

NORMAN C. SMITH, ESQ.

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February 14, 2012

RECEIVED

David Crawford, Village Manager
Village of Essex Junction
2 Lincoln Street
Essex Junction, VT 05452

FEB 15 2012

Village of Essex Junction

Re: Property Owner: Nancy A. Radley
Property Address: 25 South Street

Dear David:

You have asked me to render an opinion as to whether the Village of Essex Junction Trustees have the authority to enter into the Boundary Agreement I presented to you with my February 6 letter.

Section 1.06 of the Village of Essex Junction Charter specifically provides as follows:

By action of the Trustees, the Village may acquire property within or without its corporate limits for any Village purpose,... and control such property as its interest may require.

There is doubt and lack of clarity as to the amount of frontage that the westerly boundary of Stevens Park has on South Street. There are no known surveys of the Park itself, leaving the amount of frontage indefinite.

The Agreement that I have submitted simply establishes the frontage that Stevens Park has on South Street. It also clarifies the boundary between 25 South Street and the westerly entrance to Stevens Park.

Based upon the foregoing, it is my opinion that the Village Trustees have full authority to enter into the Agreement under Section 1.06 of the Village Charter.

Please let me know if the Village Trustees need any further information. My client is anxious to move forward on this matter.

Very truly yours,



Norman C. Smith

Enclosures

c: Nancy A. Radley
 Jay Pasackow

NORMAN C. SMITH, ESQ.

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February 6, 2012

David Crawford, Village Manager
Village of Essex Junction
2 Lincoln Street
Essex Junction, VT 05452

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FEB 06 2012

Village of Essex Junction

Re: Property Owner: Nancy A. Radley
Property Address: 25 South Street

Dear David:

Following up on our recent meeting, I have had a chance to review further the Essex Land Records. In the course of my Search, I have discovered two Plans which I believe will solve our problem. The first is a Plan prepared by Warren Robenstein entitled "Plat of Survey Showing Proposed 2 Lot Sub-division – Norman L. & Nancy W. Charbonneau Prop Essex Junction" dated September 12, 2003 and recorded in Map Slide 410 on the Essex Land Records. The Charbonneau's owned 11 South Street and proposed to subdivide into two lots. The Plan shows the total distance from the southwesterly corner of 11 South Street to a concrete monument marking the southeastern corner of Orchard Terrace is 827.23 feet.

The second Plan, prepared by Lawrence H. Willis, entitled "Orchard Terrace – Charles A. Petri – Developer", is dated May 20, 1965 and is recorded in Volume 71, Page 7 of the Essex Land Records. It shows a total frontage of 498.74 feet on South Street from Orchard Terrace to 29 South Street.

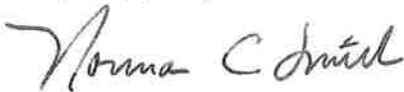
As shown on the Charbonneau Plan, 17 South Street has 99 feet of frontage, and 19 South Street has 66 feet of frontage. If we subtract these two, as well as the frontage from Orchard Terrace to 29 South Street, we are left with 163.49 feet between the southeast corner of 29 South Street and the southwest corner of 19 South Street. This leaves a balance of 163.49 feet for the frontage of 25 South Street and Stevens Park. This, divided by two, equals 81.75 feet, not exactly 85 feet, but certainly within the margin of error of measurements.

I have enclosed copies of the Plans for your reference.

I have also drafted a proposed Agreement for signature by the Village which avoids the need for a Village vote on the issue. I would hope that this would meet with everyone's needs. I am happy to meet with you, the Board of Trustees, or any other individuals in order to resolve this issue.

Thank you for your help, and I look forward to hearing from you.

Very truly yours,



Norman C. Smith

Enclosures

c: Nancy A. Radley
 Jay Pasackow

BOUNDARY AGREEMENT - Draft2/28/12

This Agreement is made by and between Nancy A. Radley, of Essex Junction, Vermont, and the Village of Essex Junction.

BACKGROUND

A. Nancy A. Radley owns the land and premises at 25 South Street by virtue of a Warranty Deed from Richard M. Granger and Barbara A. Granger dated October 15, 1999 and recorded in Volume 419, Page 279 of the Essex Land Records.

B. The Deed describes the Property that having a frontage of 49.5 feet on South Street, but indicates that the Town of Essex tax maps describe property as having a frontage of 85 feet.

C. Stevens Park is located adjacent to and east of 25 South Street.

D. The Village of Essex acquired Stevens Park by virtue of a Decree of Distribution from the Estate of Bertha F. Stevens dated November, 1973 and recorded in Volume 113, Page 160 of the Essex Land Records.

E. Neither the Decree nor prior conveyances of the property in the chain of title of Stevens Park describe the amount of frontage for the Park on South Street.

F. A review of Plans of the neighboring properties reveals that there is approximately 164 feet between the southwesterly corner of 25 South Street and the southeasterly corner of the entrance to Stevens Park.

G. The Town of Essex tax maps show both parcels have been a frontage of 85 feet on South Street.

H. The usage of 25 south Street indicates that the property was assumed to have a frontage of approximately 85 feet on South Street.

I. The parties wish to clarify that each lot has a frontage of 81.75 feet on South Street.

Now therefore, in consideration of the above, and of the conditions set forth below, the parties agree as follows:

1. Frontage of 25 South Street. The property at 25 South Street has a frontage 81.75 feet beginning at an iron pan which marks the southeasterly corner of the land and premises at 29 South Street and running in an easterly direction along the northerly boundary of the right of way of South Street to a point.

2. Frontage of Stevens Park. Stevens Park has a frontage of 81.75 feet beginning at a point the 81.75 feet from an iron pan which marks the southeasterly corner of the land and premises at 29 South Street and running in an easterly direction along the northerly boundary of the right of way of South Street to a point marking the southwesterly corner of 19 South Street.

3. Easterly Boundary of 25 South Street. The easterly boundary of 25 South Street shall begin at the southeasterly corner of 25 South Street specified in Paragraph 1 above and running in a northerly direction perpendicular to the northerly boundary of the right-of-way of South Street the distance of 190 feet to a point.

4. Complete Agreement. Except as clarified herein, all other boundaries of 25 South Street and Stevens Park shall remain the same.

Dated Essex Junction, Vermont this ____ day of February, 2012.

Nancy A. Radley

STATE OF VERMONT
COUNTY OF CHITTENDEN

At Essex Junction, in said County, on this ____ day of February, 2012, personally appeared Nancy A. Radley and she acknowledged this instrument, by her sealed and subscribed, to be her free act and deed.

Before me, _____
Notary Public

VILLAGE OF ESSEX JUNCTION

By: _____
Duly Authorized Agent