TOWN OF UNDERHILL
APPLICATION OF LISA DAME AND BRENT GOPLEN
FOR REVISIONS TO AN APPROVED SUBDIVISION
FINAL FINDINGS AND DECISION

In re: Lisa Dame
Brent Goplen
2 Piney Grove Lane
(formerly 20 Lower English Settlement Rd.)
Underhill, VT 05489

Docket No. DRB-12-09: Dame & Goplen

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Lisa Dame's and Brent Goplen's combined sketch plan review and final hearing application for revisions to the previously-approved 5-lot subdivision of property located at 2 Piney Grove Lane in Underhill, VT.

A. On September 17, 2012 and September 24, 2012, Lisa Dame filed applications for sketch plan review and final subdivision review for the proposed revision to the subdivision on behalf of all Applicants. A copy of the application and additional information are available at the Underhill Town Hall.

B. On September 25, 2012, a copy of the notice of the combined sketch plan review and final hearing was mailed via Certified Mail to the Applicants, Lisa Dame, 5C Woodland Dr., Jericho, VT 05465, and Brent Goplen, 20 Lower English Settlement Rd., Underhill, VT 05489, and to the following owners of properties adjoining the property subject to the application:

1. Robie, 11 Lower English Settlement Rd., Underhill, VT 05489
2. Barickman, 2 Lower English Settlement Rd., Underhill, VT 05489
3. Aldrich, 26 Lower English Settlement Rd., Underhill, VT 05489
4. Mahany, 35 Sand Hill Rd., Underhill, VT 05489
5. Warren, 1 Romar Dr., Underhill, VT 05489
6. Phillips, 211 River Rd., Underhill, VT 05489
7. Jobin-Picard, 13 Lower English Settlement Rd., Underhill, VT 05489

C. On September 24, 2012, notice of the combined sketch plan review and final hearing on the proposed Dame & Goplen subdivision revision was posted at the following places:

1. The property to be developed, PY002 (formerly LE020);

2. The Underhill Town Clerk's office;
3. The Underhill Country Store;
4. Wells Corner Market;
5. The Underhill Center Post Office;
6. The Underhill Flats Post Office;
7. Jacobs IGA;
8. The Town of Underhill website.

D. On September 26, 2012, notice of the combined sketch plan review and final hearing was published in *Seven Days.*

E. The combined sketch plan review and final hearing began at 6:50 PM on October 15, 2012.

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

- Chuck Brooks
- Matt Chapek
- Karen McKnight
- Penny Miller
- Charles Van Winkle, Chairperson

Zoning & Planning Administrator Kari Papelbon; Selectboard Members Seth Friedman and Steve Owen; Town Administrator Dawna Brisson; Applicant Lisa Dame; Don Foote, Blue Spruce Realty; and Zach Tellstone.

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

- Lisa Dame, 5C Woodland Dr., Jericho, VT 05465 (Applicant)
- Anne Jobin-Picard, 13 Lower English Settlement Rd., Underhill, VT 05489
- Doug Robie, 11 Lower English Settlement Rd., Underhill, VT 05489 (via email)

Those who spoke on behalf of the Applicant(s):

- Don Foote, Blue Spruce Realty, P.O. Box 1099, Jericho, VT 05465

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

1. A copy of Lisa Dame's and Brent Goplen's Application for Subdivision: Sketch Plan (dated 9-17-12);

2. A copy of Lisa Dame's and Brent Goplen's Application for Subdivision: Final (dated 9-26-12);
3. A copy of the completed Subdivision Checklist: Sketch Plan;
4. A copy of the proposed plan prepared by Gunner McCain of McCain Consulting, Inc. (dated 9-10-12);
5. A copy of the proposed survey prepared by Keith Van Iderstine of McCain Consulting, Inc. (revised 10-8-12);
6. A copy of the completed Subdivision Checklist: Final Hearing;
7. A copy of the completed Subdivision Standards Findings Checklist;
8. A copy of the hearing notice published in Seven Days on 9-26-12;
9. A copy of the email from Doug Robie (dated 10-2-12);
10. A copy of the procedure checklist and staff memo for this hearing.

These exhibits are available in the Dame & Goplen, PY002, subdivision file at the Underhill Zoning Office.

