TOWN OF UNDERHILL
APPLICATION OF MOORE
FOR A 3-LOT SUBDIVISION
FINAL FINDINGS AND DECISION

TOWN CLERK'S OFFICE
Received Nov 18,2014 03:30P
Recorded in VOL: 211 PG: 220- 226
Of Underhill Land Records
ATTEST: Sherri Morin, Town Clerk

In re: Michael Moore
74 Cloverdale Road
Underhill, VT 05489

Docket No. DRB-14-01 Moore

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Michael Moore's final hearing application for a 3-lot subdivision of property located at 74 Cloverdale Road in Underhill, VT.

A. On May 22, 2014, Michael Moore filed an application for final subdivision approval. A copy of the application materials and additional information are available at the Underhill Town Hall. A sketch plan meeting was held on February 24, 2014.

B. The Development Review Board waived preliminary subdivision review at the request of the Applicant.

C. On May 28, 2014, a copy of the notice of the final hearing was mailed via Certified Mail to the Applicant, 74 Cloverdale Road, Underhill, VT 05489 and to the following owners of properties adjoining the property subject to the application:

1. Contanch & Morse, 27 N. Underhill Station Road, Underhill, VT 05489
2. McNeil, 70 Cloverdale Road, Underhill, VT 05489
3. Goodman, 35 Highland Road, Underhill, VT 05489
4. Danis, 7 Black Dog Lane, Underhill, VT 05489
5. Adams, 13 North Underhill Station Road, Underhill, VT 05489
6. Davis, 41 North Underhill Station Road, Underhill, VT 05489
7. Audette, 890 VT Route 15, Underhill, VT 05489

D. Notice of the final hearing on the Moore subdivision was posted at the following places:

1. The property to be developed, CD074;
2. The Underhill Town Clerk's Office;
3. The Underhill Center Post Office;
4. The Underhill Flats Post Office.

E. On May 28, 2014, notice of a final hearing was published in the *Seven Days Newspaper.*

F. A site visit was held on Monday June 16, 2014 at 6:00 PM at 74 Cloverdale Road.

G. The final hearing was held on Monday June 16, 2014, and continued on July 7, 2014, July 21, 2014, August 18, 2014, September 15, 2014, and October 20, 2014.

DOC: 00010862 VOL: 211 PG: 221

H. Present at the final hearing on Monday June 16, 2014 were the following members of the Development Review Board:

- Charles Van Winkle, Chairperson
- Penny Miller
- Mark Hamelin
- Jim Gilmartin
- Karen McKnight

I. Present at the continued final hearing on Monday July 7, 2014 were the following members of the Development Review Board:

- Charles Van Winkle, Chairperson
- Penny Miller
- Mark Hamelin
- Matt Chapek
- Shanie Bartlett
- Jim Gilmartin
- Karen McKnight

J. Present at the continued final hearing on Monday July 21, 2014 were the following members of the Development Review Board:

- Charles Van Winkle, Chairperson
- Penny Miller
- Mark Hamelin
- Shanie Bartlett
- Karen McKnight

K. Present at the continued final hearing on Monday August 18, 2014 were the following members of the Development Review Board:

- Charles Van Winkle, Chairperson
- Penny Miller
- Matt Chapek
- Karen McKnight
- Shanie Bartlett
- Will Towle

L. Prior to the September 15, 2014 meeting, the Applicant submitted a written request to continue the hearing to a later date. During the 9/15/2014 public hearing, the Development Review Board decided to continue the hearing on October 20, 2014 at 6:35 PM.

M. Present at the continued final hearing on Monday October 20, 2014 were the following members of the Development Review Board:

DOC: 00010862 VOL: 211 PG: 222

- Will Towle, Acting Chairperson
- Penny Miller
- Matt Chapek
- Karen McKnight
- Shanie Bartlett
- Jim Gilmartin

Zoning & Planning Administrator Sarah McShane also attended all of the hearings.

N. At the outset of the hearing, Chairperson Van Winkle explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." Those who spoke at the hearing(s) were:

- Michael Moore & Darah Zurit, 74 Cloverdale Road, Underhill, VT 05489 (Applicants/Landowner)
- Cheryl Morse, 27 North Underhill Station Road, Underhill, VT 05489 (June 16)
- Kurt Contanch, 27 North Underhill Station Road, Underhill, VT 05489 (June 16)
- Jason Marias, 30 Range Road, Underhill, VT 05489 (June 16)
- Trafton Crandall (Consultant), 343 Orchard Rd., Charlotte, VT 05445 (Oct. 20)

