

Town of East Montpelier

ZONING PERMIT

NOTICE

[To Be Displayed on the Property in Full View of the Public Right-of-Way]

Date Issued: October 6, 2017

Effective Date: October 21, 2017

Location: 0 US Rte. 2 ; Parcel # 10-074.120

Owner: Donald Cote

For: 0.22-acre Boundary Adjustment ; Land to be

Merged w/ Barbara Cote's Parcel # 10-074.100

Application # 17-041

Approved by: **C. Bruce Johnson, ZA**

Do not start project or commence use prior to the Effective Date. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any state or local appeal process. This application is available for inspection at the Town Office. This poster must be displayed on the property in full public view for 15 days.

APPEALS TO DRB: A notice of appeal, including the \$150 fee, must be filed with the East Montpelier Town Clerk or Zoning Administrator at the Town Office by the listed Effective Date.

WARNING: State permits may be required for this project. Contact the state Permit Specialist, at (802) 505-5367, before beginning any construction.

TOWN of EAST MONTPELIER

P.O. Box 157
East Montpelier, VT
05651-0157

C. Bruce Johnson, ZA
eastmontadmin@comcast.net
(802) 223-3313 ext. 204

October 6, 2017

Donald & Barbara Cote
c/o Jason Cote-Wong
3998 US Rte. 2
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #17-041

Dear Mr. & Mrs. Cote:

Please find enclosed the written decision of the East Montpelier Development Review Board approving your boundary adjustment application #17-041 as presented. You have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

Based on the above-referenced DRB approval I have issued East Montpelier Zoning Permit #17-041 for an 0.22-acre boundary adjustment to Donald Cote's driving range lot in favor of Barbara Cote's Carpet Barn lot. Boundary adjustments are treated like subdivision for the purposes of plat recording. You have 180 days to duly file and record a mylar copy of the approved subdivision plat with the East Montpelier Town Clerk as required by the East Montpelier Land Use & Development Regulations Section 6.6 coupled with 24 V.S.A. §4463(b). The mylar must be certified by me, the zoning administrator, as a true copy of the approved subdivision plat prior to recording.

Please understand that this permit is solely for a boundary adjustment between your two parcels as described in application #17-041. No new lot has been created by this action.

Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson
East Montpelier Zoning Administrator

**TOWN OF EAST MONTPELIER
DEVELOPMENT REVIEW BOARD**

FINDINGS & DECISION

In the matter of: Donald Cote
 0 US Rte. 2
 Parcel # 10-074.120 Tax Map # 09-00-90.130

 Barbara Cote
 3998 US Rte. 2
 Parcel # 10-074.100 Tax Map # 09-00-90.100

East Montpelier Zoning Application #17-041

INTRODUCTION & PROCEDURAL HISTORY

1. On September 13, 2017, Donald & Barbara Cote filed an application with the Town of East Montpelier for a boundary adjustment between Donald Cote's driving range parcel just to the west of Delair's Carpet Barn on US Rte. 2 and Barbara Cote's 3998 US Rte. 2 property known as Delair's Carpet Barn. The proposal is to add 0.22 acres to the Delair's Carpet Barn parcel. The size of the driving range parcel would decrease from 7.58 acres to 7.36 acres and the Carpet Barn parcel would increase from 1.72 acres to 1.94 acres.
2. The properties in question are located in the Commercial District – Zone A, where the minimum lot size is 1 acre. Due to the somewhat non-conforming and intermixed uses on the two parcels along with the affiliated ownership interests, the East Montpelier Zoning Administrator determined that the boundary adjustment request would require approval from the Development Review Board.
3. A public notice was duly published in the Times Argus on September 16, 2017 for a hearing, which was conducted on October 2, 2017.
4. Representatives for the applicants, Jason Cote-Wong and Kris Jurentkuff, and Zoning Administrator Bruce Johnson appeared and participated in the October 2, 2017 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the October 2, 2017 hearing were Curtis, Dworkin, Lane, Kappel, Cueto, Welch, Watson, and Hill.

