

HUNTINGTON ZONING BOARD OF ADJUSTMENT

IN RE Knox Cummins (Nils Smith as agent), 2010-07-V

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. INTRODUCTION

On July 6, 2010, the ZBA met to consider the application of Knox Cummins for a conditional use and/or variance to convert a rental property at 52-54 Bridge Street (Tax Map ID# 16-043) from a two-unit rental property to a four-unit rental property. Knox Cummins designated agent status to Nils Smith, a prospective buyer of the property. Accordingly, the application was submitted by Nils Smith. Smith proposes to develop the lot as shown in the Site Plan A-1.2 (exhibit A). A new exterior stairwell to access the upper apartments would be located on the south side of the dwelling.

The property is located in the Village District. Under the Huntington Zoning Ordinance multi-family structures of three to four units on one acre lots are conditional uses that are potentially allowable so long as the ZBA finds such structure meets conditional use criteria. *See* Art. 3.1(E)(3). Here, however, the existing structure is not in compliance with the Ordinance because the lot is only .46 acres and the existing coverage is approximately 36.4% while the maximum lot coverage under the Ordinance is 30%.

Given that the structure is currently non-complying with the current Ordinance, the ZBA finds that a variance is necessary, rather than a conditional use permit, to expand this structure to additional units. *See* Art. 5.8.3. The ZBA notes that under the prior version of the Ordinance (in existence prior to March 3, 2009) only a conditional use permit would be required under these circumstances.

In short, based on a careful consideration of all of the evidence presented, the ZBA has determined that the application has satisfied the criteria for a variance.

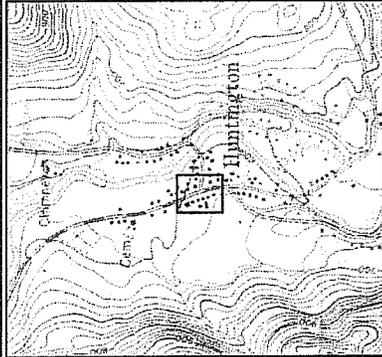
II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The ZBA finds as follows under Article 6.7 of the Huntington Ordinance:

First, there are unique physical circumstances or conditions peculiar to the property and that unnecessary hardship is due to such conditions and not the zoning regulations in general. In particular, the lot configuration is small with a large pre-existing structure.

Second, because of the unique physical conditions the property cannot be developed in strict conformity with the zoning regulations and that a variance is necessary to enable the reasonable use of the property. In particular, the existing structure is very large, perhaps one of

