

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

**Robert and Nancy Bloch; and Ian and Katherine Ian Karczewski  
Final Plan Application for a 2-lot Minor Subdivision Amendment for  
1188 Whalley Road  
Application # PC-20-27-SA**

**Introduction and Procedural History**

This proceeding involves the review of an application for a 2-Lot Minor Subdivision Amendment submitted by Robert and Nancy Bloch for approval under the Town of Charlotte Land Use Regulations (hereafter referred to as “the Regulations”) for their property and that of their neighbor-owners (Ian and Katherine Karczewski), located on 1188 Whalley Road. The application was received on March 6, 2020 and was originally scheduled for a public hearing to be held sometime during April of 2020. However, the scheduled Planning Commission meeting was cancelled due to the 2020 coronavirus pandemic and the Governor’s associated public health advisories. A new hearing was scheduled for May 21, 2020 via the “Zoom” teleconferencing application. Hardcopy notifications for the public hearing were mailed to all adjoining landowners and were posted on the Charlotte Town website calendar, and at the following three locations: the Town Offices at 159 Ferry Road, the Post Office bulletin board in the West Charlotte Village, and Spear’s Corner Store in the East Charlotte Village. A public notification was published in *The Citizen* newspaper on April 30, 2020.

The site visit to the property took place on the morning of Saturday November 23, 2019 (as part of the Sketch Plan Review proceeding **PC-19-194-SK**), and was attended by commissioners Peter Joslin, Charlie Pughe, Jim Faulkner, and Gerald Bouchard; and property-owner Robert Bloch. Two public hearings for the proceeding were held for the Sketch Plan Review on November 21, 2019 (attended by commissioners Peter Joslin, Charlie Pughe, Jim Faulkner, Gerald Bouchard, and Shawn Coyle) and on December 5, 2019 (attended by commissioners Charlie Pughe, Jim Faulkner, Gerald Bouchard, Marty Illick, and Dave Kenyon). At the latter Sketch Plan Review hearing, the Planning Commission classified the project as a 2-Lot Minor Subdivision Amendment.

The Subdivision Amendment application for this proceeding was considered by the Planning Commission at the public hearing held on May 21, 2020 at approximately 7:05 PM via remote teleconference. Present at the public hearing were the following members of the Planning Commission: Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and Bill Stuono. Additional participants and attendees included: the applicant Robert Bloch, neighbor Robert Shapiro (of Whalley Road), his attorney Liam Murphy, another neighbor Ian Karczewski (recent owner of one of Bob Bloch’s lots), the Town Planner, and others (see the meeting minutes from May 21<sup>st</sup>).

**Exhibits**

Application Exhibits for the proposed development included:

