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MEMORANDUM

TO: Village Trustees
FROM: Robin Pierce, Development Director
THROUGH: David A. Crawford, Village Manager
DATE: March 9, 2012
SUBJECT: 25 South Street/Stevens Park Boundary

The Lot at 25 South Street was created many years prior to the gift to the Village of the adjacent park land in 1973. The boundaries of Lot 25 are well described in the land records. According to the Tax Map the size of the lot is 13,068 sq. ft. However this is not an accurate map for land ownership or transfer purposes. Nor can it be used as the basis for a Boundary Line Adjustment. A survey, by a Land Surveyor, licensed in Vermont, would be needed for such an action. We estimate that the lot is approximately 9,310 sq. ft. which exceeds the minimum requirement of the zoning district which is 7,500 sq. ft.

The minimum lot frontage in the R2 District is sixty (60) feet. The Lot frontage (from the Deed) is forty nine and a half (49.5) feet. It is the opinion of the Planning and Zoning Department that this Lot is a grandfathered nonconforming lot.

The major concern seems to be that the current driveway may be on Stevens Park property. If the appropriate survey is completed, there may be an opportunity for the Village to enter into a boundary line adjustment with the owner of the Lot that would equalize the amount of land exchanged. Perhaps creating a sixty (60) foot frontage on the lot, and in exchange receiving a portion of the rear of the Lot which could be folded into Stevens Park. This would enable the Lot to be consistent with zoning requirements for a new lot.

It appears from our site visit that with a 60 foot front property line the driveway would be on 25 South Street property.

This property was purchased with the current lot configuration as described in the deed. Nothing has changed since that date. While we have no legal duty to alter the perceived lot deficiencies, the Trustees may feel obliged to help with a solution. If the owner of the Lot pays for an appropriate survey, deed preparation, and filing costs perhaps the Village Trustees could waive any zoning fees for the boundary line adjustments which can be handled administratively by Staff.

We have reviewed and concur with the attached e-mail from Village Engineer Rick Hamlin.

Also attached are Tax Map Orthos and property pictures for the Board's reference.

cc Village Engineer Rick Hamlin
Village Attorney Dave Barra
Property Owner's Attorney Norm Smith

MEMORANDUM TO VILLAGE TRUSTEES Re: Stevens Park Boundary March 8, 2012

Richard F. Hamlin, P.E **[E-MAIL 3/7/2012 @3:54 pm]**

President

Donald L. Hamlin Consulting Engineers, Inc.

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Dave-

My Chief of Surveys has reviewed the information that you provided to our office and has also spent some time in the land records. Based upon his review, we offer the following:

- The lot at 25 South Street was created by taking it out of a larger parcel and the remainder of that parcel formed the lot that the Village owns, currently referred to as Stevens Park.
- The perimeter of the 25 South Street parcel is fully described in the land records.
- The frontage described in the deed for 25 South Street Parcel is 49.5'. This is much less than the frontage suggested by Attorney Smith of approximately 82'. There is no evidence in the land records that supports a frontage dimension for 25 South Street of approximately 82'.
- The land records also contain sufficient information to create the original Willey parcel and to determine what parcels were subdivided from it, including 25 South Street; the remainder of which is the Stevens Park parcel.
- Since the Village acquired the park parcel in 1973 there have been no recorded changes to the lot.
- The parcel at 25 South Street does not meet current zoning standards, but it is not in violation as it is a grandfathered parcel.
- Because the 25 South Street property limits are fully described, the use of a "boundary line agreement" as suggested by Attorney Smith would not be appropriate should the Village wish to transfer land to the current owner of 25 South Street. A boundary line agreement should only be used when the boundary between two parcels is indeterminate, which is not the case here.
- The proper method to transfer lands from one ownership to another in this case would be a "boundary line adjustment" because the boundary between the two parcels is known and fully described in the deed. A boundary line adjustment also requires both local and State approval. This process requires both field survey and the preparation of a plan depicting the proposed adjustment, a deed describing the adjustment and the related expenses.
- The use of a boundary line agreement, and the lack of required permits as would be needed for a boundary line adjustment, would actually create a cloud on the title of both parcels. Those doing record research in the future would note that the common line had been described and would look for the documentation of a boundary line adjustment and the related permits.
- In the documentation that you provided there are several references to the configuration of the two parcels as shown on the tax maps. The tax maps are not intended to be used as a basis of record for land ownership.

In summary, we have not found any information in the land records that suggests that there has been any error with regard to the creation of the parcel at 25 South Street that the Village of Essex Junction has a responsibility to correct. Should the Trustees wish to transfer some of the publicly held park property to the private parcel at 25 South Street, the proper mechanism for this to occur would be through a boundary line adjustment as described above.

Please let me know if we may be of further assistance.

-Rick