II. FINDINGS

Factual Findings

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:

A. The applicants seek approval to amend conditions of the previously-approved subdivided land. The subject property is a ±5-acre parcel located at 2 Piney Grove Lane (former 20 Lower English Settlement Rd.) in Underhill, VT (PY002).

B. The property is located in the Water Conservation zoning district as defined in Article II, Table 2.4 of the 2012 Unified Land Use and Development Regulations.

C. Subdivision revision approval is requested for the project pursuant to review under the following sections of the 2012 Unified Land Use and Development Regulations:

- Article II, Table 2.4 – Water Conservation zoning district
- Section 3.7 – Lot, Yard & Setback Requirements
- Section 3.22 – Water Supply & Wastewater Systems
- Section 7.8 – Revisions to an Approved Subdivision
- Section 7.3 – Sketch Plan Review
- Section 7.6 – Final Subdivision Review

- Article VIII – Subdivision Standards

D. Written and verbal comments from adjacent landowners Doug Robie and Anne Jobin-Picard were received at the hearing.

III. CONCLUSIONS

Applicable Regulation Standards

Section 7.8, Revisions to an Approved Subdivision

The Board finds that the proposed revisions to the approved subdivision plans do not qualify for Administrative approval and require Board review. A request was made to amend Condition (P) of the decision dated June 21, 2012 to allow a building permit to issue to Lot 1 prior to completion of the road and shared infrastructure installation. See *Decision and Conditions* below.

Article II, Table 2.4, Dimensional Standards

The Board finds that the proposed location of the building envelope does not meet the setback to the side property line on the eastern side. No waiver requests were made during the hearing. See *Decision and Conditions* below.

Section 3.7, Lot, Yard & Setback Requirements

The Board makes the following findings on the application as proposed:

A. Only one principal structure is proposed on the lot [Section 3.7(A)].

B. The proposed location of the building envelope does not meet the side setback requirement on the eastern side. No waiver requests were made during the hearing. See *Conclusions* for Section 3.2 above and *Decision and Conditions* below.

C. The subdivision revision does not include changes to the proposed access design or frontage [Section 3.7(C)].

D. No new corner lots are proposed [Section 3.7(D)].

E. No waiver requests were made during the hearing [Section 3.7(E)].

Section 3.22, Water Supply & Wastewater Systems

The Board finds that no changes to the approved septic system are proposed. Any changes to the approved Wastewater Treatment and Potable Water Supply Permit are the jurisdiction of the State of Vermont. See *Decision and Conditions* below.

Section 7.3, Sketch Plan Review

The Board finds that the requirements for Sketch Plan Review were fulfilled with the submissions and combined review hearing held October 15, 2012.

Section 7.6, Subdivision Review, Final Subdivision Review

The Board makes the following findings:

A. The submission requirements of Section 7.6(B) and the hearing requirements of Section 7.6(C) were fulfilled.

B. This decision is written in fulfillment of Section 7.6(D).

Article VIII, Subdivision Standards

The Board makes the following findings:

A. The Applicants provided responses to applicable sections of Article VIII on the Findings Checklist. The Board accepts these responses and makes supplemental findings where applicable [Section 8.1(C)].

B. No waivers have been requested. The proposed location of the building envelope does not meet the side setback requirement on the eastern side [Sections 8.2(F), (G)]. See *Decision and Conditions*.

IV. DECISION AND CONDITIONS

Based upon the findings above, and subject to the conditions below, the Development Review Board grants approval (Charlie Van Winkle, Matt Chapek, Chuck Brooks, and Penny Miller in favor; Karen McKnight opposed) for the subdivision amendments as presented at the combined sketch plan review and final hearing. All conditions of the final decision dated June 21, 2012 shall remain in force except as specifically amended below.

A. The building envelope shall be revised on the final plans to meet all setback requirements.

B. All revised State permits shall be recorded in the land records.

C. A building permit may be issued for Lot 1 prior to the completion of installation of the private road and shared stormwater infrastructure. No other modifications to the subdivision decision dated June 21, 2012 are approved.

D. 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)].

E. The final plat and engineering site plan shall be submitted in accordance with Section 7.7.

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

Dated at Underhill, Vermont this 25 day of OCTOBER, 2012.

Charles Van Winkle, 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 11/25/2012