

**TOWN OF CHARLOTTE  
PLANNING COMMISSION  
MINUTES  
APRIL 11, 1995**

**MEMBERS PRESENT:**

Chairman Gill Barlow  
Dana Farley  
Al Moraska  
Bill Schroeder

**MEMBERS ABSENT:**

Dave Brown  
Tom Mackin  
Dan Raabe

**OTHERS:**

Roger Kohn  
George Aube  
Malcolm Willard

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The meeting was called to order by Chairman Barlow at 7:45 P.M. in the Charlotte Town Hall.

The March 28, 1995 minutes were reviewed. It was noted that corrections would need to be made. The March 28 minutes were not approved at this time.

**AUBE SUBDIVISION**

The Attorney, Roger Kohn, was present to represent Mr. and Mrs. Aube. Kohn showed a plat of the parcel and he said that no development was proposed. Kohn said they were drawing lines to give land to go with the houses on the property. He explained the various lots and it was noted that one lot will remain in agriculture. Kohn said the applicants want to have a deferral permit for the ag lot. Kohn said the proposal is the same as what was presented in Sketch Plan and the parcels around the existing buildings have not been changed.

Moraska questioned the lot configuration of the lot for the property on the south side of the road. He asked why it continued in a long straight line. Kohn said the line started with an existing fenced in area and continued. It was noted that the land became very steep and was unsuitable for building. Kohn also said the straight line produced a regular shaped lot. There is a level area and they want to make a regular sized 10 acre parcel. There was a discussion of the drop-off. Aube described the land as being mostly meadow and how it is steep down to the meadow. Moraska asked about the acreage of the lot behind the line. Kohn said that parcel represents the rest of the farm and there is lots of acreage.

Moraska noted that the regulations do allow the creation of ag lots but he added there are some restrictions which apply. Farley inquired about the size of the proposed ag lot. Kohn

said it is 10.1 acres and it is intended to go with the rest of the farm. Schroeder asked about the use of the ag lot. Kohn said the plan is for it to be part of the Aube Farm. Schroeder asked if the plat says that the parcel is not intended as a building lot. Kohn said it could either be a condition of the approval or written on the plat. There was mention of creating a right of way and it was noted that they can't do anything until they return to the Planning Commission. Kohn explained that the land is now commonly owned and that it will be deeded in separate names.

Farley said the new ag regulations need to be figured out. She added that the 10 acre lot size makes it look as if it is intended as a building lot. Kohn said the size was so the state doesn't need to be involved. Chairman Barlow said it was important to look at the lot configuration to see if it is significant as an ag lot or if it is marginal, to decide how the Planning Commission will deal with it. Barlow reviewed the regulations and he read Section 13.2 on page 26. It was noted that one of the requirements for an ag lot is that it be 25 or more acres. Another criteria would be that the parcel is entered in the Ag Stabilization Program.

Kohn said it is important that the application was filed before the new regulations. He added that the intent is to put the parcel in the ag stabilization program but this has not been possible. Kohn referred to page 29, Section 4 of the Regulations which says that the Planning Commission has the right to waive certain requirements. Chairman Barlow suggested they peel the apple a little more slowly. He said this is a minor subdivision where one lot is being divided into two lots. Kohn mentioned whether this should be considered under the new or old regulations. Chairman Barlow said this was discussed. Kohn said they had been advised it would be to the applicant's benefit to bring the application in under the new regulations. Moraska asked if some things could be conditional to the approval. Chairman Barlow reminded people this was the final hearing.

Barlow asked about septic. He asked if any of the dwellings were constructed before March 1973. One of the houses was constructed before this date. It was asked if the six requirements have been reviewed. Kohn said yes and showed a paper regarding this dwelling. He said the septic is working. Chairman Barlow asked if the septic has been checked. Aube said he assumed Spencer Harris had checked the septic and that they haven't had any problems. Farley asked if anything had been received in writing. Aube shook his head in the negative. Chairman Barlow said he had a feeling Harris has reviewed it and he looked for a letter. Barlow added that it is a particularly nice piece of land and he would like to make it work and that it is important to make an effort to meet requirements.