Exhibit A



Location Map

Burlington Community Land Trust
 31 Intervale Avenue
 Burlington, VT 05401-4202

Peter and Eleanor Marsh
 P.O. Box 169
 Huntington, VT 05462

Not Correct Location

Note:
 Site Topography is essentially flat

Lot Coverage
 7,690 sqft covered
 19,658 sqft assumed lot size
 38% coverage

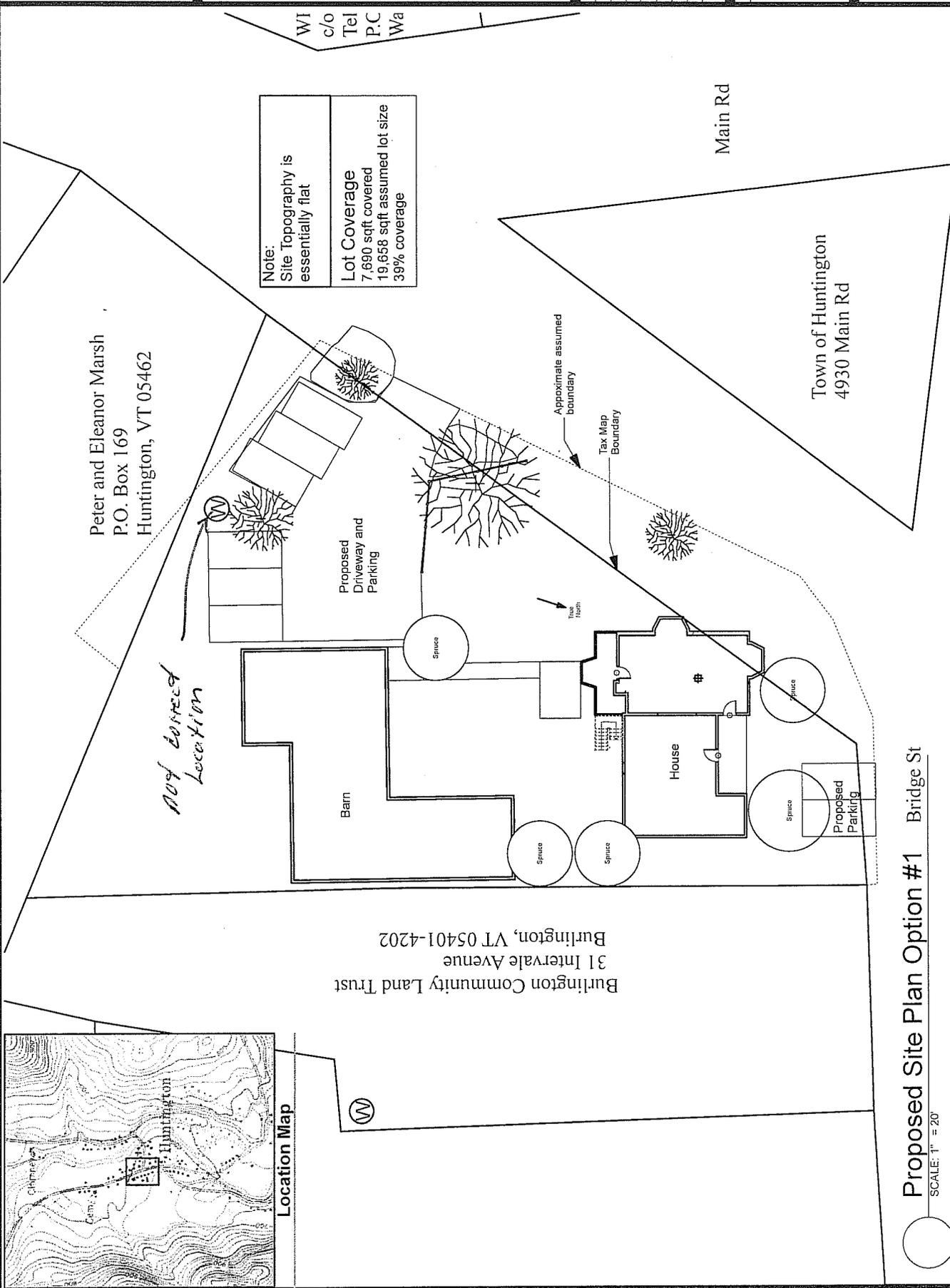
WT
 c/o
 Tel
 P.C
 Wa

RENAISSANCE BUILDERS
 1125 Bert White Rd
 Huntington VT 05462
 802.434.7359

6/10/10									

SHEET TITLE
 Proposed Option
 #1 Site Plan

A-1.2



Proposed Site Plan Option #1 Bridge St
 SCALE: 1" = 20'

the largest residences in Huntington, and utilizing the structure as a multi-family rental property is necessary for it to be economically viable to potential purchasers.

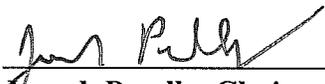
Third, the hardship here was not created by the applicant.

Fourth, the variance will not alter the essential character of the neighborhood or district and nor will it impair adjacent property or the public welfare. Evidence presented at the hearing suggests that this property has been utilized as rental property for decades and increasing the number of units from two to four would not necessarily result in more residents because the units would be smaller and there would be a cap of ten on the total residents that may reside on the entire property.

Fifth, the variance granted represents the minimum variance that will afford relief to the applicant and represents the least modification possible of the Huntington Ordinance and the Plan. The ZBA finds that a four-unit multi family dwelling is contemplated by the Huntington Ordinance and consistent with the Plan.

Pursuant to the ZBA's authority to impose conditions on variances pursuant to Article 6.7(C), the following conditions are imposed: (1) the variance will be subject to compliance with state water and septic requirements; (2) no more than a total of 10 persons may reside in the entire structure; (3) the applicant/landowner shall establish and maintain a hedge of conifers along the east/west property line starting ten feet from the edge of the road and continuing to the Marsh's barn (the initial plantings shall be at least 4 feet high); (4) the applicant/landowner shall maintain the current lot coverage at 36.4%; (5) the applicant/landowner shall require residents to park on the premises; and (6) and residents are prohibited from changing any motor vehicle fluids on the property.

Dated at Huntington, Vermont this 17th day of August, 2010.



Joseph Perella, Chair
Joseph Spence
John Altermatt
Zoning Board of Adjustment¹
Huntington, Vermont

Huntington Town Clerk's Office
Received for Record
AUGUST 18 A.D. 2010
at 10 o'clock 30 minutes A. M.
Recorded in Book 100 Page 895-896
Attest Nancy A. Gorce Town Clerk:
Asst

¹ Mark Smith has appropriately recused himself from this application as he is the father of Nils Smith.