1. Completed application form signed by Robert and Nancy Bloch, received on March 6, 2020;

2. Letter signed by Ian Karczewski, authorizing the Subdivision Amendment proposed by Bob Bloch (received by the Planning & Zoning Office on 19 May 2020);
3. Letter signed by Robert E. Shapiro (of 1256 Whalley Road) addressed to Peter Joslin, Chair of the Charlotte Planning Commission (dated: 19 May 2020), RE: PC-20-27-SA Bloch – Subdivision Amendment for the property located at 1188 Whalley Road;
4. Proposed draft survey map(s): “Preliminary Plat – 2 Lot Minor Subdivision Amendment – Property of – Robert and Nancy Bloch – 1188 Whalley Road – Charlotte, Vermont” (dated: March 2020) by Stuart J. Morrow, Consulting Land Surveyor, PLLC, Shelburne, Vermont;
5. Planning Commission Decision (**PC-07-06** Bloch); “Findings of Fact and Decision In Re Application of Robert and Donna Stearns - Final Plat Hearing for a Two-Lot Major Subdivision – Application PC-07-06”, approved 2007;
6. Sketch Plan Review; Planning Commission Letter (**PC-19-194-SK** Bloch), dated January 16, 2020;
7. Sketch Plan Review; Planning Commission Letter (**PC-06-34** Bloch), dated November 17, 2006;
8. Map Slide 158, Page 5; Survey - “Final Plat – Minor Subdivision – Property of – Robert and Nancy Bloch – Charlotte, Vermont” (dated Feb 2006 / Updated 22 Mar 2007) by Stuart J. Morrow, Consulting Land Surveyor (No. 565), Shelburne, Vermont;
9. Map Slide 9, Book 2, Page 43; Survey - “Portion of – William Whalley Estate – To James Wanner – Charlotte, Vermont” (dated Sept. 11, 1975) by Harold N. Marsh (No. 30), Drown & Marsh, Inc., Waitsfield, Vermont;
10. Wastewater System and Potable Water Supply Permit – Completed Application Form (Case Number: WW-138-0802) – Robert and Nancy Bloch, 1188 Whalley Road, Charlotte, VT 05445 (WW/WS Designer: William D. Norland, C.P.G. (#381-BW), signed by applicant on February 29, 2020;
11. Charlotte Land Records – Volume 149, Page 42 (7 May 2004) Conveyance of 13.6 acres from Gersun/Kuhl to Bloch; Volume 127, Pages 203-204 (3 Jul 2002) Conveyance of 13.6 acres from Wanner to Gersun/Kuhl; Volume 33, Page 298 (22 Sep 1975) Conveyance of 13.6 acres from the Estate of William Whalley to Wanner; Volume 23, Pages 42 (6 Sep 1928) Conveyance of 50 acres from T.C. and Cara Whalley to William Thomas Whalley;
12. Planning Commission Minutes from meetings held on *May 21, 2020 (Final Subdivision hearing)*; *December 5 and November 21, 2019 (Sketch Plan Review)*; *April 19, 2007*; and *October 19, 2006*;

### **Regulations in Effect**

Charlotte Town Plan, 2019

Charlotte Land Use Regulations, 2016

Recommended Standards for Developments and Homes, 1997

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

### **Findings**

Background

1. At 1188 Whalley Road within the Rural Zoning district (RUR), Robert and Nancy Bloch own the southerly 5.6 acre property known as **Lot #2**, which adjoins the northerly 7.83 acre **Lot #1** that was recently purchased by Ian and Katharine Karczewski from Robert and Nancy Bloch.
2. This application proposes to adjust the property boundary between the two lots, to adjust a 0.66 acre portion from **Lot #2** to **Lot #1**, thereby reducing the irregular-shape of their shared property boundary. Hence, **Lot #1** would be reduced from 7.83 acres to 7.17 acres, where **Lot #2** would be increased from 5.6 acres to 6.26 acres.

### 3.2 Road, Driveway and Pedestrian Access Requirements

In accordance with **Section 3.2** of the Regulations, all roads, driveways, and intersections shall be designed and constructed in accordance with the Town of Charlotte *“Recommended Standards for Developments and Homes”* (adopted September, 1997), to include;

- *“All driveways 500’ or more in traveled length shall have a turnaround at the house site large enough to accommodate 3 emergency vehicles at one time (Approx. 1,600 sq. ft.)”*
  - *“All Driveways longer than 800’ will have vehicle turn-outs (12’ wide x 35’ long) near the halfway point or every 800’.”*
- A. The submitted survey plat (see **Exhibit #4**) demarcates a proposed turn-out on **Lot #1**, along the western side of the driveway. This standard has been met.
  - B. The construction of the vehicle turnout should be completed as a condition for granting a Certificate of Occupancy for **Lot #2**.

### 7.2 General Standards - Areas of High Public Value

The following Areas of High Public Value (AHPV) have been identified on the property:

- A. Primary Agricultural Soils: Prime and Statewide (PAS): The property is composed mostly of Prime Ag soils located along the northern parcel, and Statewide soils on the southern parcel. (according to the *USDA Natural Resources Conservation Service (NRCS)* GIS database).
- B. Surface Waters, Wetlands, and associated buffer areas: Although Class II Wetlands were not identified upon the property during the last subdivision proceeding in 2006-2007, the Planning Commission from that era had required that the Class III wetlands on the property should be mapped and hence protected as an *Area of High Public Value*. The plat recorded in 2007 (see **Exhibit 8**, above) includes the field delineated Class III wetlands along with a driveway and easement design that reasonably mitigated impact upon the identified wetland. The 2007 decision (see **Exhibit 5**, above) does remain in effect, and where it was suggested at the May 21, 2020 public hearing (see in **Exhibit 12**, above) by the neighbor Robert Shapiro (see **Exhibit 3**, above) that these wetlands should be re-mapped; and while the Planning Commission feels it is advisable and encourages the applicant(s) to do so; the Planning Commission will not require it as a condition for the approval of the subdivision amendment.