Chairman Barlow returned to Section 13.2 of the Regulations and he said they need to deal with the 25 acre issue or the Ag Stabilization Program issue. Barlow said boundaries are not an issue and that there is a right of way. He said it is clear that the owner understands there is no existing right to build without coming back to the Planning Commission. Chairman Barlow said the Plat must clearly indicate the lot does not have a sewage disposal unit. Kohn said that will be put on the Plat. Moraska wondered whether acceptance to the Ag Stabilization Program could be used as a condition. Kohn reminded the Planning Commission

that they have the right to waive the requirements. Chairman Barlow asked what would justify such a waiver. Kohn said the parcel is near the remainder of the farm. Chairman Barlow inquired about the neighboring parcels. It was noted that the piece is contiguous with parcels currently being hayed and used for agricultural purposes.

Kohn said another justification is that the proposal was granted Sketch Plan Approval.. Moraska stressed the point that on this kind of issue, consistency is critical to the successful implementation of the Regulations. Kohn questioned the purpose of the regulation. Schroeder said it follows logically that the parcel should stay in the same ownership as the farm.

Farley reviewed the minutes of the Sketch Plan. Kohn suggested a condition of the approval could be that the ag parcel be included under the same ownership as the main farm. It was noted that the surrounding parcels to the proposed ag parcel are not entered in the Ag Stabilization Program. Aube said the land is not mowed across boundaries and that there is a hedgerow separating the parcel. Schroeder restated his point that it would make sense to include the ag parcel as part of the main farm and it was determined that the applicant is willing to accept that as a condition of approval.

Chairman Barlow stated his concern that the requirement as written in the Regulations is based on parcel size. He said he is concerned about that as a policy. Minute-taker Reid inquired about the Ag Stabilization Program and whether the 10.1 ag parcel would need acceptance on its own or whether it would be included as additional acreage with the rest of the farm. It was believed that the parcel would be included with the rest of the farm. Aube said all of Lot 3 is part of the Ag Stabilization Program and hopefully, this lot would go along with it. Kohn said there would be no problem accepting a condition that Aube apply for the parcel to be admitted to the Ag Stabilization Program. Chairman Barlow said he does not want an undesirable precedent set in the first hearing which relies on this part of the regulations. Kohn said the proposal had been approved in Sketch Plan. Chairman Barlow reminded Kohn that there is no such thing as Sketch Plan Approval. Kohn agreed that the ag lot would be under the same ownership as the rest of the farm.

Schroeder asked if the lot can be approved as an Open Space lot. Chairman Barlow said that is a possibility but an Open Space Agreement would need to be signed.

There was mention of the septic requirements for the lots. Moraska said there have been some deferrals in the past.

Kohn said they want an approval and suggested that approval be granted with the condition that a letter from the State be submitted saying that the parcel will be accepted in the Ag Stabilization Program. Farley said she is more comfortable if the condition says the parcel is accepted in the program rather than just applied for. Schroeder said the rule states that such a parcel must be currently in the program. Chairman Barlow said if the parcel is not accepted, then development rights are waived. Kohn said this was not acceptable and the applicant wants the right to return to the Planning Commission for further discussion.

Chairman Barlow said part of the condition is to have a signed plat. Kohn suggested that the whole thing would be done at once. He said the approval will be contingent upon successful participation in the program and if in some event that doesn't take place, the lot can not be further built on but it can then be merged again to the adjacent lot. Kohn also requested that the motion say that the program be applied for and accepted but may not always be part of the program.

Chairman Barlow said there are two motions and he recommended they get the north side taken care of. It was noted that the only issue hanging is that a septic tank will be pumped. Schroeder read through the requirements. He asked about the water supply. It was noted there was a right of way.

Barlow moved and the motion was seconded by Moraska:

**\*"APPROVAL OF A FINAL TWO LOT SUBDIVISION ON THE NORTH SIDE OF CARPENTER ROAD OF AN APPROXIMATELY 15.2 ACRE PARCEL: LOT 1 BEING 10.1 ACRES, LOT 2 BEING 5.1 ACRES WITH AN EXISTING HOUSE AS SHOWN ON A MAP ENTITLED PLAT OF SUBDIVISION, ESTATE OF ROLAND J. AUBE CARPENTER ROAD, CHARLOTTE, VERMONT BY A.W. HARRIS AND ASSOCIATES LAST REVISED, REVISION 2, 5/5/94, WITH THE FOLLOWING CONDITIONS:**

