

## Patty Benoit

---

**From:** Dave Crawford  
**Sent:** Wednesday, April 11, 2012 2:18 PM  
**To:** nc.smith@myfairpoint.net  
**Cc:** Richard F. Hamlin, P.E.; David Barra; robin@essexjunction.org; george tyler; Patty Benoit (patty@essexjunction.org)  
**Subject:** Village Proposal regarding 25 South Street  
**Attachments:** Plan as agreed by Mike Magoon.pdf; Ward Plan BOT Considering 2012-04-10.pdf

Good Afternoon Norm,

This e-mail is to try to make completely clear the Village Staff's position on the current status of the 25 South Street situation.

The Village Attorney & Village Engineer both strongly feel that a court would rule that the deed description is very clear that the east property line is 90 degrees perpendicular to South Street starting at a point 3 rods (49.5 feet) from a found south western corner pin which conforms to other previously filed survey information.

The Mark Ward survey received on April 10, 2012 (but dated March 26, 2012) (attached & labeled "Plan as agreed on by Mike Magoon") correctly shows the deed described line. The Ward survey also correctly shows an "Observed Property Line" depicting the location of found pins and represents the occupation of the property. There is no prior survey depicting the "Observed Property Line" or any information as to when or who placed the 'observed pins'. The observed occupation information could be used if the deed description was not clear. It should be further noted that State law is clear that a property owner cannot gain adverse position rights over a municipality. Therefore to use the observed occupation information would not appropriate to determine the current property owners legal standing or ownership. The observed occupation information thus becomes only good reference information of the current situation in determining where a land trade property line could be established.

Based on the Ward survey received on April 10, 2012 and the above statement provided by the Village Attorney & Village Engineer, the Village Manager is prepared to recommend that the Trustees approve of an equal 'land trade' as depicted in the Ward survey attached "Ward Plan BOT Considering 2010-04-10" with the conditions described in the Managers e-mail to Norm Smith on April 10, 2012 @ 5:00 PM. The other option the owner has is to move the driveway so the bank will approve the purchase loan.

**The following is the proposal outlined in my to you in the April 10, 2012 @ 5:00 PM e-mail for ease of reference.**

The owner has 2 options using the deed based survey:

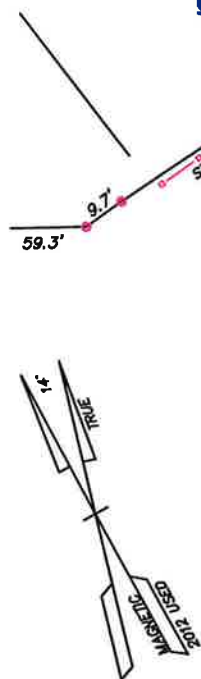
- (1) move the driveway at her cost (could be after closing by agreement of the parties); or
- (2) do an equal land trade paying all costs (including Village's) & it shall follow all State & local laws, ordinances, policies & regulations. (Norm to provide certification(s) of all required actions for Dave B. to review.) The Board has indicated it is willing to accept back land for front land of the same size as is proposed in Mark's first plan (with no reimbursement to the Village for past costs which as of all the work in the last few days are well over \$3,000. The shed would have to be moved to be on VEJ land or the new lot (it also could be after closing by agreement of the parties). Heather seems ok with the trade.

**The owner will need to provide an indication of their choice to the Village Manager by Thursday 4/12 at 4:30 PM so a Special Trustees mtg on 4/17 can be warned. The Tuesday 4/17 Trustees Mtg would allow the Friday 4/20 closing. The documents for a land trade will need to be completed by next 9:00 AM Monday (by Norm), for Dave B. & Rick H. to review them. The Trustees will review & are expected to approve them with no debate or discussion as to other alternatives at the Tuesday night Special Mtg.**

**Norm, please call me if you have any questions on this matter, we all want to get the issue resolved so that the closing can occur.**

Dave

David A. Crawford  
Village Manager  
Village of Essex Junction, VT 05452  
Office Phone: 802-878-6944  
Office E-Mail: [dave@essexjunction.org](mailto:dave@essexjunction.org)



**JOHN & BARBARA SMITH**  
VOL.184 PG.651 9/27/84  
E SURVEY ORCHARD TERRACE  
Y R. EMERSON DATED 7/21/  
RECORDED VOL.73 PG.75

**JASON CHARRON**  
W.D. VOL.510 PG.679 11/15/02  
VOL.110 PG.129, VOL.119 PG.143,146  
SEE SURVEY OF ORCHARD TERRACE  
BY L.WILLIS DATED 5/20/65  
RECORDED VOL.71 PG.7

## LEGEND

**VILLAGE OF ESSEX JUNCTION**  
**VOL.113 PG.160 11/30/73**

**BASIL & JANE HENNESSEY**  
Q.C. VOL.579 PG.435 9/19/2008  
VOL.26 PG.201, VOL.23 PG.161

BOUNDARY SURVEY FOR  
**NANCY A. RADLEY**

25 SOUTH STREET  
ESSEX JCT., VERMONT

**VERMONT LAND SURVEYORS, INC.**

P.O. BOX 115  
JERICHO, VERMONT 05465  
(802) 899-2278

I CERTIFY THAT THIS PLAT IS BASED UPON A TOTAL STATION SURVEY, PHYSICAL EVIDENCE FOUND, RECORD RESEARCH AND PLANS AS NOTED. THIS PLAT MEETS THE REQUIREMENTS OF TITLE 27 V.S.A. SECTION 1403.

**SCALE : 1 INCH = 20 FEET**

DATE	MARCH 26, 2012
SURVEYED	M.W. & B.H.
DRAWN	MARK V. WARD
CHECKED	MARK V. WARD

"PLAY AS AGREED WITH BY MIKE MAGBON"



JOHN & BARBARA SMITH  
VOL.184 PG.651 9/27/84  
SEE SURVEY ORCHARD TERRACE II  
BY R. EMERSON DATED 7/21/66  
RECORDED VOL.73 PG.75

DATE	MARCH 26, 2012
SURVEYED	M.W. & B.H.
DRAWN	MARK V. WARD
CHECKED	MARK V. WARD
	PROJECT 20123A

4/10/12 DAC "USED" DESCRIPTION PLAN - SHOULD BE USED FOR TRANSFER/SWAP