

RECEIVED FOR RECORD
 This 14th day of December A.D. 2018
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 recorded in vol. 236 on page 55-58
[Signature] Town Clerk

CHARLOTTE PLANNING COMMISSION
 SUBDIVISION REVIEW
 FINDINGS OF FACT AND DECISION

Gill Barlow

Final Plan Application for a Boundary Adjustment between 4100 and 4190 Mount Philo Road
 Application # PC-18-162-BA

Introduction and Procedural History

This proceeding involves the review for a Boundary Adjustment submitted by Gill Barlow for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as "the Regulations"). The application was received on September 13, 2018. A notice of public hearing was published in "The Citizen" newspaper on October 11, 2018. A hardcopy of the notice was mailed to all adjoining landowners and was further posted at the following three locations: the Town Office Building, the Brick Store, and Spear's Corner Store on October 5, 2018. An electronic notice of the hearing was posted on the Town website meeting calendar.

The application proposes to adjust acreage between the adjoining properties located at 4100 and 4190 Mount Philo Road. A Sketch Plan Review letter (**PC-17-139-SK**) was issued from the Planning Commission on December 7, 2017 after one public hearing, which took place on November 2, 2017. A six-month extension of the Sketch Plan Review letter was granted by the Planning Commission at their meeting on March 1, 2018 where it was updated with guidance pertaining to a potential Highway Access Permit.

The Planning Commission attended a site visit on Saturday October 28, 2017 (prior to the Sketch Plan Review meeting held on November 2, 2017), which included Commissioners: Peter Joslin (Acting Chair), Charlie Pughe, Richard Eastman, Marty Illick, and Gerald Bouchard. Additional participants of the public meeting included the applicants Gill Barlow and Molly McClaskey; and neighbors Gary Pittman and Michael Russell (who represented the neighbor of the northern abutting parcel, Jill Wolcott).

The Boundary Adjustment application was considered by the Planning Commission at a public hearing held on November 1, 2018 at approximately 7:05 PM. Present at the public hearing were the following members of the Planning Commission: Peter Joslin (Chair), Gerald Bouchard, Richard Eastman, Charlie Pughe, Marty Illick, David Kenyon, and Shawn Coyle. Additional participants and attendees included: the Town Planner; the applicants Gill Barlow and Molly McClaskey; neighboring property-owners Jill Wolcott and Louis Lavin; and others.

Exhibits

The following exhibits were submitted for the application:

1. Completed application form signed by Gill Barlow on September 12, 2018;
2. Proposed survey map: "Boundary Line Adjustment – Property of Gill Barlow – 4100 & 4190 Mount Philo Road – Charlotte, VT" (dated August 31, 2018) by Rebecca Gilson, No. 109314, Civil Engineering Associates, Inc., South Burlington, Vermont;

3. Sketch Plan Review; Planning Commission Letter (PC-17-139-SK Barlow), dated March 16, 2018 (*Revised from December 7, 2017*);
4. *Map Slide 15, Book 3, Page 30*; Survey - "Property of Caroline Doane" to convey 10.05 acres to Gill & Dorothy Barlow (dated: 15 Nov 1978 / Revised 14 Dec 1978) by Charlies R. Dunham, No. 216, Civil Engineering Associates, Inc., Shelburne, Vermont;
5. Charlotte Land Records – Volume 71 Pages 13-14 (July 13, 1992) View Easement (and Plan-View map) "*to enable the present and future Owners of Parcel 2 develop and maintain a view over the lands of Parcel 3 by cutting trees on the lands of Parcel 3 and controlling the location of structures within . . .*" granted by Caroline V. Doane; Volume 59, Pages 427-434 (June 2, 1989) Conveyance of 13.43 acre Parcel No. 1 from Doane to Barlow, notwithstanding certain protective covenants contained in a prior deed; Volume 36, Pages 93-96 (December 13, 1978) Conveyance of 10.01 acre Parcel No. 2 from Doane to Barlow, with covenants: "*1. No lot may be subdivided, nor shall any duplex, commercial apartment building or the like be erected on any lot. 2. Each lot shall only be for residential purposes. No building, dwelling or any other structure shall be erected on any lot., 3. No house trailers or mobile homes of any kind shall be allowed on or erected on any lot. These covenants do not have an expiration date.*"; Volume 28, Pages 332-332A (November 29, 1963) Conveyance of 34.61 acre parcel from Davis to Doane (with map);
6. Planning Commission Minutes from meeting held on *November 1, 2018*;

Regulations in Effect

Charlotte Town Plan, 2018

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Findings

Background

1. Gill Barlow owns two adjoining properties located at 4190 Mount Philo Road (**Lot 1**; to the south) and 4100 Mount Philo Road (**Lot 2**; to the north) within the Rural Zoning district (RUR).
2. This application (scaled down from what was proposed within the *PC-18-139-SK Sketch Plan Review*) proposes to adjust acreage from **Lot 2** to **Lot 1**, where: **Lot 1** changes from 13.338 acres to 13.293 acres, and **Lot 2** changes from 9.956 acres to 10.001 acres.

7.2 General Standards - Areas of High Public Value

1. Primary Agricultural Soils (Prime and Statewide - PAS): About 7.7 acres of the central portions of both parcels comprise Primary Agricultural soils, according to the *USDA Natural Resources Conservation Service (NRCS) GIS database*.
2. Steep Slopes (>=15%): The western half of both properties are within sloped areas of 15-25% and Greater than 25% slope.
3. Wildlife Habitat: *Significant Forest Habitat* exists in the western wooded portion of both parcels, comprising about half of **Lot 1**, and 2/3 of **Lot 2**. An area of about one (1) acre of *Significant Linkage Habitat* exists along the western property boundary of **Lot 1**, where 0.4 acres exists along the northeastern property boundary of **Lot 2**.

4. Water supply source protection areas (SPAs) – The entirety of the parcel falls within the surface water source protection area for the Champlain Water District.
5. Scenic Views and Vistas: Mount Philo Road is classified as a “*Most Scenic Public Road*” within the Charlotte Town Plan.

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. . .”

1. The existing lots do not have a designated building envelopes, nor does the proposed survey indicate the creation of any building envelopes for **Lots 1** or **2** (see Exhibit 2 above).
2. The Planning Commission had advised the applicant during the Sketch Plan Review (see Exhibit 3 above) that building envelopes should be created to protect the *Significant Forest Habitat* on the western wooded portion of the property.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a Boundary Adjustment 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, 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 update the survey plat to indicate:
 - a. A 0.8 acre sized building envelope around the existing house and accessory structures on **Lot 2**.
 - b. A 1.1-acre building envelope around the existing house site and any surrounding structures or impervious surfaces on **Lot 1**.
3. Prior to the submission of the mylar to the Planning Commission, the applicant shall submit a letter from the surveyor indicating that he or she has set the survey pins in the field as indicated on the survey.

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 November 1, 2018: Peter Joslin (Chair), Gerald Bouchard, Richard Eastman, Charlie Pughe, Marty Illick, David Kenyon, 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>Marty Illick</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: <u>12.13.18</u> |
| 2. Signed: | <u>Charlie Pughe</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: <u>12.13.18</u> |
| 3. Signed: | <u>Gerald A. Bouchard</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: <u>12/14/2018</u> |
| 4. Signed: | <u>Richard Eastman</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: <u>12/14/2018</u> |
| 5. Signed: | _____ | For / Against | Date Signed: _____ |
| 6. Signed: | _____ | For / Against | Date Signed: _____ |
| 7. Signed: | _____ | For / Against | Date Signed: _____ |