FINDINGS OF FACT

1. Donald Cote is the owner of a group of developed and undeveloped parcels on the south side of US Rte. 2 in the neighborhood of Delair's Carpet Barn, one of which is a 7.58-acre parcel with a golf driving range. Barbara Cote owns the 1.72-acre parcel at 3998 US Rte. 2 known as Delair's Carpet Barn. Donald & Barbara Cote together own an abutting parcel at 4014 US Rte. 2. The proposal is to add 0.22 acres to the Delair's Carpet Barn parcel. The size of the driving range parcel would decrease to 7.36 acres and the Carpet Barn parcel would increase to 1.94 acres.
2. The property is located in Zone A – the Commercial District, where a conforming lot requires 1 acre and 150 feet of road frontage. Both lots meet the lot standards before and after the boundary adjustment.
3. Due to affiliated ownership interests and concern with intermixed and potentially non-conforming uses on the parcels, the East Montpelier Zoning Administrator declined to act on the boundary adjustment on his own authority, which is the normal methodology under East Montpelier Land Use & Development Regulations Section 6.1, and set the application for DRB review. The DRB accepts this jurisdictional shift and will review the application for conformance with the regulations.
4. The section of the driving range lot that will be transferred to the Carpet Barn lot has been properly surveyed.
5. The applicants are pursuing the boundary adjustment to allow for potential future additions/adjustments to the development of the Carpet Barn parcel due to the ramifications of the recent addition of river corridor protection to the East Montpelier Land Use & Development Regulations. There are no current plans for alterations to the Carpet Barn parcel. The reasons for the boundary adjustment are not technically relevant to this determination.
6. The applicants understand that the boundary adjustment with land transferred from the driving range parcel to the Carpet Barn parcel is the only allowable result of this application. The 0.22-acre sliver of land at issue is not and can never be a separate lot.

CONCLUSIONS

The standards for the issuance of a boundary adjustment permit are set forth in Sections 6.1 of the East Montpelier Land Use & Development Regulations. It is found that the standards in have been reviewed, and the proposed boundary adjustment meets all applicable requirements.

DECISION

By unanimous vote, the DRB approves Zoning Permit #17-041 to allow the boundary adjustment between parcels #10-074.120 and #10-074.100 as presented.

This boundary adjustment approval is subject to the East Montpelier Land Use & Development Regulations Section 6.6 plat recording requirements which, among other directives, mandate the filing of a mylar copy of the approved subdivision plat in the East Montpelier land records within 180 days of the date of subdivision approval.

Warning: State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to the state Permit Specialist before beginning any construction.

Dated this 6th day of October, 2017.



Richard Curtis, Jr. -- Chair
East Montpelier Development Review Board

Notice: The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

Permit # 17-041

ZONING PERMIT APPLICATION

Date Received: 9/13/17

Zoning District A

TOWN OF EAST MONTPELIER

Parcel # 10-074.120

Overlays WR, FHA, RC PO Box 157, East Montpelier, VT 05651

Tax Map # 09-00-90.130

- A. 1. Name of Landowner Barbara Cote & Donald Cote Phone No. 279-9959
 2. Address of Landowner c/o Jason Cote, 3998 US Route 2, E. Montpelier, VT 05651
 3. Applicant (other than owner)..... Phone No.....
 4. Address of Applicant.....
 5. Location of Property US Route 2 East

B: Application is made (check appropriate boxes):

- | | | |
|-------------------------------------|---|---|
| To: | For: | For: |
| <input type="checkbox"/> Construct | <input type="checkbox"/> One <input type="checkbox"/> Two-family dwelling | <input type="checkbox"/> Subdivision of land |
| <input type="checkbox"/> Repair | <input type="checkbox"/> Multi-family dwelling | <input checked="" type="checkbox"/> Boundary adjustment |
| <input type="checkbox"/> Alter | <input type="checkbox"/> Accessory Structure | <input type="checkbox"/> Extraction of earth resources |
| <input type="checkbox"/> Extend | <input type="checkbox"/> Commercial / Business | <input type="checkbox"/> Ground water withdrawal |
| <input type="checkbox"/> Remove | <input type="checkbox"/> Light Industrial | <input type="checkbox"/> Landfilling |
| <input type="checkbox"/> Change use | <input type="checkbox"/> Industrial | <input type="checkbox"/> Other |

