

DANVILLE ZONING APPLICATION

FOR ADMINISTRATIVE USE ONLY

APPLICATION# _____ DATE RECEIVED: _____ FEE PAID: _____

DO NOT WRITE ABOVE THIS LINE:

Step 1: TYPE OF PERMIT REQUESTED AND FEE

*Needs to go before Development Review Board

- PERMITTED USE (\$35) SUBDIVISION (\$65)* DESIGN CONTROL (\$65)*
 CONDITIONAL USE (\$65)* VARIANCE (\$65)* CELL TOWNER (\$505/5M - \$1005/LG)*

Step 2: ZONING DISTRICT (choose one)

- MEDIUM DENSITY RESIDENTIAL I ROUTE #2 MEDIUM DENSITY RESIDENTIAL II
 LOW DENSITY RESIDENTIAL CONSERVATION VILLAGE RESIDENTIAL
 HISTORIC NEIGHBORHOOD VILLAGE CORE DESIGN CONTROL OVERLAY

Step 3: APPLICANT/PROPERTY OWNER: (PLEASE PRINT - if more than one PROPERTY OWNER a separate sheet can be attached)

APPLICANT NAME(S): James Farmer / Kathryn M. Farmer, 261 Hibbard Drive, Burlington, VT 05401
APPLICANT'S MAILING ADDRESS: 874 Chestnut Street, Waban, MA 02468

CONTACT NUMBER: 617-775-3078 965 EMAIL: agricolajbf@gmail.com

Property Owner Name(s) MUST be the same as recorded on deed. If more than one, separate sheet can be added.

PROPERTY OWNER NAME(S): Jacobs Vermont Realty Trust

PROPERTY OWNER'S MAILING ADDRESS: c/o Susan Benoit, 55 Hale St., Portland, ME 04103

CONTACT NUMBER: 734-645-2103 EMAIL: djacobs@a3c.com

Step 4: PHYSICAL LOCATION OF PROJECT PROPERTY (911 ADDRESS):

37 Clubhouse Circle

Parcel ID# JP200-158000 DEED: BOOK# 143 PAGE# 88-89

IS PROPERTY ON TOWN WATER AND/OR SEWER? YES NO

Step 5: DESCRIPTION OF PROJECT

To convey 0.03 acres separated from the property by an existing access easement to adjoining owner Jacobs Vermont Realty Trust (PID JP200-160000). The portion to be conveyed is occupied by the Jacobs well and waterline and will be merged with Jacobs.

Step 6: LOT SIZE & SETBACKS: (Distance from new construction and lot lines)

LOT SIZE: 0.23 (exist.) (ACRES)
0.20 (proposed)

LOT WIDTH: 90'
150'

SETBACKS

FRONT: 43' (exist. & proposed) FT.
(50' from center of road)

REAR: 25' (exist. & proposed) FT.
50'

RIGHT SIDE: 59' (exist.) 45'(proposed) FT.
35'

LEFT SIDE: 1' (exist. & proposed) FT.
35'

Step 7: PLEASE ATTACH ONE COPY OF ALL SITE AND PLOT PLANS

- Copy must include: Site & design of building.
- If in Design Control: exterior design & exterior materials used;
- Height of building and landscaping design.

Step 8: ADJOINING LAND OWNER INFORMATION (Provide NAME & MAILING ADDRESS for ALL adjoining landowners for Conditional Use, Variance, Subdivision, and Design Control Applications)

NAME _____
Jacobs Vermont Realty Trust
Joe' Pond Association
Ann M. Sanguinetti Trust

MAILING ADDRESS _____
c/o Susan Benoit, 55 Hale St., Portland, ME 04103
PO Box 111, West Danville, VT 05873 V.A. 985
c/o Paula Sanguinetti, 416 Devon Rd., Staunton, MA 24401

Step 9: SIGNATURE

By signing below, I/We hereby certify that, to the best of my/our knowledge, all of the above is a true representation of the facts related to this proposed project. I/We also hereby request a Hearing before the Development Review Board if application is for a Conditional Use, Variance, Subdivision or Design Control.

