

CHARLOTTE TOWN CLERK'S OFFICE

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This 23rd day of September A.D. 2019
at 10 o'clock 0 minutes A in and
recorded in vol. 239 on page 259
Attest Charlie Proutt Town Clerk

CHARLOTTE PLANNING COMMISSION
SUBDIVISION REVIEW
FINDINGS OF FACT AND DECISION

Charlie Proutt and Eileen Schilling
Final Plan Application for a Boundary Adjustment for 2109 Greenbush Road
Application # PC-19-115-BA

Introduction and Procedural History

This proceeding involves the review for a Boundary Adjustment submitted by Charlie Proutt for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as "the Regulations"). The application was received by the Charlotte Planning & Zoning Office on July 19, 2019. A notice of public hearing was published in "The Citizen" newspaper on July 25, 2019. A hardcopy of the notice was mailed to all adjoining landowners on July 29, 2019 and was posted at the following three locations: the Town Office Building, the Brick Store, and Spear's Corner Store during that week. An electronic notice of the hearing was also posted on the Town website meeting calendar.

The application proposes to adjust the acreage between two adjoining parcels located at 2109 Greenbush Road. A Sketch Plan Review letter (**PC-19-22-SK**) was issued from the Planning Commission on May 10, 2019 after one public hearing, which took place on April 4, 2019. The Sketch Plan Review was a re-submission of an expired Sketch Plan Review application and resultant letter dated April 27, 2018 (i.e. **PC-18-12-SK**). The site visit to the property took place during those proceedings on March 15, 2018 at approximately 6:00 PM.

This Boundary Adjustment application was considered by the Planning Commission at a public hearing held on August 15, 2019 at approximately 7:05 PM. Present at the public hearing were the following Planning Commissioners: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Marty Illick, Jim Faulkner, Gerald Bouchard, and Shawn Coyle. Additional participants and attendees included the Town Planner and the applicant Charlie Proutt.

Exhibits

The following exhibits were submitted for the application:

1. Completed application form signed by Charlie Proutt and Eileen Schilling, received on July 19, 2019;
2. Proposed draft survey map: "Final Plat – Boundary Adjustment – Property of Charles P. Proutt and Eileen M. Schilling – 2111 Greenbush Road, Charlotte, Vermont" (dated: August 2018) prepared by Stuart J. Morrow, Consulting Land Surveyor, Shelburne, Vermont;
3. Sketch Plan Review; Planning Commission Letter (PC-19-22-SK Proutt-Schilling), dated May 10, 2019;
4. Map Slide 112, Clip 3, Page 13; Survey - "Plat of survey showing sub-division of Joseph & Adrian L. Gentile property – Greenbush Road, Charlotte, Vermont" (dated: March 1998) by Warren A. Robenstein, No. 48, Reg. VT & NH L.S., Winooski, Vermont;

5. Map Slide 59, Volume 8, Page 16; Survey - "Charles P. Proutt and Eileen Schilling - Charlotte, Vermont – Subdivision and Boundary Adjustments" (dated: August 1987) by Fred C. Koerner, C.E., No. 5, Burlington, Vermont;
6. Charlotte Land Records – Volume 100, Pages 225-226 (June 1, 1998) Warranty deed conveyance from Gentile to Proutt and Schilling, referenced in Map Slide 112 (see **Exhibit 4** above);
7. Planning Commission Minutes from meeting held on August 15 and April 4, 2019; and September 22 and September 8, 1987;

Regulations in Effect

Charlotte Town Plan, 2018

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

Vermont Agency of Natural Resources, Wastewater System and Potable Water Supply Rules, 2019

Findings

Background

1. Eileen M. Schilling and Charles P. Proutt own a *46.19 acre* property located at 2109 Greenbush Road, comprising three parcels: **Lot 2A** (surveyed at *5.461 acres*); and **Lot 1A** (estimated to measure an un-surveyed *+/-41 acres*).
2. Each of the two aforementioned properties exist within the Town of Charlotte Rural Zoning district (RUR). A sliver area of the Conservation Zoning district (CON) exists along the western boundaries of **Lot 1A**.
3. This application proposes to adjust acreage between **Lot 2A** (the '*residential parcel*') and **Lot 1A** (the '*nursery parcel*'); where **Lot 2A** decreases from 5.46 acres to 5.02 acres, and **Lot 1A** would be adjusted to an estimated un-surveyed *+/-41 acres*. The reason for the adjustment is that over time, the cultivation areas of the larger '*nursery parcel*' overgrew into the smaller '*residential parcel*' (i.e. **Lot 2A**). The intent of this application is to realign the overgrown areas into the '*nursery parcel*'.

