

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

Lawrence F. Johnson

Final Plan Hearing For A Two-Lot Subdivision and Planned Residential Development Application # PC-09-30

Background

The Planning Commission held a Sketch Plan Review for the proposed subdivision on January 15, 2009, and classified the project as a Minor Subdivision.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

The Planning held a public hearing for this application on December 3, 2009. The Planning Commission continued and re-warned for January 21, 2010 as a Final Plat Hearing for a 2 lot Planned Residential Development. Lawrence Johnson and Louise Johnson were present at both meetings. No other interested parties were present or submitted written comments to the Planning Commission regarding the application.

Regulations in Effect

Town Plan amended March, 2008

Land Use Regulations amended March, 2009

Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant owns a 17 acre parcel and an adjacent 19.9 acre parcel; both are located within the Rural District. These parcels were Lot #5 and Lot #4, respectively, of a subdivision by Lawrence Johnson which the Planning Commission approved on June 25, 1985.
2. Three single family dwellings and several outbuildings are currently located on the 17 acre parcel.
3. Prior to the re-warned hearing on January 21, the applicant submitted a revised survey by Ronald LaRose entitled "plat showing a subdivision of Lawrence F. & Louise B. Johnson, Lewis Creek Road, Charlotte, Chittenden County, Vermont" dated July 21, 2009, revised 12/22/09.

4. The application proposes to create two lots from the 17 acre parcel. Lot A is to be 14.5 acres and is to include two of the existing single family dwellings and several outbuildings. Lot B is to be 2.5 acres and is to include an existing single family dwelling.
5. Although two dwellings are proposed to be located on Lot A, and therefore they will be non-conforming structures with regard to Section 3.6 of the Land Use Regulations (“Regulations”), the dwellings already exist and so are “grand-fathered” under the provisions of Section 3.8 of the Regulations.
6. The application will make the dwelling on Lot B conforming by locating it on its own lot.
7. The application proposes to create lots where development has already occurred; so the application will not create any impacts on areas of high public value on or adjacent to the parcel.
8. The proposed layout uses the provisions of Chapter VIII of the Regulations (Planned Residential and Planned Unit Development). These provisions allow Lot B to be less than five acres.
9. Chapter VIII, Section 8.4(C)(1) of the Regulations requires 50% of the parcel be designated as open space.
10. The applicant executed and recorded a Grant of Development Rights and Conservation Restrictions (“Conservation Easement”) to the Charlotte Land Trust in June, 2003, which is recorded at volume 140 page 68 of the Charlotte land records. The Conservation Easement was not associated with a subdivision of this or any other parcel.
11. The Conservation Easement restricts 6.2 acres of Lot A and all 19.9 acres of the adjacent parcel owned by the applicant.
12. The proposed plat depicts a building envelope of a ½ acre on Lot B, located in the vicinity of the existing dwelling. The building envelope functions to restrict development from the remaining two acres of Lot B.
13. The Conservation Easement and the building envelope function to create 8.2 acres of open space (on Lots A and B), which amounts to 48% of the two lots combined.
14. An additional three tenths (.3) acres needs to be designated as open space in order to meet the 50% requirement of Section 8.4(C)(1) in Chapter VIII of the Regulations.
15. Lot B is proposed to be 2.5 acres, which is 2.5 acres less than the five acre minimum lot size and density requirement per dwelling unit in the Rural District. Therefore, the density of Lot A must be reduced by 2.5 acres. The Conservation Easement functions to reduce the density of Lot A in this manner.
16. Schedule A of the Grant includes a description of the restricted area, which indicates that the restricted area includes all land between the east and west boundary on the northern portion of Lot A.
17. The depiction of the restricted area on the submitted plat differs significantly from the description in Schedule A.
18. The three existing dwellings on the parcel are each served by three existing wastewater systems.
19. The Town’s wastewater consultant reviewed the subdivision plan and test pits and indicated in a memo dated 10/5/09 that there is sufficient space for replacement disposal systems to serve each of the residences. He also indicated that, pending the submission of easement language for the well, the wastewater disposal plan can be approved.
20. The Town’s wastewater consultant reviewed proposed easement language and indicated in a memo dated 1/11/10 that it is sufficient for permitting.

21. The applicant obtained a Wastewater Disposal and Potable Water Supply permit (WW-138-0921) on January 21, 2010. The permit approves three replacement wastewater disposal areas for the three existing dwellings on the two proposed lots, and deeded easements for the existing well and water lines that serve the two proposed lots.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed two-lot subdivision planned residential development with the following conditions:

1. The survey plat (with revision date of 12/22/09) will be further revised as follows:
 - A. The Charlotte Land Trust conservation easement will be depicted as including all land between the eastern and western boundary in the northern portion of Lot A, to create an approximately 6.2 acre restricted area.
 - B. The recording reference of the conservation easement will be added.
 - C. The dimensions of the building envelope on Lot B will be added.
 - D. An additional three tenths (.3) of an acre will be designated as “open space” on Lot A.
 - E. A new revision date will be added.
2. One paper copy (11”x 17”) and one mylar (18” x 24”) of the revised plat will be submitted to the Planning Commission for review and signature within 160 days. The applicant will record the signed mylar in the Charlotte Land Records within 180 days.
3. Prior to the submission of the mylar in accordance with Condition 2 above, the applicant will submit a letter from the surveyor indicating he has set the survey markers or pipes in the field as indicated on the plat. If the survey markers or pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that he will set the markers or pins when the ground thaws and has been paid to do so.
4. The deed conveying Lot B will include water easement language as submitted with the application.
5. Any deed conveying Lot A will include corresponding water easement language.
6. No new pole-mounted light fixture will be taller than 8’ off the ground, and no new building-mounted light fixture will be taller than 15’ off the ground. Fixtures will be shielded to direct light downward, and will not direct light onto adjacent properties or roads, and will not result in excessive lighting levels that are uncharacteristic of the neighborhood.
7. All new utility lines will be underground.
8. All new driveway and roadway sections shall be surfaced with non-white crushed stone.

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 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 December 3, 2009: Jeff McDonald, Jim Donovan, Linda Radimer, Eleanor Russell, Paul Landler

Members Present at the Public Hearing on January 21, 2010: Jeff McDonald, Jim Donovan, Linda Radimer, Eleanor Russell, Paul Landler, Peter Joslin

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

The following items were submitted with the application:

- 1. An application form submitted on October 6, 2009.
- 2. Fees were waived by the Selectboard on December 8, 2008.
- 3. A survey by Ronald LaRose entitled “plat showing a subdivision of Lawrence F. & Louise B. Johnson, Lewis Creek Road, Charlotte, Chittenden County, Vermont” dated July 21, 2009, no revision.
- 4. A memo from Ronald LaRose to Lawrence Johnson dated December 23, 2009.
- 5. A draft warranty deed from Lawrence F. Johnson and Louise B. Johnson to Robert Enos and Janey L. Enos.