

NORMAN C. SMITH, ESQ.

76 Lincoln Street
P.O. Box 24
Essex Junction, Vermont 05453-0024
Telephone (802) 288-9088
Facsimile (802) 879-9640

February 14, 2012

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

RECEIVED

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.

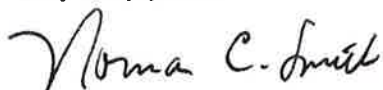
There is doubt and lack of clarity as to the amount of frontage that the westerly boundary of Stevens Park has on South Street. There are no known surveys of the Park itself, leaving the amount of frontage indefinite.

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

Chapter 221. Village of Essex Junction

HISTORY

Source. Comprehensive Revision, 1985, No. M-14 (Adj. Sess.); Amended 1989, No. M-13; Amended 1989, No. M-23 (Adj. Sess.); Amended 1991, No. M-10; Amended 1991, No. M-25 (Adj. Sess.); Amended 1993, No. M-11; Amended 1993, No. M-26 (Adj. Sess.); Amended 1995, No. M-8 (Adj. Sess.); Amended 1995, No. M-13 (Adj. Sess.).

Subchapter 1. Powers of The Village

§ 1.01. Corporate Existence

The inhabitants of the Village of Essex Junction, within the corporate limits as now established, shall continue to be a municipal corporation by the name of the Village of Essex Junction.

§ 1.02. Village Boundaries

The boundaries of the Village shall continue to be the corporate boundaries as presently established, except as hereafter altered in accordance with the requirements of applicable law.

§ 1.03. General Powers

The Village shall have all powers possible for a municipality to have under the Constitution and laws of this State as fully and completely as though they were specifically enumerated in this Charter. Except when changed, enlarged or modified by the provisions of this Charter, all provisions of the statutes of this State relating to municipalities shall apply to the Village of Essex Junction.

§ 1.04. Construction

The powers of the Village under this Charter shall be construed liberally in favor of the Village, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this subchapter.

§ 1.05. Intergovernmental Relations

The Village may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with other Vermont municipalities, the State of Vermont, any one or more subdivisions or agencies of the State, or the United States or any agency thereof.

Ch. 221

VILLAGE OF ESSEX JUNCTION

T.24 App. § 2.01

§ 1.06. Property

By action of the Trustees, the Village may acquire property within or without its corporate limits for any Village purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease, it may sell, lease, mortgage, hold, manage and control such property as its interest may require. The Village may further acquire property within its corporate limits by condemnation where such authority is granted by the statutes of the State of Vermont.

§ 1.07. Additional Powers

In addition to powers otherwise conferred upon it by law, the Village is authorized:

(a) To adopt and enforce ordinances relating to making and installation of local improvements including curbs, sidewalks, sewers, drainage systems, water systems, and streets; requiring the installation of any or all of such improvements in a manner specified by the Village as a condition precedent to the issuance of a zoning permit; apportioning part or all of the expenses of such improvements against property owners benefited thereby; providing for the collection of such assessments and penalties for nonpayment.

(b) To adopt and enforce ordinances regulating or prohibiting the use of firearms, air rifles and devices having a capacity to inflict personal injury to the extent such ordinances are consistent with State law.

(c) To adopt and enforce ordinances relating to the use, protection, care and management of all public facilities and systems of the Village.

(d) To adopt and enforce ordinances relating to marathons, bicycle races, fund raising activities and other organized events in or upon public streets and sidewalks.

(e) To adopt and enforce ordinances relating to the prevention of riots, noises, nuisances, disturbances, and disorderly assembly; to provide for the enforcement of penalties for violation and non-performance; and to require permits for use of public lands and highways.

Subchapter 2. Village Trustees

§ 2.01. Composition, Eligibility, Election and Terms

(a) **Composition.** There shall be a Board of Trustees of Five members elected by the qualified voters of the Village at large. One of the Trustees shall be elected by the voters to the office of President of the Village of Essex Junction. The President shall be the chairperson of the Board of Trustees and shall have all of the rights and responsibilities of a Trustee.

NORMAN C. SMITH, ESQ.

76 Lincoln Street

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February 6, 2012

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

RECEIVED

FEB 08 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.

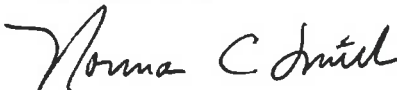
As shown on the Charbonneau Plan, 17 South Street has 99 feet of frontage, and 19 South Street has 66 feet of frontage. If we subtract these two, as well as the frontage from Orchard Terrace to 29 South Street, we are left with 163.49 feet between the southeast corner of 29 South Street and the southwest 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.

