

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Diane & Leonard Chapman**

Owner/Applicant(s) Mailing Address: **38 New England Power Drive, Wilmington, VT 05363**

Address of the subject property: **38 New England Power Drive, Wilmington, VT 05363**

Tax Map #**005-02-002.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2013-081

Description of Case per Public Notice:

Application # 2013-081; owner: Diane & Leonard Chapman. Application being made for Subdivision review to allow Subdivision of a 16,000 sq. ft. portion of a lot to be merged with an adjoining lot; Zoning Ordinance Section 6.B & 512; location: 38 New England Power Drive.

Notice for a public hearing was published in the Deerfield Valley News on: **8/30/2013**

Notice was posted in three public places on: **8/30/2013**

A copy of the notice was mailed to the applicant on: **8/30/2013**

A copy of the notice was mailed to the abutters on: **8/30/2013**

The public hearing was held on: **9/16/2013**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Environment Court.

Appeal period for this Case expires on: October 30, 2013

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Alice Herrick, Zoning Administrator

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

EXHIBITS:

- Application (three pages)
- A Detail Map showing boundary adjustment
- B Map showing boundary adjustment
- C Abutters List
- D Notarized Letter from David and JoAnn Manning, September 8, 2013

The subject properties are in the both the Residential and Commercial Districts of the Town of Wilmington. The lots are improved with multiple structures.

1. Leonard and Diane Chapman and David and JoAnn Manning own abutting properties in Medburyville, a section of the Town of Wilmington. The Chapmans are requesting an adjustment to their property line that would reduce the existing 10 +/- acre lot by 16,000 square feet (approximately .37 acres). The adjustment would increase the Manning's abutting 2.05 acre lot (approximately 89,400 square feet) to 2.52 acres.
2. The new property line will correct the Manning's nonconforming structure by increasing the setback of the house to at least 42 feet.
3. The adjustment would reduce the Chapman's road frontage from approximately 765 feet to 725 feet and increase the Manning's road frontage from approximately 150 feet to 190 feet.
4. The access to both lots would remain unchanged.

II. The Board CONCLUDES:

With regards to the request for a subdivision with right-of-way approval the Board concludes that this proposal **will** conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

Section 6: Permitted Uses and Minimum Requirements of Districts

B. Commercial Districts

- 2. Minimum Requirements in Commercial Districts.***

Existing buildings located within the commercial district may be developed for any use allowed in the ordinance.

Multiple uses on any one parcel are unlimited in the commercial districts. Lot coverage limits set forth in the ordinance shall determine the number of new buildings permitted on a lot. All buildings and structures permitted in the Commercial District shall be erected and used in conformity with the following minimum requirements:

(a) Residential use requirements in Commercial District are the same as in Residential District.

(b) Commercial use requirements in Commercial District are:

Lot Size: *A lot used for such building or structure shall be at least one acre in area, except that accessory uses shall also be permitted on such lot.*

Set Back: *A building shall be placed on a lot at least forty (40) feet from the public road limits and forty (40) feet from any other property line.*

Frontage: *Each lot which abuts upon a public road shall have at least one hundred fifty (150) feet frontage on such public road. No land development may be permitted on lots which do not either have frontage on a public road or public waters or, with the approval of the Development Review Board access to such a road or waters by a permanent easement or right-of-way at least twenty (20) feet in width. [Subchapter 7, §4412 (3)]*

The Board finds that:

1. Both newly created lots will exceed the minimum 1 acre lot requirements.
2. The road frontage of both newly created lots will exceed the 150 feet requirement.
3. The increase to the Manning lot would correct the structure's present nonconforming status.

III. CONDITIONS:

This is granted subject to the following restrictions, requirements, limitations or specifications:

1. That in order to comply with the Zoning Bylaw, approval of this proposal shall be conditioned upon merger of the 16,000 sq. ft. piece of Lot #005-02-002.000 with the Manning property, Lot # 005-02-004.000, for tax and zoning purposes by filing a new deed with the Town Clerk which merges both parcels and that a copy of the revised deed shall be submitted to the Zoning Administrator.

Thus, the Development Review Board does **approve** the application for **Subdivision (boundary adjustment) approval to allow a 16,000 +/- square foot piece of Lot #005-02-002.000 to be merged with an adjoining lot (#005-02-002.000) in the Commercial District.**

If unused, this Approval expires 1 year from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval **does not relieve you**, as applicant, from obtaining any and ALL applicable State and other local permits.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Gil Oxley
Frank Sprague
Andrew Schindel
Nicki (Polly) Steel
Sheila Osler

OPPOSED:
none

For the Board: Polly Steel, Chairperson

Date: 9/30/2013

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.