

TOWN OF UNDERHILL
APPLICATION OF TIFFANY RENAUD
FOR A VARIANCE FROM THE SIDE LOT LINE SETBACK
TO CONSTRUCT A DRIVEWAY
FINDINGS AND DECISION

In re: Tiffany Renaud
101 Corbett Rd.
Underhill, VT 05489

Docket No. DRB-10-07: Renaud

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Tiffany Renaud's request for a variance from side lot line setback requirements for the construction of a driveway to her property at 101 Corbett Rd. in Underhill, VT.

1. On May 12, 2009, Gunner McCain of McCain Consulting, Inc. submitted a Variance Hearing Request on behalf of the applicant. A copy of the application and supporting information are available at the Underhill Town Hall.
2. On June 4, 2010 notice of the hearing on the proposed Renaud variance was posted at the following places:
 - a. The Applicants' property at CB101;
 - b. The Underhill Town Clerk's office;
 - c. The Underhill Center Post Office;
 - d. The Underhill Flats Post Office;
 - e. The Deborah Rawson Memorial Library;
 - f. Underhill Country Store;
 - g. Wells Corner Market;
 - h. Jacobs IGA;
 - i. The Town of Underhill website.
3. On June 4, 2010, a copy of the notice of a variance hearing was mailed via first-class mail to the Applicant, Tiffany Renaud, 607 South Beach Rd., South Burlington, 05403, and via Certified Mail to following owners of properties adjoining the property subject to the application:
 - a. Van Winkle, 88 Corbett Rd., Underhill, VT 05489
 - b. Lewis/Majka, P.O. Box 252, Underhill Center, VT 05490
 - c. Tisbert, 5901 Pleasant Valley Rd., Cambridge, VT 05444
 - d. Deane Squabetty Trust, Duncan McLane, Trustee, 2117 Granger Way, Lummi Island, WA 98262
 - e. Eckhardt, 89 Corbett Rd., Underhill, VT 05489
 - f. Templeton, 97 Colony Ln., New Hampton, NH 03256 and 15 Lyman St., Laconia, NH 03246
 - g. Bogue Family Trust, c/o David Bogue, 66 Buckingham Rd., Colchester, VT 05446

Additional notice was provided via email to Gunner McCain, McCain Consulting gmccain@mccainconsulting.com.

4. On June 5, 2010 notice of a variance hearing was published in the *Burlington Free Press*.
5. A site visit was scheduled to begin at 6:15 PM on June 21, 2010. The variance hearing was scheduled to begin at 7:15 PM on June 21, 2010.
6. Present at the site visit and hearing were the following members of the Development Review Board:
 - Chuck Brooks, Acting Chair
 - Stan Hamlet
 - Will Towle
 - Penny Miller
 - Matt Chapek

Kari Papelbon, Zoning Administrator; Gunner McCain, consultant; Tiffany Renaud, applicant; Eric Eckhardt, neighbor; Steve Walkerman, Selectboard Chair; Dan Steinbauer, Selectboard Member; Steve Owen, Selectboard Member; and Scott Tobin (recused) also attended the hearing.

7. At the outset of the hearing, Acting Chairperson Chuck Brooks explained the criteria under 24 V.S.A. § 4465 (b) for being considered an “interested party.” Interested parties who spoke at the hearing were:
 - Tiffany Renaud, 101 Corbett Rd., Underhill, VT [mailing address in (3) above].
 - Eric Eckhardt, 89 Corbett Rd., Underhill, VT

Consultant(s) who spoke on behalf of the Applicants were:

- Gunner McCain, McCain Consulting, Inc., 93 South Main St., Ste. 1, Waterbury, VT 05676
8. During the course of the hearing the following exhibits were submitted to the Development Review Board:
 1. A staff report sent by Zoning Administrator Kari Papelbon to the Development Review Board, Tiffany Renaud, and Gunner McCain;
 2. Tiffany Renaud’s Variance Hearing Request (dated 5-4-10);
 3. A copy of the site plan prepared by Gunner McCain of McCain Consulting for Tiffany Renaud’s curb cut (dated 4-30-10);
 4. A copy of the variance request letter from Nicole Fitch of McCain Consulting (dated 5-11-10);
 5. A copy of the proposed Findings of Fact;
 6. A copy of the tax map for CB101;
 7. A copy of the confirmation email for the hearing notice to published in the *Burlington Free Press*.

These exhibits are available in the Renaud, CB101, Variance file at the Underhill Zoning Office.

II. FINDINGS

Background

The Minutes of the meetings written by Kari Papelbon are incorporated by reference into this decision. Please refer to these Minutes for a summary of the testimony.

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

1. The Applicant, Tiffany Renaud, seeks a permit to construct a driveway to her pre-existing, nonconforming property at 101 Corbett Rd., a ±2.85-acre parcel in the Scenic Preservation (10-acre) zoning district.
2. A variance of 8 feet is requested. The driveway is proposed to be 12 feet from the side property lines.
3. Approximately 100 feet of Class IV road will be upgraded to the property line, at which point the driveway will begin.
4. The variance is requested for the project pursuant to review under the following section of the Town of Underhill Zoning Regulations
 - §VIII(E)(2): Scenic Preservation District, “Minimum Yard Requirements”
5. The variance request was reviewed at the hearing under 24 V.S.A. §4469:
 - 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 the bylaw in the neighborhood or district in which the property is located.
 - 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 the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - c. Unnecessary hardship has not been created by the appellant.
 - 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.

- e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

III. DECISION

Based upon the findings above, the Development Review Board grants approval for the 8-foot variance from the side lot line setback requirement for the construction of a driveway to access the preexisting, non-conforming lot as presented at the hearing.

- a. The Board finds that there are unique physical circumstances or conditions, including the presence of a stream and a steep bank at the eastern side of the lot, which are 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 the bylaw in the neighborhood or district in which the property is located.
- 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 the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- c. Unnecessary hardship has not been created by the appellant as the stream and steep bank are existing natural features.
- d. The variance will not alter the essential character of the neighborhood or district in which the property is located because the proposed variance request is for a residential building envelope in a residential area, the proposed building envelope is sufficiently removed from adjoining properties, the reduction in the setback to the side lot line will not impair any lot's ability to obtain renewable energy sources, nor will the variance be detrimental to the public welfare as it affects a private residential lot.
- e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

Dated at Underhill, Vermont this _____ day of _____, 2010.

Chuck Brooks, Acting Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. §4471 and Rule 5 (b) of the Vermont Rules for Environmental Court Proceedings. No local permits shall be issued until _____, when the 30-day appeal period has expired.