

**CHARLOTTE PLANNING COMMISSION
SUBDIVISION REVIEW
FINDINGS OF FACT AND DECISION**

John and Lisa Hauenstein

**In re: Final Plan Application for a Minor Subdivision Amendment for 6373 Spear Street Extension
Application # PC-18-36-SA**

Introduction and Procedural History

This proceeding involves the review of an application for a Minor Subdivision Amendment submitted by John Hauenstein for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as “the Regulations”). The application was received on March 12, 2018. A notice of public hearing was published in *The Citizen* newspaper on April 12, 2018. Hardcopy notices were mailed to all of the adjoining landowners on April 18, 2018; and posted at the following three locations: the Town Office main entrance bulletin board, the Old Brick Store, and Spear’s Corner Store on April 12, 2018. Electronic notice was posted on the Charlotte Town website calendar.

A site visit to the property was undertaken during the previous subdivision proceeding in 2017 (**PC-17-85-SD**).

The application was considered by the Planning Commission at three public hearings:

1. On May 3, 2018 at approximately 7:45 PM, attended by Commissioners: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Richard Eastman, Marty Illick, Gerald Bouchard, and Shawn Coyle. Additional participants included the applicants John and Lisa Hauenstein; the Town Planner; and neighbor representative Dan Pfaster who read a letter (dated April 23, 2018) into the record from Jeff and Gayle Finkelstein opposing the project. The hearing was continued to obtain a legal opinion regarding possible Conditional Use and Site Plan Review for the project.
2. On June 7, 2018 at approximately 7:30 PM, attended by Commissioners: Charlie Pughe (Acting Chair), Gerald Bouchard, Marty Illick, and Richard Eastman; and applicant John Hauenstein. The hearing was continued.
3. On June 21, 2018 at approximately 7:45 PM, attended by Commissioners: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, David Kenyon, Shawn Coyle, and Richard Eastman; and applicant John Hauenstein. The hearing was closed.

Exhibits

1. Application Exhibits for a Minor Subdivision Amendment, including: **A.** PC-18-36-SA application form submitted by John Hauenstein, **B.** State of Vermont – Division for Historic Preservation – Letter of eligibility for listing in State Register of Historic Places for 1850 Classic Cottage house and six outbuildings including the c.1850 carriage barn proposed for rehabilitation – RE: Duplex Conversion of Carriage Barn and Site Improvements, John Hauenstein, Charlotte, VT. Act 250 Land Use Permit #4C0698 series, signed by the State Historic Preservation Officer, Laura V. Trieschmann (dated May 16, 2018);
2. *Map Slide 194, Page 5*; A boundary survey of the proposed of 2-lot subdivision; “2 Lot Subdivision Plat Showing Lands of John Hauenstein – 6373 Spear Street, Charlotte, Vermont” (updated

- September 28, 2017) by Christopher A. Haggerty (LS #741), Button Professional Land Surveyors, South Burlington and St. Albans, Vermont;
3. Planning Commission Decision: In Re: John and Lisa Hauenstein request for a Minor Subdivision/PRD for 6300 and 6373 Spear Street – Permit Application No. PC-17-85, Approved by the Planning Commission: September 8, 2017;
 4. Public Comment Letter from the Jeff and Gayle Finkelstein opposing the proposed project (dated April 23, 2018);
 5. State of Vermont – Act 250 - Land Use Permit Amendment (#4C0698-5), dated December 1, 2014, authorizing the subdivision of a 30.8 acre parcel into two lots from the purpose of constructing a solar farm on Lot #2 of the subdivision, where the construction of a single family home or commercial use on Lot #2 was not authorized until a permit amendment is issued for such purpose, signed by the Vice Chair of the District #4 Commission, Marcy Harding;
 6. Charlotte Land Records – Volume 233, Pages 173-175 (dated May 21, 2018) State of Vermont – Act 250 - Land Use Permit – Administrative Amendment (Case #4C0698-5A) authorizing construction of a two-family residence (duplex) inside an existing carriage barn on Lot 10b (aka Lot2), signed by the District #4 Coordinator, Stephanie H. Monaghan; Volume 229, Pages 432-436 (dated July 28, 2017) 20' wide easement and license agreement to install, repair, maintain, and replace wastewater force main under Spear Street for the wastewater disposal field on Lot 13 to benefit Lot 10b;
 7. Planning Commission Minutes from meetings held on *June 21, June 7, and May 3, 2018; October 28, 1986* (Re: Lewis Creek Farms Subdivision, Michael Brown Application for revision of Armen Heights from 6 Lots down to 3 Lots); *September 10, 1974* (Re: Armem Heights [sic.] Subdivision, Mary E. Martin Application for >10 acre subdivision approved 16 Sep 1974 subject to conditions, including District Environmental Commission – Act 250 approval);