O. During the course of the hearing the following exhibits were submitted to the Development Review Board:

a. A staff report sent by Zoning & Planning Administrator to the Development Review Board, the Applicants, the Selectboard, the Underhill Jericho Fire Department, and the Conservation Commission Chair;
b. Moore/Zurit Application for Subdivision: Final (dated 5/22/14);
c. Copy of the Subdivision Checklist: Final Hearing;
d. Copy of the Findings Checklist;
e. Copy of the subdivision plans prepared by Earthbound Services, LLC (Project 0810, Sheet 1 of 2) dated 4/9/14;
f. Copy of the Plat for Lot 1 prepared by Button Professional Land Surveyors, (Job # UNDH0019, Sheet 1 of 1; Date surveyed March 2013);
g. Copy of a maps created using the Vermont Agency of Natural Resources Atlas (wildlife plan, wetlands, SFHA);
h. Copy of the tax map for CD074;
i. Copy of the minutes from the 2/24/2014 Sketch Plan meeting;
j. Copy of the sketch plan letter dated 3/4/2014;
k. Copy of the hearing notice as published in *Seven Days* on 5/28/2014, posted in three public places, and mailed to abutting property owners;
l. Copy of 2/24/2014 input from the Underhill-Jericho Fire Department;
m. Copy of draft road maintenance agreement;
n. Copy of draft deed language for shared roadway, waterline easements & utility easements;
o. Copy of the VT Project Review Sheet;
p. Copy of the VT Wastewater System & Potable Water Supply Permit (WW-4-4161-1);

DOC: 00010862 VOL: 211 PG: 223

q. Copy of correspondence from Kissane Associates (dated 5-23-2013);
r. Copy of the B-71 Standards for Residential and Commercial Driveways.
s. Copy of letter from Chittenden East Supervisory Union (6/19/14);
t. Copy of setback waiver request from the Applicant;
u. Copy of letter from DRB to Selectboard (6/17/14);
v. Copy of field notes from Road Foreman- Nate Sullivan (dated 6/30/14);
w. Copy of revised subdivision plan from Earthbound Services (last revision 7/1/14);
x. Copy of minutes from 6/16/14 DRB Meeting;
y. Copy of the State Wetlands permit application (7/6/14).
z. Copy of letter from Applicant requesting waivers (7/19/14);
aa. Copy of warranty deed indicating right-of-way over Cloverdale Road (V. 201 P. 218);
bb. Copy of updated deed language for Shared Roadway, Water Line Easements and Utility Easements;
cc. Copy of a letter from Planning Commission to Selectboard in regards to Cloverdale Road improvements (dated 7/16/14);
dd. Copy of Y turn-around diagram from Town Road Policy (dated 12/12/78);
ee. Copy of the revised subdivision plat from Button Professional Land Surveyors (last revised 7/14/14);
ff. Copy of revised subdivision plan from Button Professional Land Surveyors (last revised 7/14/14);
gg. Copy of minutes from 7/7/14 DRB meeting;
hh. Updated letter from Applicant requesting waivers (dated 8/13/14);
ii. Copy of minutes from 7/21/14 DRB Meeting;
jj. Copy of minutes from the 7/22/2014 Selectboard meeting;
kk. Copy of the revised subdivision plat from Button Professional Land Surveyors, Job # UNDH0019 Plan Sheet 1 of 1 (last revision date 8/14/14);
ll. Copy of the revised subdivision plan (Michael Moore, 74 Cloverdale Rd) from Button Professional Land Surveyors, Job # UNDH0019, Plan Sheet 1 of 2 (last revision date 8/14/14);
mm. A copy of the email from Harry Schoppmann- Underhill Jericho Fire Department (dated 8/15/2014);
nn. Plat of 2-lot Subdivision by Button Professional Land Surveyors, Job # UNDH0019, Plan Sheet 1 of 1, last revised 10/15/14;
oo. Subdivision Plan by Button Professional Land Surveyors, Job # UNDH0019, Plan Sheet 1 of 2, last revised 10/15/2014;
pp. Driveway/Road Design by Trafton Engineering Associates, LLC, Sheet 1 of 2 (date 10/13/14) and Sheet 2 of 2 (date 10/16/14); (2 sheets)
qq. Copy of minutes from 8/18/2014 DRB Meeting;
rr. Copy of minutes from 9/15/14 DRB meeting. Note: No testimony was taken during the hearing.
ss. Updated Driveway/Road Design by Trafton Engineering Associates, LLC, Sheet 1 of 2, last revised 10/16/2014.

These exhibits are available in the Moore, CD074, subdivision file at the Underhill Town Hall.

II. FINDINGS

Factual Findings

DOC: 00010862 VOL: 211 PG: 224

The Minutes of the 6/16/14, 7/7/14, 7/21/14, 8/18/14, 9/15/14, and 10/20/14 meetings written by Sarah McShane are incorporated by reference into this decision. Please refer to these Minutes for additional detail.

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

A. The Applicant seeks a permit to subdivide land. Lot A of the subject property is ±3.77 acres, Lot 1 is ±8.27 acres, and Lot 2 is ±4.64 acres. The parcels are located at 74 Cloverdale Road in Underhill, VT (CD074).

