on Lot 1 field delineated, which was conducted by Peter Spear of Natural Resources Consulting Services. The delineated wetland is depicted on a plan entitled "Crandall Orchard Road, Charlotte, Vermont, Subdivision Modification" by Llewellyn-Howley dated 1/28/04, last revised 7/15/04, which the applicant submitted at the hearing on July 15th. This plan also depicts soil types as classified by the Soil Conservation Service.
8. The proposed building envelope on Lot 1 is not located in wetland; however it is located in an area that is primarily Belgrade and Eldridge Soils, which are considered prime agricultural soils.
9. The proposed building envelope on Lot 1 is approximately one acre in size. In consideration that the building envelope is located on prime agricultural soils, the Planning Commission finds that the building envelope should be reduced or reconfigured in order to lessen the impact of the project on prime agricultural soils.
10. The Planning Commission notes that the eastern side of the building envelope can be moved 40 feet further to the east while remaining outside of the 50 foot wetland buffer depicted on the plan. This area is primarily comprised of Covington Silty Clay, which are considered statewide agricultural soils; these are good quality soils but not as productive as prime agricultural soils. Shifting the building envelope in this manner would allow the southern boundary to be moved northward, while keeping the building envelope approximately one acre in size.
11. Both Lot 1 and Lot 2 include significant areas that are comprised of prime agricultural soils and also wetlands.
12. The building envelope for Lot 2 was approved by the Planning Commission when Lot 2 was created by the Swift subdivision in 1994.
13. The applicants stated at the hearing on June 3 that they are not proposing to permanently protect the agricultural resources on either Lot 1 or Lot 2 by creating conserved open space.
14. Chapter VI Section 2.C. of the Subdivision Bylaws provides the following standard: "The proposed density, building sizes, pattern of development, and configuration of open space are compatible with the surrounding natural and/or built environment."
15. Chapter VII Section 1.B. of the Subdivision Bylaws provides the following standard (in part): "Land shall be subdivided and improved so as to retain, insofar as possible, the natural contours and to conserve the natural cover and soil."
16. Most of the structures in the vicinity of the project are built on the natural land contour. Building up the land on Lot 1 to achieve an unnaturally high finished grade would be incompatible with the surrounding natural and built environment.
17. Chapter VI Section 2.E. of the Charlotte Subdivision Bylaws provides the following standard: "There is sufficient water available for the foreseeable needs of the proposed development without impacting on existing water supplies.
18. Chapter VII Section 3.B. of the Charlotte Subdivision Bylaws provides the following standard: "If the proposed subdivision is to be serviced by individual

- wells, the subdivider shall provide evidence of the location and availability of potable water in adequate quantities as determined by the Planning Commission.”
19. Several water wells that were drilled on and in the vicinity of the subject parcels did not provide sufficient yields for residential use. This issue is discussed in minutes of previous hearings involving the subject parcels, and both the applicant and Nicholas Cowles and Peter Swift affirmed this at the hearing on June 3rd.
 20. The Towns of Charlotte and Shelburne, the Shelburne Water Commission and 11 Charlotte property owners entered into a Settlement Agreement in 1996, recorded in volume 88 page 456 of the Charlotte Land Records, allowing service to 12 parcels in Charlotte from the Shelburne municipal water system. The applicant owns the parcel labeled “Lot 2-1”, which was owned by Peter and Deborah Swift, who are parties to the Settlement Agreement.
 21. The map referenced in the Settlement Agreement was not recorded in the Charlotte Land Records, and the Settlement Agreement does not specify which of the applicant’s lots (Lot 1 or Lot 2) is allowed to be connected to the Shelburne water system. Currently the barn on Lot 1 (in the existing lot configuration) is connected to the Shelburne water system. The Subdivision Modification application proposes to reconfigure the lots so that the barn will be located on Lot 2. The applicant proposes to obtain water for the dwelling (under construction) on Lot 2 from the Shelburne water system, and to obtain water for Lot 1 from a drilled well (not yet installed).
 22. The applicant has discussed amending the Settlement Agreement with the Charlotte Selectboard and the Shelburne Town Manager to specify that Lot 2 may be served by the Shelburne water system, and the Lot 1 will not be served. Both towns indicated that they are conceptually in agreement with such an amendment, and would be willing to take up the matter once the Planning Commission has ruled on the current application.
 23. At the hearing on July 15th the applicant provided a letter dated July 9, 2004 from Robert Frost of Vermont Well & Pump to the Charlotte Planning Commission, which describes wells that have not produced adequate water (Crandall and Blake) and wells that are adequate (Ten Stones, Patenaude, and Pecor). The letter states that in the opinion of Mr. Frost “there is a good probability that a well drilled to 800 to 1,000 feet on the Crandall property will produce adequate water for a single family residence.”
 24. The proposed wastewater system for Lot 1 is located on Lot 2. The Town’s wastewater consultant has indicated the plans are acceptable. The applicant has also received a State wastewater system and water supply permit (WW-4-2120).
 25. The applicant has received an Access Permit from the Charlotte Selectboard.