Describe work to be performed To adjust the existing boundary line between the land of Barbara Cote (the "Carpet Barn") and the adjoining land of Donald Cote (the "driving range") to accomodate potential future development. the area of the adjustment is ~~0.35~~ acres.

0.22

C. Lot description:

- | | |
|---|--|
| 1. acreage <u>1.72 & 7.58 to 1.94 & 7.36</u> | 4. depth side yards <u>no change</u> Ft. Ft.
(building to lot lines) |
| 2. road frontage <u>no change</u> Ft. | |
| 3. depth front yard <u>no change</u> Ft.
(Road centerline to building) | 5. depth rear yard <u>no change</u> Ft.
(building to lot line) |

Important - Submit site location map which describes the property on which the proposed land development is to occur. The map should indicate the length in feet of each boundary, the location and dimensions in feet of the development within the property, the distance from that development to all adjacent property lines and the distance to the public road centerline. Each parcel created by land development should be clearly described.

READ BELOW CAREFULLY AND SEE SECTION D ON PAGE 2 OF APPLICATION:

In accordance with 24 V.S.A. §4446, no development or subdivision of land may begin in the Town of East Montpelier until all applicable municipal land use permits and approvals have been issued. The undersigned requests a zoning permit as described above, understanding that the permit will be voided and penalties imposed, if the land development is not completed as described. The permit will be voided if development is not substantially commenced within one year from date of issue. The undersigned hereby applies on the basis of the representations contained herein, and to the best of his/her knowledge believes them to be true. The undersigned acknowledges the Section D notices on page 2 of this application.

Don Landowner Donald Cote Date 9/13/17
 Barb Applicant Barbara Cote Date 9/13/17

Zoning Permit Fee: \$ 751 Cash _____ Check \$19599 Date 9/13/17 Rec'd by D.S.
 DRB Hearing Fee: \$ 150/205 Cash _____ Check _____ Date _____ Rec'd by _____

Make checks payable to the "Town of East Montpelier"

D. Warning: State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 476-0195 to speak to the state Permit Specialist before beginning any construction.

Notice: Your project may be subject to the state's residential or commercial energy code. For more information contact the Energy Code Assistance Center at 855-887-0673 or see the following web pages: Residential Building Energy Standards: http://publicservice.vermont.gov/topics/energy_efficiency/rbes Commercial Building Energy Standards: http://publicservice.vermont.gov/topics/energy_efficiency/cbes

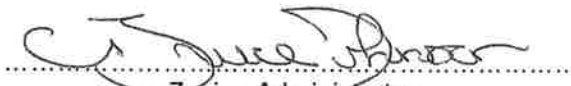
E. Action by Zoning Administrator:

1. Granted Denied Date Reason.....
.....
2. Appealed to Development Review Board By
Date

Notice: Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # 17-041 Date Issued 10/06/17 Effective Date 10/21/17

DO NOT start this project prior to the effective date, as the statutes require a 15-day appeal period. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any appeal process.