- C. Wildlife Habitat: The entire property comprising **Lots #1** and **#2** has been identified as *Significant Forest Habitat*, according to the “Charlotte Significant Wildlife Habitat Map and Database”.
- D. Water Supply Source Protection Areas (SPAs): About 2.4 acres of the northern parcel **Lot #1** along Whalley Road is within an active Surface Water Source Protection Area known as the “West Wind Water System” Surface Water Protection Area (System ID: VT0005557).

#### 7.2(C)(5) 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...”*

The proposed subdivision amendment would adjust the property boundaries into more regular-shaped lots, thereby increasing their degree of conformance with the Regulations. The boundary adjustment does not fragment any *Areas of High Public Value*.

#### 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, unless waived in accordance with Section 6.2. .”*

1. The submitted survey plat (see **Exhibit #4**) includes the building envelope for **Lot #2** that was approved in the 2007 decision and indicated in its recorded plat (see **Exhibits #5** and **#8**, respectively). A building envelope was not created for **Lot #1**, although it should have been in accordance with the 2006 Land Use Regulations. However, as there are no new proposed lots to be created for this proceeding, the Planning Commission may not require the creation of a building envelope for **Lot #1** (see the Reconsidered decision for **PC-18-162-BA** Barlow, recorded in *Volume 237, Pages 225-229* of the Charlotte Land Records).
2. Neither the 2007 plat, nor the submitted survey plat indicates the measured area for the existing building envelope for **Lot #2**. The acreage for the existing building envelope for **Lot #2** should be added to the submitted survey plat.

#### 7.6 Water Supply / 7.7 Sewage Disposal

A completed application form for an amended wastewater system and potable water supply permit WW-138-0802 (see **Exhibit 10**, above) has been submitted to the Town Health Officer for approval.

#### **Decision**

Based on the foregoing Findings of Fact and Conclusions, the Planning Commission approves the application for a “2-Lot Minor Subdivision Amendment”, subject to the following conditions:

1. The construction of the vehicle turnout should be completed as a condition for a Certificate of Occupancy for **Lot #2**, as per **Finding 3.2(B)**.
2. Prior to the submission of the mylar to the Planning Commission, the applicant shall:

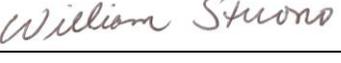
- a. Submit a letter from the surveyor indicating that he or she has reset the survey pins in the field as indicated on the survey.
- b. Revise the survey plat to include:
  - i. A note indicating that the subdivision amendment is in accordance with Planning Commission decision ***PC-20-27-SA***, as recorded in the Charlotte Land Records including its *Volume* and *Page* number.
  - ii. The acreage for the existing building envelope for **Lot #2**, per **Finding 7.2(E)(2)**.
  - iii. The updated location of all designated wellheads, wastewater infrastructure (including the footprint of all mounds, septic tanks, and replacement areas), and any required easements for their access for both **Lots #1** and **#2** in accordance with the approved amendment to the wastewater system and potable water supply permit, per **Finding 7.6 / 7.7**.

**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. In accordance with H.681 (*An act relating to government operations in response to the COVID-19 outbreak*), **this approval shall expire if the mylar for the survey is not filed and recorded in the Charlotte land records within 180 days, or 90 days after the date that the declared state of emergency ends.**

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 May 21, 2020:** Peter Joslin (Chair), Charlie Pughe (Vice Chair), Gerald Bouchard, Marty Illick, and Bill Stuono

**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:	15 Jun 2020
2. Signed:		For / Against	Date Signed:	15 Jun 2020
3. Signed:		For / Against	Date Signed:	15 Jun 2020
4. Signed:		For / Against	Date Signed:	15 Jun 2020
5. Signed:	_____	For / Against	Date Signed:	_____