Applicant James B. Farmer / Kathryn M. Farmer Date: 6/24/21
James Farmer

SIGNATURE OF ALL PROPERTY OWNERS REQUIRED (If additional lines required, a separate piece of paper can be added)

Property Owner Dan Jacobs Date: 6/24/21
Dan Jacobs for Jacobs Vermont Realty Trust

FOR ADMINISTRATIVE USE ONLY

ZONING ADMINISTRATIVE OFFICER ACTION:

APPROVED DENIED REFERRED TO DRB (DEVELOPMENT REVIEW BOARD)

*Note: All applications for CONDITIONAL USE, DESIGN CONTROL, SUBDIVISION and VARIANCE will automatically be DENIED pending a decision by the DRB at a hearing.

ADMINISTRATIVE OFFICER'S SIGNATURE _____ DATE _____

DATE OF APPROVAL OR DENIAL BY DEVELOPMENT REVIEW BOARD: _____

DATE POSTED: _____ DATE WARNED: _____

HEARING DATE: _____ FINAL APPEAL DATE: _____



Surveyors & Septic Designers, Inc

June 24, 2021

Brian Henderson, Chair
Danville Development Review Board
PO Box 183
Danville, VT 05828

301 North Main Street, Suite 1
Barre, Vt. 05641
Phone 802-479-9636
Fax 802-479-4017
email: cdchase@chasesurveyors.com
billchase@chasesurveyors.com
kjurentkuff@chasesurveyors.com

RE: Subdivision & Variance request, Farmer & Jacobs properties, 37 & 138 Club House Circle, Joe's Pond.

Dear Mr. Henderson,

Please find enclosed an application package for a proposed boundary adjustment between the above-mentioned properties. The intent of the project is to convey a 0.03-acre portion of the existing 0.23 acres Farmer camp lot to Jacobs. It is our understanding that the Town of Danville has no formal Boundary Adjustment process and that this request will be processed as a Subdivision. Should the Board approve this request, it would seem a necessary condition that the "lot" be merged with the Jacobs property, therefore the Jacobs family has been included as signatories to this application.

The wish to make this transfer stems from the results of a boundary survey of the two properties by my firm in 2008. As is often the case with lakefront lots, the deeds and their intent were not exceedingly clear. But, when supported by some old mapping, there was enough information for us to determine that the record lines were not where the families always thought they were. This application seeks to rectify that.

The 0.03 acres that we seek to transfer is subtended from the balance of the Farmer parcel by an existing right-of-way to the Jacobs property created in 1905. The location and width of the ROW was undefined in the original deed. Based on an old plan from 1928 (reference 3 noted on our survey) there was a driveway in the approximate location of the existing drive and path that have been used by Jacobs to access their camp since their purchase in 1969. Given the topography of the site, this path is undoubtedly the access that has *always* been used to get to the camp.

Because the width and location of the right-of-way are not defined in the record deeds, the parties wish to do so now. The metes (measurements) shown on the plan represent the agreed location and width of the existing right-of-way. Please note that it is the intent to perpetuate the right-of-way as shown regardless of the outcome of this application.

The 0.03-acre parcel is home to the existing Jacobs well and waterline, as well as a long-used parking spot between the well and the road. The well was installed sometime in the early '90's with the understanding of both parties that it was located on the Jacobs property. Note that the near 30-year period since the well was installed is significantly longer than the 15-year period necessary for an adverse possession claim in Vermont.

The properties are in the Medium Density Residential II Zone. Both are undersized and short of the road frontage required in the Zone (1.5 acres and 150', respectively). They are also located in the Developed Shoreland Overlay

District, but we find nothing in those regulations that would change their status as pre-existing, non-conforming lots.

As a pre-existing, non-conforming lot, in order to further reduce the size and frontage of the Farmer property as proposed here, a variance to the dimensional requirements of the MRD II zone will be required. To address the six criteria for a variance provided for in Sect 305.3 of the Ordinance, we have the following to offer:

305.3(a) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of this bylaw.

The results of parcel creation in the early 1900's created a situation where the small, triangular 0.03-acre portion was separated from the balance of the Farmer lot by a right-of-way not in their control. The right-of-way was located as necessary to reasonably access the Jacobs parcel due to the steep slopes and shallow depth to ledge around the so-called "Bennett Store Lot". Historic use of the right-of-way and the use and occupation of the subtended triangle by Jacobs and their predecessors led the parties to believe that it was part of the Jacobs properties, resulting in the installation of the drilled well some 30 years ago.

305.3(b) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this bylaw, and the authorization of a variance is therefore necessary to enable the reasonable use of the property.