.....
Zoning Administrator

F. Action by Development Review Board:

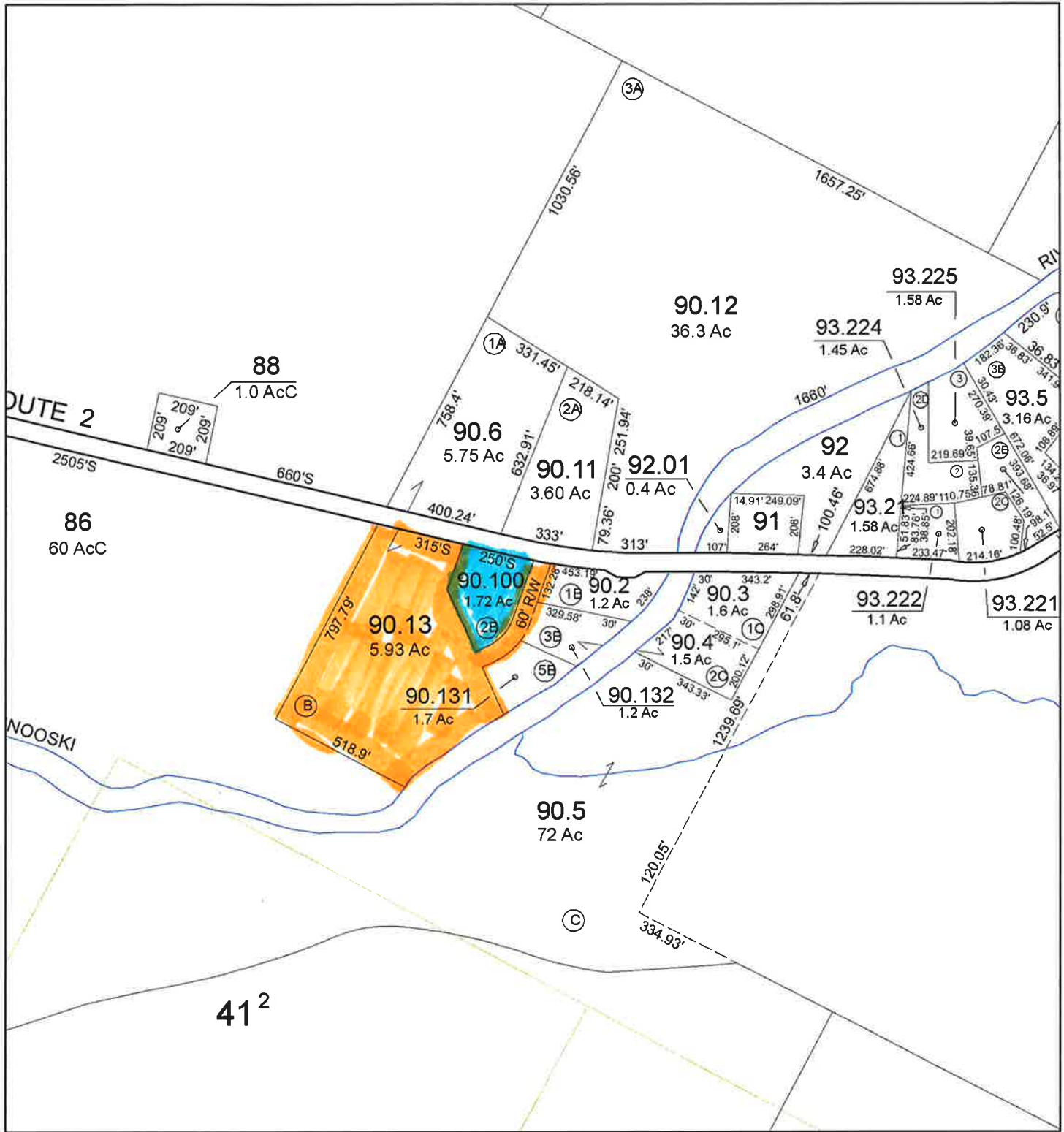
1. Public Notice Date Sept 11 2017
2. Date(s) of Hearing Oct 3 2017
3. Granted Without conditions With conditions (See written decision for conditions)
4. Denied (See written decision for reasoning)


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Chairman, Development Review Board

The DRB's written decision was issued on: 10/06/2017

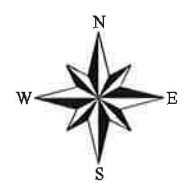
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Blue: Barbara Cote
 Carpet Barn
 Orange: Donald Cote
 Golf range

**Cote -- US Rte. 2
 East Montpelier**



9/13/2017