- 1. LOT 2 HAVE THE SEPTIC TANK PUMPED IN THE PRESENCE OF THE ZONING ADMINISTRATOR AND,**
- 2. THAT THE ZONING ADMINISTRATOR ADMINISTRATIVELY DETERMINE THAT THE EXISTING LEACH FIELD SHOW NO SIGNS OF SURFACING EFFLUENT.**
- 3. THAT LOT 1 BE APPLIED FOR AND ACCEPTED INTO THE THE STATE AGRICULTURAL STABILIZATION PROGRAM AND/OR TOWN PROGRAM WITHIN 6 MONTHS OF THE FINAL SIGNING OF THE PLAT. IN THE EVENT THAT DOES NOT OCCUR, A RESIDENCE MAY NOT EVER BE CONSTRUCTED ON THAT LOT. HOWEVER, IN THE EVENT THAT THE PARCEL DOES NOT GET ACCEPTED INTO THE PROGRAM, THE APPLICANT MAY APPLY TO THE PLANNING COMMISSION FOR A MERGING OF LOT 1 AND LOT 2.**
- 4. THE FINAL SIGNATURE OF THE PLAT SHOWS THAT THE PLAT SUBMITTED FOR SIGNING DOES NOT HAVE APPROVED SEWAGE DISPOSAL CAPACITY AND THAT INFORMATION BE SHOWN ON THE DEED OF THE LAND.**
- 5. A LETTER FROM THE STATE BE OBTAINED BEFORE THE FINAL FILING OF THE PLAT STATING THAT THE PARCEL QUALIFIES FOR THE AG STABILIZATION PROGRAM.**

Vote: 4 in favor, 3 absent (Brown, Mackin, Raabe)



Kohn requested that the minutes indicate that if the parcel gets into the program and is taken out at a later date, it is not a violation of the condition.

There was a discussion regarding the other parcel. The parcel is 110 acres. Chairman Barlow looked through the Regulations. It was noted that Lot 3 has a dwelling with a septic system on it. It was mentioned that the Zoning Administrator needs to sign off on the septic. There needs to be a State or Town approved system. Chairman Barlow said there needs to be drawings or the Zoning Administrator has to sign off and that this must be taken care of.

Chairman Barlow asked if there was anything else on the list which should be taken care of. Schroeder asked about the water supply. Aube said there was a common, shared well. Schroeder asked if the plat should indicate anything. Chairman Barlow said that the Town Representative (Zoning Administrator) should look at it to see that the septic system does not adversely affect the well. Aube said the well gives 28 gallons per minute. It is a 280 foot drilled well which serves the farm.

It was noted that each house has its own electricity meter. It was also noted that no easements would be necessary because frontage exists on both roads.

Moraska moved and the motion was seconded by Schroeder:

**\*"APPROVAL OF A TWO LOT SUBDIVISION ON THE SOUTH SIDE OF CARPTENTER ROAD, LOT 3 OF 10.1 ACRES WITH THE REMAINING 90 ACRES ASSOCIATED WITH THE REMAINING FARM. ON LOT 3 THERE IS AN EXISTING DWELLING, ON THE REMAINING LOT THERE IS A DWELLING AND BARNES AND OUT BUILDINGS. THE APPROVAL IS CONDITIONAL THAT THE SEPTIC SYSTEMS ARE IN ACCORDANCE WITH SECTION 13 AND THAT THE ZONING ADMINISTRATOR DETERMINES THEIR FUNCTION TO BE IN COMPLIANCE WITH THE REGULATIONS.**

**LOT 3 MUST MEET TOWN STANDARDS AND ON THE REMAINING LOT THE SYSTEM MUST BE PUMPED AND CHECKED FOR SURFACING EFFLUENT. THIS MUST BE DONE BEFORE THE FINAL PLAT IS SUBMITTED FOR SIGNING."**

Vote: 4 in favor, 3 absent (Brown, Mackin, Raabe)

Chairman Barlow reminded the applicant that the plat must be filed within 90 days.

Farley mentioned that no letter of authorization had been presented for Roger Kohn to represent the Aubes. Kohn said this was not usually necessary when the applicant was present at a hearing. He added there may be special clauses when attorneys were involved. Nevertheless, he presented the Planning Commission with an authorization form signed by George Aube.

**MALCOLM WILLARD - STOCKBRIDGE LOT #5**

It was noted that this was not a warned item on the agenda. Willard said he was representing Dick and Marnie Thayer who had purchased Lot 5 from John Barth with the intent of building a home.

Willard explained that in March he came to the Town requesting a building permit and completed all the details. On Friday, March 30, he received a message that the Town required further information on the septic. Willard said apparently, in 1988 when the lot was approved, it was a condition that spring monitoring well results needed to be reviewed by the Planning Commission. Chairman Barlow said he thought the thing to do was to vest the authority to the Staff to look into this.