Regulations in Effect

Charlotte Town Plan, 2018

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Findings

1. John and Lisa Hauenstein own a 16.96 acre parcel (*otherwise known as Lot 10b, or Lot 2 in Act 250 proceedings*) located at 6373 Spear Street (on the southern side of the road) primarily within the Rural Zoning (RUR) district, and partially within the Conservation (CON) district that buffers the Lewis Creek, which is located along the southern area of the property. 11.1 acres of the parcel were included within an Open Space Agreement (OSA) with the town, which is recorded in the Charlotte Land Records (*Volume 230, Pages 432-440*).
2. This application has been submitted as a Minor Subdivision Amendment to a previously approved 2-Lot Minor Subdivision/PRD decision (i.e. **PC-17-85-SD**) undertaken in 2017, and seeks to convert the existing historic carriage barn into a two-family duplex. However, Condition #3 of Planning Commission decision **PC-17-85-SD** stated:

“This decision does not approve Lot 10b for a residential use. Any future development of Lot 10b, including a change of use from its current agricultural designation, will require the approval of the Planning Commission in a future application.”

3. The property has been subject to an Act 250 permit since its original subdivision in 1974. As of 2014, it was not authorized for residential development (see **Exhibit 5** above). However, a permit amendment (see **Exhibit 6** above) issued by District #4 on May 21, 2018 authorized the landowner to develop a two-family residence within the historic carriage barn.
4. The historic carriage barn has a reported dimension of 42' x 56' that is connected to a 56' x 78' two-story post and beam hay and milking barn with a 16' x 28' milk house. Built circa 1850, the barn (in addition to other structures onsite) was determined eligible for listing within the *State Register of Historic Places* by the Vermont Division for Historic Preservation (VDHP) on May 16, 2018 (see **Exhibit 1B** above).

3.2 Road, Driveway and Pedestrian Access Requirements

1. According to the Planning Commission meeting minutes, access to the property has been proposed (into the barn) between the silo and the eastern structure, with parking on Spear Street Extension within the 50' front yard setback. The Planning Commission has expressed concern over the safety of this aspect of the proposal.
2. Currently there is no approved Highway Access Permit for Lot 10b. However, there is a farm access that traverses along the eastern side of the carriage barn and leads to the back of the structure.
3. The Charlotte Road Commissioner has undertaken an initial site visit to the property to determine the optimal location for driveway access to the property, and has suggested that it should be built in a location west of the barn, with possible trimming (or removal) of the cedar hedges on the adjoining property (Lot 10a) to the west.
4. The driveway to be constructed should be consistent with the 1997 "*Recommended Standards for Developments and Homes*".

7.2 General Standards - Areas of High Public Value

The Areas of High Public Value (AHPV) have been previously identified on the property in Planning Commission decision **PC-17-85-SD** (see **Exhibit 3** above). The status of the following AHPVs have since been updated.

1. Historic Districts, Sites, and Structures: The historic carriage barn has a reported dimension of 42' x 56' that is connected to a 56' x 78' two-story post and beam hay barn and a 16' x 28' milk house. Built circa 1850, the barn (in addition to other structures onsite) was determined eligible for listing within the State Register of Historic Places by the Vermont Division for Historic Preservation (VDHP) on May 16, 2018 (see **Exhibit 1B** above).
2. Conserved Land on Adjacent Parcels: There are currently 19.3 acres in an Open Space Agreement with the Town as a result of subdivision **PC-17-85-SD**; 11.1 acres on Lot 10b and 8.2 acres on the westerly adjoining Lot 10a. All of the open space land exists along the southern portions of the two properties along the Lewis Creek (see **Exhibit 2** above).

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a Minor Subdivision Amendment subject to the following conditions:

1. Parking currently on Spear Street shall be moved out of the front yard setback as per the Findings of 3.2 above.
2. Maintain the historic character of the Barn in consultation with Vermont Division of Historic Preservation.
3. Lot 10b shall not be further subdivided.
4. No accessory dwellings will be created on Lot 10b.
5. Prior to conveyance of, or issuance of the Certificate of Occupancy for proposed duplex, the applicant shall:
 - a. Submit a plan for a driveway location that will be approved by the Road Commissioner, or develop a shared-use agreement to utilize the existing driveway on the adjoining property to west.
 - b. Apply for a Highway Access Permit with the Charlotte Selectboard, as per the Findings of 3.2 above.
6. The driveway to be constructed shall be consistent with the 1997 "Recommended Standards for Developments and Homes".

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 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 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 Hearings on May 3, June 7, and June 21, 2018: listed above within the "Introduction and Procedural History" section.

Vote of Members after Deliberations: The following is the vote for or against the application, with conditions as stated in this Decision:

1. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>8/2/18</u>
2. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>8/2/18</u>
3. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>8/2/18</u>
4. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>8/2/18</u>
5. Signed:		<input checked="" type="radio"/> For / <input type="radio"/> Against	Date Signed:	<u>8-2-18</u>