7.2 General Standards - Areas of High Public Value

The following Areas of High Public Value (AHPV) were identified on the properties:

1. Land in active agricultural use: The property is utilized as a nursery and gardens for a business and is not currently enrolled in the Vermont Agency of Natural Resources (ANR), Use Value Appraisal (UVA) "Current Use" program.
2. Primary Agricultural Soils (Prime and Statewide - PAS): Most of the parcel comprises Statewide soils. However, there is about 5.1 acres of Prime Agricultural Soils existing within the northern-central portion of the property, and about 3.8 acres of Prime Agricultural Soils that run along the western boundary of the property (according to the *USDA Natural Resources Conservation Service (NRCS) GIS database*).

3. Steep slopes (>=15%) – The property has areas of 15-25% slope and >25% slope exist along the eastern boundary of the property abutting US Route 7 (according to VCGI elevation data).
4. Flood hazard areas: The property is within "Area of Minimal Flood Hazard" in the FEMA National Flood Hazard Layer (NFHL).
5. Surface Waters, Wetlands, and associated buffer areas: Possible Class II wetland may exist within the area of the proposed boundary adjustment (identified within Vermont Significant Wetlands Inventory – VSWI). However, the proposed boundary adjustment would not impact any potential wetland (according to the Vermont Department of Environmental Conservation's *Vermont Significant Wetlands Inventory (VSWI)*).
6. Wildlife Habitat: About 11.5 acres of *Significant Forest Habitat*, about 7 acres of *Significant Linkage Habitat*, and about 2 acres of *Persistent Shrubland Habitat* exist along the eastern wooded portion of the property. About 7.2 acres of *Significant Aquatic Habitat* has been identified in areas throughout the parcel (according to the "Charlotte Significant Wildlife Habitat Map and Database").
7. Historic Districts, Sites, and Structures – Historic Site #0403-49 (The Jensen Residence, built c.1810) exists on the abutting parcel to the west. The site was listed on the State Historic Register on April 9, 1980.
8. Scenic views and vistas – US Route 7 abutting the property to the east is a 'Scenic Highway' and Greenbush Road abutting to the west is a 'Most Scenic Road' (according to the 2018 Charlotte Town Plan). Substantial screening exists between the roads and the property under review; especially from US Route 7.

7.2(C) General Standards – Lot Layout

"Irregularly shaped lots (e.g., with curves, jogs, doglegs; excessively rectilinear, etc.) shall not be created unless warranted by topography, surface waters, or to avoid the fragmentation of significant natural or cultural features."

1. Although a slightly irregular shape of the **Lot #2A** is proposed, the Planning Commission finds that no significant development is proposed and that the proposed Boundary Adjustment would not cause any undue adverse impact upon any of the identified Areas of High Public Value.

7.6 Water Supply & 7.7 Sewage Disposal

1. According to the Vermont ANR, Wastewater System and Potable Water Supply Rules (e.g. **§ 1-304 Permit Exemptions**), a Boundary Line Adjustment would be exempt from the permitting requirements if "the lot is reduced in size by no more than 2 percent". However, **Lot #2A** is proposed to be reduced by approximately 8.1%.
2. An exemption from permitting requirements is also possible if the Agency of Natural Resources determines that the proposed Boundary Adjustment "will not have an adverse effect on any existing potable water supply or wastewater system on the affected lots".

3. The applicant should verify with the Charlotte Zoning Administrator if there are any permitting requirements that would need to be met resulting from this Boundary Adjustment.

Decision

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for the 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:
 - a. Submit a letter from the surveyor indicating that he or she has reset the survey pins in the field as indicated on the survey.
 - b. Verify with the Charlotte Zoning Administrator that any water supply and wastewater permitting requirements have been met for the purpose of the Boundary Adjustment approval.

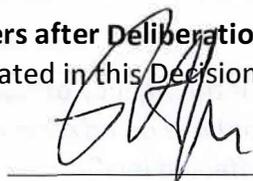
Additional Conditions: All plats, plans, drawings, documents, testimony, evidence, and conditions listed above or submitted at the hearing and used as the basis for the Decision to grant the permit shall be binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed 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 August 15, 2019: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Marty Illick, Jim Faulkner, Gerald Bouchard, 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:



For/ Against

Date Signed: 9/19/2019

- | | | | | |
|------------|------------------------|--|--------------|------------------|
| 2. Signed: | <u>Gerald A. Roush</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>9/19/2019</u> |
| 3. Signed: | <u>[Signature]</u> | <input type="radio"/> For / <input checked="" type="radio"/> Against | Date Signed: | <u>9/19/2019</u> |
| 4. Signed: | <u>[Signature]</u> | <input checked="" type="radio"/> For / <input type="radio"/> Against | Date Signed: | <u>9/19/2019</u> |
| 5. Signed: | _____ | For / Against | Date Signed: | _____ |
| 6. Signed: | _____ | For / Against | Date Signed: | _____ |
| 7. Signed: | _____ | For / Against | Date Signed: | _____ |