B. The Board finds that the approved subdivision will create a total of three residential lots – Lot A is on the west side of Cloverdale Road and Lots 1 & 2 will be on the east side of Cloverdale Road

C. The properties are located in the Rural Residential zoning district as defined in Article II, Table 2.3 of the 2012 Unified Land Use and Development Regulations.

D. Subdivision approval is requested for the project pursuant to review under the 2012 Unified Land Use and Development Regulations and 2002 Town Road Policy.

E. The Board finds that in granting waivers:

i. No reasonable alternative exists for siting the structure, addition or improvement outside of the required setback area;
ii. The reduced setback is not contrary to public health, safety, and welfare, stated objectives and policies of the Underhill Town Plan, or the intent of the regulations;
iii. The waiver represents the minimum setback reduction necessary to allow for the proposed development;
iv. Any potential adverse impacts resulting from the reduced setback on adjoining properties, surface waters or wetlands shall be mitigated through site design, landscaping and screening, or other accepted mitigation measures.

F. The Board finds that Cloverdale Road meets the definition and standards of a Development Road, as defined in the 2012 Unified Land Use and Development Regulations.

III. CONCLUSIONS

The Board finds the application is in conformance with the following sections of the Unified Land Use & Development Regulations:

Article II, Table 2.3 – Rural Residential District
Article II, Table 2.7- Flood Hazard Overlay District
Section 3.2 – Access
Section 3.7 – Lot, Yard & Setback Requirements
Section 3.13 - Parking, Loading & Service Area
Section 3.17 - Source Protection Areas
Section 3.19 - Surface Waters & Wetlands

DOC: 00010862 VOL: 211 PG: 225

Section 3.22 - Water Supply & Wastewater Systems
Section 5.5 - Waivers and Variances
Section 7.5 - Subdivision Review, Preliminary Subdivision Review
Section 7.6 - Subdivision Review, Final Subdivision Review
Article VIII - Subdivision Standards

Per section 8.1(D), all Sections above considered not applicable are waived. The Board finds that waiving such requirements will not nullify the intent and purpose of the 2102 Unified Land Use and Development Regulations and the Underhill Town Plan, and such waivers are not requisite in the interest of public health, safety and general welfare. Sufficient evidence, in the form of submitted testimony and plan layout, has been submitted to justify the waiver.

IV. DECISION AND CONDITIONS

Based upon the findings above, the Development Review Board grants approval (5 in favor, 1 abstained, 0 opposed) for the 3-lot subdivision as described at the hearing and in the submitted application documents, with the following conditions:

A. The parcel codes for all Lots shall appear on the final Mylars. Prior to submitting the Mylars, please contact the Zoning Administrator for the parcel codes for Lot A, Lot 1 & Lot 2.

B. The acreage listed on the subdivision plan should be revised to correspond to the acreage listed on the survey.

C. The tile on the subdivision plat by Button Professional Land Surveyors should be amended to state "Plat of 3-Lot Subdivision."

D. A copy of the Wastewater System and Potable Water Supply Permit shall be recorded in the Town Land Records. Failure to do so shall void this Board's approval.

E. A copy of the approved State Wetlands Permit shall be provided to the Zoning Administrator prior to the issuance of a building permit on Lot 1 or Lot 2.

F. Erosion control provisions of any applicable State Wetlands Permit are incorporated as a term and condition of this municipal permit.

G. During construction best management practices should be followed and conform to Vermont Low Risk Site Handbook for Erosion Prevention as noted on the Driveway/Road Design by Trafton Engineering Associates.

H. A revised and executed Road Maintenance Agreement reflecting the newly created subdivision shall be recorded in the Town Land Records. Failure to do so shall void this Board's approval.

DOC: 00010862 VOL: 211 PG: 226

I. A zoning permit is required for development on Lot 1 and Lot 2. A zoning permit shall be retained prior to construction in accordance with Section 10.3 of the Unified Land Use & Development Regulations.

J. Applicant shall acquire a curb cut permit from the Underhill Board of Selectmen for the portion of the driveway within the road right-of-way.

K. Per Section 7.2(B), no land shall be subdivided until final subdivision approval has been obtained from the DRB and the approved subdivision plat is recorded in the Underhill Land Records.

L. No transfer, sale or long-term lease of title to property as defined under 32 VSA §9601 of any portion of an existing lot; predevelopment site work; or issuance of zoning permits to develop a subdivided lot shall occur until final subdivision approval has been obtained from the DRB and the final Mylars have been recorded in the Underhill Land Records [Section 7.2(C)].

M. The final plat and engineering site plan(s) shall be submitted for recording within 180 days of the date of final subdivision in accordance with Section 7.7.

N. All subdivision and recording fees must be paid in full prior to recording a subdivision plat in accordance with Section 7.7(B).

O. The E-911 codes for both lots shall be posted per the Underhill Jericho Fire Department specifications prior to issuance of a building permit.

Dated at Underhill, Vermont this 17th day of November, 2014.

Will Towle, Acting Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings 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. Appeal period ends_____.

END OF DOCUMENT