The developed parcels as they exist today do not conform with the provisions of the by-law. With the combined area of less than 0.5 acre, the properties could have never been developed in conformance with the by-law. The Jacobs well is located on land they neither own nor control. This variance is being sought to provide legal, reasonable access to the well and the long-used parking area adjacent to it in the cleanest, surest manner possible. This request will not change the status of either parcel as a pre-existing, non-conforming small lot.

305.3(c) Unnecessary hardship has not been created by the requester/appellant.

The hardship was created by the subdividers in the early 1900's who did not adequately describe, define monument or perpetuate the parcels being created.

305.3(d) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.

This application seeks only to provide a legal means for the continued use of the parcels in the manner in which they have been occupied for many years. The proposed adjustment in no way impairs the use of adjacent properties, reduces access to renewable resources or is in any way detrimental to the public welfare.

305.3(e) The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from this bylaw and from the Town Plan.

The limits of the proposed adjustment have been determined based upon the location of the existing right-of-way, to conform the adjusted line to the location understood by the parties prior to the 2008 survey. Any

reduction in the bounds of the proposed adjustment would void the intent of the parties: to create a clean, legal means to provide Jacobs the rights always understood to be theirs.

305.3(f) A variance authorized in a flood hazard area shall meet applicable federal and state rules for compliance with the National Flood Insurance Program (NFIP), and the written decision must state "Building a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage."

Not applicable. The proposed boundary adjustment is not within the Special Flood Hazard Area.

Please note that the variance is sought only for minimum lot size and road frontage. All other dimensional standards are either pre-existing and unchanged or in conformance with the requirements. This includes the maximum impervious footprint set forth under the Developed Shoreland Overlay.

The applicants understand that the Board may view the issuance of any Variance as a slippery slope; that if one is issued here, the stage is then set for more variances elsewhere. But we would submit that this situation is truly unique:

- a) Both properties are developed, and no new development is proposed that would benefit from the variance.
- b) Both properties are pre-existing, non-conforming lots, with pre-existing, non-conforming structures. Nothing is changing here.
- c) The area of the proposed adjustment is already separated from the balance of the Farmer lot by other record rights of Jacobs.
- d) The variance is sought solely to place the boundary where the parties always understood it to be and to conform to long-term occupation.
- e) The variance is being sought to provide Jacobs the cleanest means - fee ownership – to enjoy the rights that have undoubtedly ripened from the doctrines of adverse possession, acquiescence, and prescriptive use.

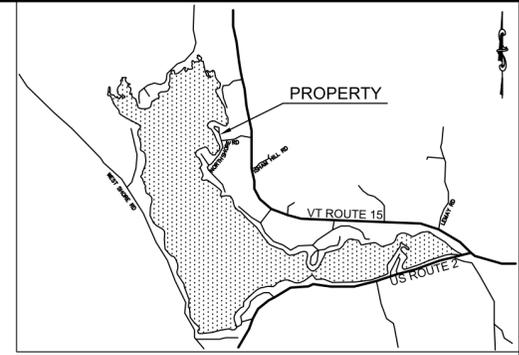
The applicants believe that this proposal meets the criteria for a variance and is a situation unique and specific enough to allay any concerns over setting bad precedents. But, if the Board disagrees and is unable to approve the variance, the applicants request that this proposal also be considered under the Waiver provisions of Section 304. It appears that the conditions for a Waiver are very similar to those for a variance, so it is believed that the arguments put forth above are sufficient for findings under the Waiver provisions.

We look forward to meeting with the Board on July 21 to discuss this request. In the meantime, if there are any questions or additional materials that would help in the decision-making process, please let me know and I'll do my best to provide it. Thank you.

Sincerely,



Kris Jurentkuff
Project Manager



- LEGEND:**
- EDGE OF LAKE
 - PROPERTY LINE
 - STONEWALL
 - EDGE OF GRAVEL
 - #5 REBAR TO BE SET W/ D CAP
 - ⊗ IRON ROD FOUND (DIA. , HT.)
 - ⊕ IRON PIPE FOUND (DIA. , HT.)
 - ▲ UNMONUMENTED POINT
 - ⊙ UTILITY POLE
 - ⊘ DRILLED WELL
 - XXXX ----- EXISTING GROUND CONTOUR
 - W ----- EXISTING WATER LINE
 - PROPOSED PROPERTY LINE
 - DEFINED EASEMENT. SEE NOTE 6

