TOWN OF UNDERHILL
APPLICATION OF LYNN & THOMAS VARLEY
FOR CONDITIONAL USE REVIEW
FINAL FINDINGS AND DECISION

In re: Lynn & Thomas Varley
118 Locust Hill Road
Shelburne, VT 05482

Nicole Bourassa (property owner)
25 Waughbrook Lane
Underhill, VT 05489

Docket No. DRB 14-14: Varley

I. INTRODUCTION AND PROCEDURAL HISTORY:

This proceeding concerns Lynn & Thomas Varley's conditional use review hearing for approval to construct an accessory dwelling on the property located at 25 Waughbrook Road in Underhill, VT.

A. On October 20, 2014, Lynn & Thomas Varley filed an application for conditional use review. A copy of the application and additional information are available at the Underhill Town Hall.

B. On October 28, 2014, a copy of the notice of a public hearing was mailed via Certified Mail to the Applicant, Lynn & Thomas Varley, 118 Locust Hill Road, Shelburne, VT and to the following owners of properties adjoining the property subject to the application:

- Brock Richardson & Marilyn Vachon Richardson (WB017), 23 Manseau St, Winooski, VT 05404
- Janet Hodnett (WB018), 115 Crescent Ave, Rye, NY 10580
- Stanley Knapp Living Trust (WB020), PO Box 11, Jericho, VT 05465
- Christopher & Barbara Dolan (WB029), 29 Waughbrook Lane, Underhill, 05489
- Scott Smith & Sarah Freeman (WB028), 28 Waughbrook Lane, Underhill, VT 05489
- Chad & Faith Brown (WB026), 13719 Highway 238, Jacksonville, OR 97530
- Gerald Thibault (WB022), 33 Greenwood Dr., Westford, VT 05494
- Nicole Lubitz (WB025), 25 Waughbrook Lane, Underhill, VT 05489

C. Notice of the public hearing was posted at the following places:

1. The property to be developed WB025;
2. The Underhill Town Hall;
3. The Underhill Center Post Office;
4. The Underhill Flats Post Office

D. On October 29, 2014, notice of public hearing was published in Burlington Free Press Newspaper.

E. A site visit was held on Saturday November 15, 2014 at approximately 8:30 AM. Present at the site

visit were the following members of the Development Review Board:

- Charles Van Winkle
- Matt Chapek
- Penny Miller
- Will Towle
- Karen McKnight

Sarah McShane, PZA also attended the site visit, as well as the Applicants Lynn & Thomas Varley, Debby Hanley (real-estate agent), Lea Van Winkle (resident/ real estate agent), Sarah Freeman (Abutter), Scott South (Abutter), and Michael Kuk (designer/builder).

F. The Conditional Use Review Hearing began at 7:00 PM on November 17, 2014.

G. Present at the hearing were the following members of the Development Review Board:

- Will Towle, Acting Chairperson
- Charles Van Winkle (recused)
- Penny Miller
- Jim Gilmartin
- Matt Chapek
- Mark Hamelin
- Karen McKnight

Planning and Zoning Administrator, Sarah McShane; Applicant Lynn Varley; Real-estate agents Debby Hanley and Lea Van Winkle also attended the hearing.

H. At the outset of the hearing Acting Chairperson Will Towle explained the criteria under 24 V.S.A. §4465 (b) for being considered an "interested party." Those who spoke at the hearing were:

- Lynn Varley (Applicant)
- Lea Van Winkle (Resident & Real Estate Agent)

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

a) Conditional Use Review Hearing Request (dated 10-20-14);
b) Conditional Use Review Standards Findings Checklist;
c) Copy of aerial image indicating location of proposed accessory dwelling;
d) A copy of the letter mailed to abutters (dated 10-28-2014)
e) A copy of the public hearing notice posted in Burlington Free Press;
f) A copy of the zoning map for WB025;
g) A copy of ANR map indicating slopes;
h) A copy of the Listers' Card indicating existing house and habitable floor space;
i) A copy of the procedure checklist for the meeting; and
j) Procedural memo.

These exhibits are available in the Varley, WB025, Conditional Use file at the Underhill Town Hall.

II. FINDINGS:

Factual Findings

The minutes of the meeting written by Sarah McShane 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:

A. The Applicants seek conditional use review approval to construct an accessory dwelling on the property located at 25 Waughbrook Lane (WB025) in Underhill, VT.

B. Per the 2012 Unified Land Use & Development Regulations, accessory dwellings are a permitted use in all zoning districts.

C. The property is located within the Mt. Mansfield Scenic Preservation & Soil and Water Conservation zoning districts as defined in Article II, Table 2.5 & 2.6 of the 2012 Unified Land Use and Development Regulations.

D. The proposed accessory dwelling will be constructed within the Mt. Mansfield Scenic Preservation zoning district.

E. Conditional Use Review approval is requested for the project pursuant to review under the 2012 Unified Land Use and Development Regulations.

F. The square footage of the primary dwelling is approximately 2479 square feet.

III. CONCLUSIONS:

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

- Article II, Table 2.5 – Mt. Mansfield Scenic Preservation District
- Article II, Table 2.6 – Soil and Water Conservation District
- Section 3.7 - Lot, Yard, & Setback
- Section 3.18 – Steep Slopes
- Section 3.22 – Water Supply & Wastewater Systems
- Section 4.2 – Accessory Dwelling
- Section 5.4 – Conditional Use Review

IV. DECISION AND CONDITIONS:

Based upon the findings above, and subject to the conditions below, the Development Review Board grants final approval for the Conditional Use Review application as described at the hearing and in the submitted application documents with the following conditions:

A. Approval is granted for a single-story detached accessory dwelling not to exceed 1200 square feet. The accessory dwelling should be clearly subordinate to the principal dwelling.

B. An Accessory Dwelling building permit is required for the construction of the accessory dwelling. A zoning permit shall be retained prior to construction in accordance with Section 10.3 of the Unified Land Use and Development Regulations.

C. The accessory dwelling shall meet all setback, building and lot coverages for the Mt. Mansfield Scenic Preservation zoning district.

D. The Applicant shall obtain a Wastewater System & Potable Water Supply permit. A copy of the Wastewater Systems and Potable Waste Supply Permit shall be recorded in the Town Land Records. Failure to do this shall void this Board's approval.

E. The Applicant shall provide one additional parking space for the accessory dwelling for a minimum total of three spaces. Improvements to the driveway shall meet B-71 Residential Driveway Standards.

F. Prior to the issuance of a Certificate of Occupancy, the Applicant shall provide certification from a licensed engineer that the driveway improvements have been constructed as permitted.

G. The accessory dwelling is permitted only as accessory to the principal residential use of the property and shall be retained in common ownership.

Dated at Underhill, Vermont this 15th day of December 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____.