Decision

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

1. The survey plat will be amended as follows:

- A. The proposed building envelope on Lot 1 will be reconfigured so that the southern boundary of the building envelope is shifted 75 feet to the north so that it is 150 feet from the southern property line, and the eastern boundary of the building envelope is shifted 40 feet to the east so that it is 110 feet from the eastern property line.
- B. The approved building envelope for Lot 2 will be added to the plat.
2. A mylar (18" x 24") of the survey as amended in Condition 1 above will be submitted to the Planning Commission for review within 60 days, and recorded in the Town Land Records within 90 days.
3. No dwelling units or accessory structures will be constructed outside of the building envelopes depicted on the approved survey plat.
4. The finished grade within the building envelope on Lot 1 shall be no higher in elevation than the crown of Orchard Road where the driveway serving Lot 1 intersects with Orchard Road.
5. Prior to establishing any new connections to the Shelburne Water System serving the subject property, the Settlement Agreement will be amended specifically allowing Lot 2 to connect to the system and restricting Lot 1 from connecting to the system.
6. Prior to the conveyance of Lot 1 survey pins will be set as indicated on the survey, and wooden stakes will be set at the corners of the building envelope.
7. Prior to the submission of Zoning Permit for Lot 1 for any development, the applicant or heir or assign shall drill a well that provides a yield of at least one gallon per minute.
8. With the conveyance of both Lot 1 and Lot 2, the applicant shall provide an easement for the wastewater system and force main serving Lot 1, which is located on Lot 2.
9. All new utility lines serving either Lot 1 or Lot 2 will be underground.
10. The driveway for Lot 1 will be surfaced with non-white crushed stone.

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.

You and any interested parties are entitled to appeal this decision to the Environmental Court within 30 days of the date of 4th signature below approving this decision, as per requirements of 24 VSA Chapter 117, Sections 4471 and 4475.

Members Present at the Public Hearing on May 24th: Gordon Troy, Linda Radimer, Robin Pierce and John Owen.

Members Present at the Public Hearing on June 3rd: Jeff McDonald, Gordon Troy, and Robin Pierce and John Owen.

Members Present at the Public Hearing on July 15th: Jeff McDonald, Al Moraska, Jim Donovan, Gordon Troy, and Linda Radimer.

Members Present at the Public Hearing on July 29th : Jeff McDonald, Al Moraska, Jim Donovan, Gordon Troy, Linda Radimer and Robin Pierce.

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:_____
- 2. Signed:_____ For / Against Date: _____
- 3. Signed:_____ For / Against Date:_____
- 4. Signed:_____ For / Against Date:_____
- 5. Signed:_____ For / Against Date:_____
- 6. Signed:_____ For / Against Date:_____
- 7. Signed:_____ For / Against Date:_____