- SURVEYORS NOTES:**
- This survey was conducted by use of a Trimble S6 robotic total station, together with a steel tape, with a precision within accepted standards.
 - This survey is based on deeds and surveys of record, physical evidence located, and information provided by owners and abutters.
 - Encroachments, if any, are as shown hereon.
 - Only easements and/or rights-of-way encountered during record research necessary to determine parcel boundaries have been depicted hereon. The property may be subject to other easements, rights-of-way, restrictions and reservations.
 - Bearings shown hereon are based on Reference 4. See reference 4 for additional information regarding the resolution of the parcel boundaries.
 - A right-of-way to the Jacobs property was conveyed by F.D. Perkins to J.M Shaw & A.E. Counsell by deed dated May 26, 1905 as recorded in Book 23/Page 266 of the Danville Land Records. Neither width or specific location are noted in this deed. The plan noted as Reference 3 shows an apparent drive in the approximate location of the existing access way (path) used by Jacobs. The metes shown here are included to fulfill the parties wishes to define and perpetuate the location of the existing right-of-way.

- REFERENCES:**
- A survey plan entitled "Field Measurement and Topographic Survey, Joe's Pond Association Parcels 'A' & 'B'", dated September 1978 by J.H. Hoag, RLS, as provided to this firm by Thomas Dente.
 - A plan entitled "Land Survey for T.J. & C.P. Dente, Danville, Vermont", dated June 2003, by Northeast Surveys, as provided to this office by Thomas Dente.
 - A plan entitled "Sketch of Joe's Pond Lots, Danville, Vermont", dated September 1928 by Percy G. Smith, C.E., as provided to this firm by the owners.
 - A plan entitled "Boundary Survey, Farmer & Jacobs Properties, on Joe's Pond, Danville, Vermont" dated June 6, 2008 by this office as recorded in map slide ??? of the land records of the Town of Danville.

TIE - LINE DATA

LINE	BEARING	DISTANCE
A-B	S 08°59'31" E	89.93'
B-C	S 19°25'45" E	91.10'
D-E	S 32°15'00" W	25.39'
E-F	S 24°44'53" W	40.78'
F-G	S 04°08'12" E	29.34'
G-H	S 02°51'36" E	28.98'
F1-F	S 08°44'47" E	12.30'

CERTIFICATION

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF THE PARCEL BOUNDARIES DETERMINED AS NOTED HEREON AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION BY METHODS ALSO NOTED ELSEWHERE HEREON, WITH AN ERROR OF CLOSURE WITHIN ACCEPTED STANDARDS.