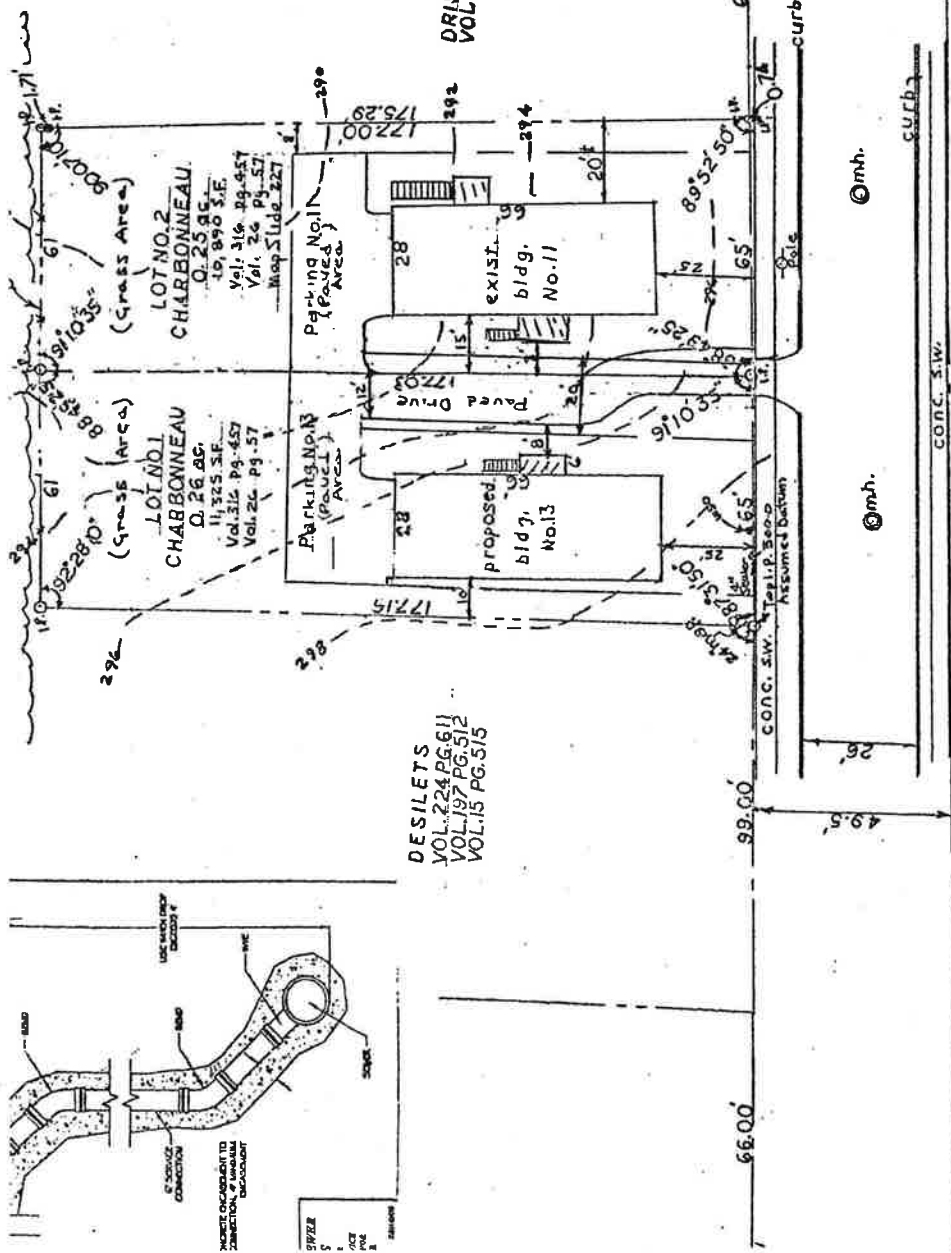
Very truly yours,



Norman C. Smith

Enclosures

c: Nancy A. Radley
 Jay Pasackow



SOUTH STREET

Approved by resolution of the Planning Commission of the Village of Essex, Vt. on the Friday of October Subject to all Requirements and conditions of the resolution.
Signed this 18 day of November, 2003

NOTES:

1. PROPERTY LINES BASED ON DEEDS, EXISTING POINTS AND ACTUAL SURVEY OF PROPERTY.
2. LOTS 1 & 2 SERVICED BY MUNICIPAL SERVICES - WATER AND SEWER, SEE TYP. FOR CONNS.
3. ELEV. ON ASSUMED DATUM.
4. SHARED DRIVE & SHARED PARKING.
5. 6' EASEMENT ON SIDE & REAR LINES.

ing Area To Have Gravel Base And
be Grassed over with Slight Slope
to North.
at Sewer Service Lines To Have
of 10 Separation.

2 LOT SUB-DIVISION

PLAT OF SURVEY SHOWING PROPOSED 2 LOT SUB-DIVISION NORMAN L. & NANCY W. CHARBONNEAU, PROP. ESSEX JUNCTION, VERMONT		SCALE: 1" = 30'	APPROVED BY WAR.	DRAWN BY WAR.
DATE: Sept 12, 2003		RECORD OWNER: Norman L. & Nancy W. Charbonneau No. 11 South St. Essex Junction, Vermont		
WARREN A. ROSENSTIEN, REG. L.S.		DRAWING NUMBER		

WARREN A. ROBSTIEN REG. L.S.

AP 71
Pg 2

Indian Acres

ORCHARD TERRACE I
ESSEX JUNCTION, VERMONT

lot 1007



Notes:
All angles are 90° 00' 00" except as noted
O - Depictes iron pin

South Street

ORCHARD TERRACE

Charles A. Petrie - Developer

Surv: R.Y. Emerson
Dee: R.Y. Emerson
Date: 20 May 1965
Un2-3416

LAURENCE H. WILLIS
consulting engineers
Shunpike Road
South Burlington, Vt.
Tr-8-4105

BOUNDARY AGREEMENT - Draft 02/06/12

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 the southwesterly boundary of 19 South Street and running in a westerly direction along the northerly boundary of the right of way to a point marking the southeast corner of 25 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 and the southwesterly of the corner of the entrance to Stevens Park and run 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

STATE OF VERMONT
CHITTENDEN COUNTY SS:

At Essex Junction, in said County, on this _____ day of February, 2012, personally appeared _____, _____ and Duly Authorized Agent of the Village of Essex Junction, and he acknowledged the foregoing instrument, by him signed, to be his free act and deed and the free act and deed of the Village of Essex Junction.

Before me, _____

Notary Public

My Commission Expires: 02/01/15