Willard had a request that the building permit be posted as soon as possible. Chairman Barlow said the Zoning Administrator was his own person and would need to pass judgement on whether this could be done.

Barlow moved and the motion was seconded by Farley:

**\*"ANY SUBSEQUENT APPROVALS OF SPRING MONITORING WELL RESULTS AND SOIL LOGS ON LOT 5 IN THE STOCKBRIDGE SUBDIVISION BE REVIEWED AND ACTED UPON BY THE ZONING ADMINISTRATOR FOR THE PLANNING COMMISSION."**

Vote: 4 in favor, 3 absent (Brown, Mackin, Raabe)

**OTHER BUSINESS**

Farley said Secretary Warden had inquired about how the Planning Commission was dealing with Thompson's Point. It was noted that the Design Review Board has been appointed. Bill Schroeder showed the minutes of the meeting. He said that Peter Bergh, Jonathan Fairbank and Robin Price were selected to be on the Board. Farley said that Warden was wondering about the process in order that she would be able to direct people who came in with requests.


It was noted that the Regulations address what should happen. Schroeder read this part of the Regulations. Applicants must obtain conditional approval from the Zoning Board of Adjustment and then their proposals will be informally reviewed by the Design Review Board. It was felt that the members of the Design Review Board should get together to figure out how they will handle it. Chairman Barlow said he felt this was a Zoning Board of Adjustment issue and that Planning Commission input would be upon request only. Schroeder said the Design Review Board's role seemed something like Sketch Plan Review to him. Chairman Barlow suggested that the people selected are duly notified of their appointment.

Chairman Barlow noted that a Transportation Forum is coming up. He said he thinks it is important for someone to be there because issues involving Route 7 are sure to come up.

Chairman Barlow said that Representative Gerald Krasnow had requested that there should be a way to waive the fees on original lots so a farmer doesn't have to pay the fees for both lots. There was a discussion of the fee schedule. Chairman Barlow said the Planning Commission doesn't make these decisions. He would prefer to write a letter to Moe Harvey regarding this matter.

Farley said such a policy could reduce the revenues substantially. Schroeder said he didn't think farms should be carved out for special treatment and suggested reapportioning the fee schedule. Chairman Barlow said it shouldn't be considered unless it was very restricted. He said there could be significant ramifications for a number of lots unless it's limited to specific instances like a working farms or done on a case by case basis by the Board of Selectmen.

Minutes Submitted by:  
Robin Reid

APPROVED BY THE CHARLOTTE PLANNING COMMISSION  
  
\_\_\_\_\_  
Chairman

25 APRIL 95  
\_\_\_\_\_  
Date

PLANNING COMMISSION MEETING

DATE

April 11, 1995

PLEASE PRINT NAME AND ADDRESS (If you would like to receive copies of the minutes of this meeting, be sure to list your MAILING ADDRESS.)

Roger E. KOHN, P.O. Box 340 HINESBURG VT 05461

George R Aube Box 1309-1 Hinesburg VT 05461

MALCOLM WILLARD 39 NOR HILL WILFESTON VT 05495 -



Town of Charlotte  
Planning and Zoning Office  
P.O. Box 119  
Charlotte, VT 05445

March 22, 1995

Burlington Free Press  
Classified Advertising  
191 College Street  
Burlington, VT 05401

VIA FAX 862-5622

Please print the following under Legal Ads on or before Sunday,  
March 26, 1995:

TOWN OF CHARLOTTE PLANNING COMMISSION

Pursuant to Title 24 V.S.A. and the Charlotte Subdivision Bylaws, the Planning Commission will hold a public hearing on Tuesday, April 11, 1995 at 7:30 pm in the Town Offices to hear a request by George and Claire Aube for final approval of two (2) minor subdivisions on Carpenter Road. The applications are available for review during regular Planning and Zoning Office hours (425-3533).

Please send the bill to the Planning and Zoning Office. Thank you.

Sincerely,



Brian Roddy  
Zoning Administrator



Mr. & Mrs Roland R Luxenberg  
 RR 1 Box 1214 A  
 Dorset St. Ext.  
 Shelburne, Vt. 05482

Mr. & Mrs Vera Hetchins  
 RR 1 Box 1340  
 Hinesburg, Vt. 05461



Mr. & Mrs Richard Wise  
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