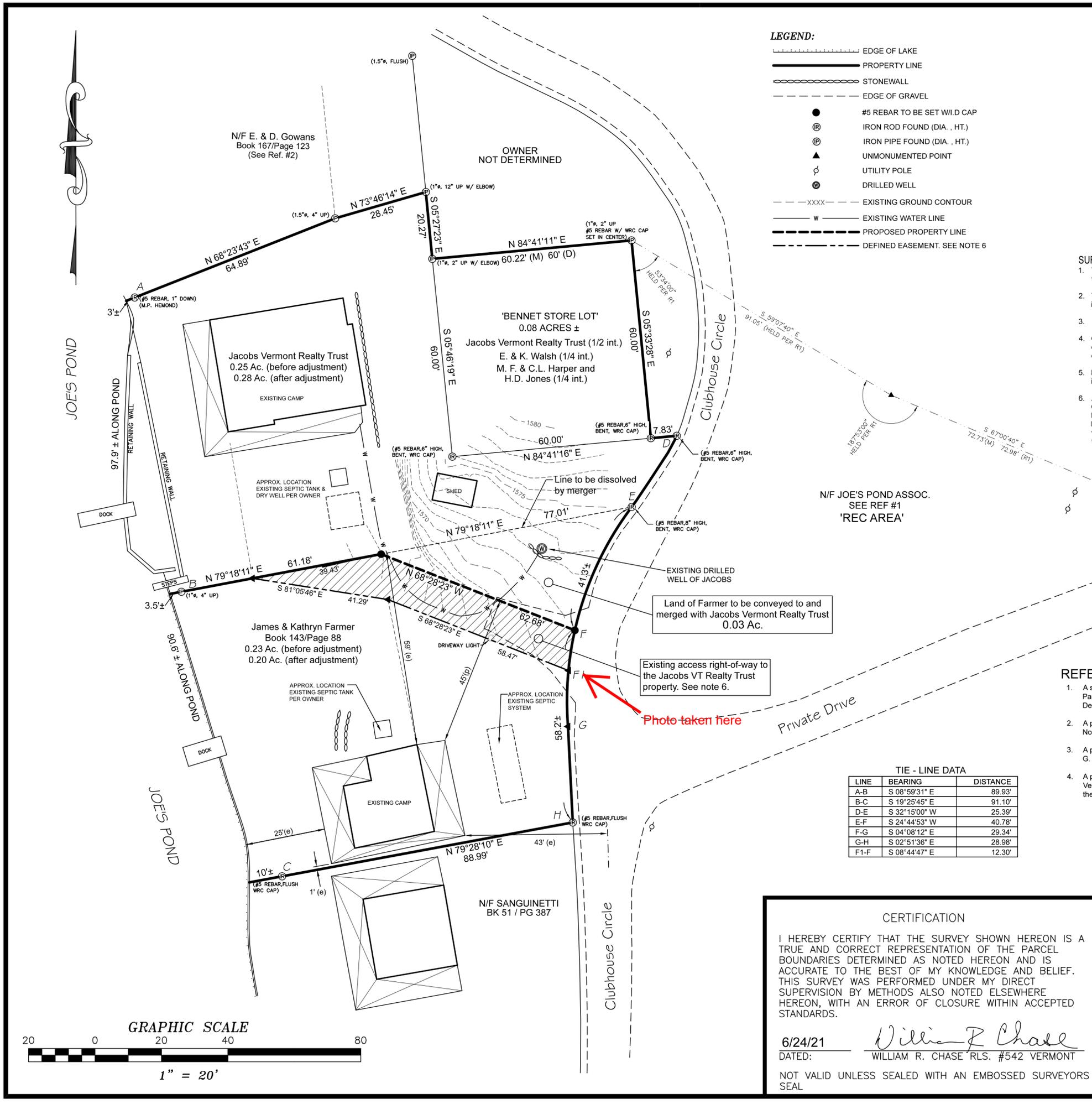
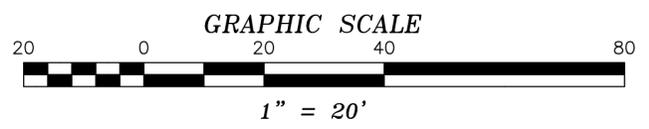
6/24/21
DATED: William R. Chase
WILLIAM R. CHASE RLS. #542 VERMONT

NOT VALID UNLESS SEALED WITH AN EMBOSSED SURVEYORS SEAL

SUBDIVISION/BOUNDARY ADJUSTMENT
FARMER & JACOBS PROPERTIES
 37 & 138 CLUBHOUSE CIRCLE
 DANVILLE, VERMONT

SCALE: 1" = 20' DATE: 6/24/21 PROJ.# 2021 DWG.# 21-078A
 DRAWN BY: KJ CHECKED BY: WRC FB/PG. 95/EFB SHEET 1 OF 1

Chase & Chase
 301 North Main Street, Suite 1
 Barre, Vt. 05641
 802-479-9636
 Surveyors & Septic
 Designers, Inc



N/F E. & D. Gowans
Book 167/Page 123
(See Ref. #2)

OWNER
NOT DETERMINED

'BENNET STORE LOT'
0.08 ACRES ±
Jacobs Vermont Realty Trust (1/2 int.)
E. & K. Walsh (1/4 int.)
M. F. & C.L. Harper and
H.D. Jones (1/4 int.)

JACOBS VERMONT REALTY TRUST
0.25 Ac. (before adjustment)
0.28 Ac. (after adjustment)
EXISTING CAMP

JAMES & KATHRYN FARMER
Book 143/Page 88
0.23 Ac. (before adjustment)
0.20 Ac. (after adjustment)

Land of Farmer to be conveyed to and merged with Jacobs Vermont Realty Trust 0.03 Ac.

Existing access right-of-way to the Jacobs VT Realty Trust property. See note 6.

Photo taken here

N/F JOE'S POND ASSOC.
SEE REF #1
'REC AREA'

N/F SANGUINETTI
BK 51 / PG 387



Looking northwest from Clubhouse Circle. Photo taken June 25, 2021