

TOWN OF UNDERHILL
APPLICATION OF TIFFANY RENUAD AND
ERIC AND MARY ANNE ECKHARDT FOR A BOUNDARY LINE ADJUSTMENT
FINAL FINDINGS AND DECISION

In re: Tiffany Renaud
295 Ten Stones (CB101)
Colchester, VT 05445

Eric and Mary Anne Eckhardt
89 Corbett Rd. (CB089)
Underhill, VT 05489

Docket No. DRB-10-04: Renaud/Eckhardt

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Tiffany Renaud's and Eric and Mary Anne Eckhardt's final hearing application for a boundary line adjustment between properties located at 101 Corbett Road and 89 Corbett Road in Underhill, VT.

1. On March 29, 2010, Gunner McCain of McCain Consulting, Inc. filed an application for a boundary line adjustment on behalf of the Applicants for the project. A copy of the completed application and supporting materials are available at the Underhill Town Hall.
2. On April 2, 2010, a copy of the notice of final hearing was mailed to the applicants, Tiffany Renaud, 295 Ten Stones, Colchester, VT 05445 and Eric and Mary Anne Eckhardt, 89 Corbett Rd., Underhill, VT 05489, and via certified mail to the following owners of properties adjoining the property subject to the application:
 - a. Deane Squabetty Trust, Duncan McLane, TTEE, 2117 Granger Way, Lummi Island, WA 98262
 - b. Bogue Family Trust, 66 Buckingham Rd., Colchester, VT 05446
 - c. Tisbert, 5901 Pleasant Valley Rd., Cambridge, VT 05444
 - d. Lewis/Majka, P.O. Box 252, Underhill Center, VT 05490
 - e. Reilly, 30 West St., Apt. 31A, New York, NY 10004
 - f. Templeton, 97 Colony Ln., New Hampton, NH 03256
 - g. Young, 15 Dover St., South Burlington, VT 05403
 - h. Dumond, 79 Corbett Rd., Underhill, VT 05489
3. By April 2, 2010, notice of the final hearing on the proposed Renaud and Eckhardt boundary line adjustment was posted at the following places:
 - a. The properties under review, CB101 and CB089;
 - b. The Underhill Town Clerk's office;
 - c. The Underhill Center Post Office;
 - d. The Underhill Flats Post Office;
 - e. Jacobs IGA;
 - f. The Underhill Country Store;
 - g. Wells Corner Market;

- h. The Deborah Rawson Memorial Library;
 - i. The Town of Underhill website.
4. On April 3, 2010, notice of a public hearing was published in the *Burlington Free Press*.
 5. The final hearing was scheduled to begin at 6:30 PM on April 19, 2010.
 6. Present at the final hearing were the following members of the Development Review Board:
 - Deb Shannon
 - Matt Chapek
 - Penny Miller
 - Peter Seybolt
 - Stan Hamlet
 - Chuck Brooks, Acting Chair

Kari Papelbon, Zoning Administrator; Gunner McCain, consultant; Eric Eckhardt, applicant; Tiffany Renaud, applicant; Robert Danis (applicant for the next hearing); and Robert Newman (applicant for the last hearing) 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:
 - 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:
 - a. A staff report sent by Zoning Administrator Kari Papelbon to the Development Review Board, Tiffany Renaud, and Eric and Mary Anne Eckhardt;
 - b. Tiffany Renaud and Eric and Mary Anne Eckhardt’s Boundary Line Adjustment application (dated 3-29-10);
 - c. A copy of the survey prepared by Keith Van Iderstine of McCain Consulting for Tiffany Renaud and Eric and Mary Anne Eckhardt (dated 3-12-10);
 - d. A copy of the tax map for CB101 and CB089;
 - e. A copy of the exemption language from the VT Wastewater Rules;
 - f. A copy of the confirmation email for the hearing notice to published in the *Burlington Free Press* (4-2-10);
 - g. A copy of the revised survey prepared by Keith Van Iderstine of McCain Consulting for Tiffany Renaud and Eric and Mary Anne Eckhardt (dated 4-13-10).

These exhibits are available in the Renaud/Eckhardt, CB101 & CB089, Boundary Line Adjustment file at the Underhill Zoning Office.

II. 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:

1. The applicants seek a permit to adjust a common boundary line between their properties. The subject properties are a ± 2.87 -acre parcel located at 101 Corbett Road and a ± 10.65 -acre parcel located at 89 Corbett Road in the Town of Underhill.
2. The properties are located in the Scenic Preservation zoning district as depicted on the town tax map and defined in §VII of the Underhill Zoning Regulations.
3. §VI (D) of the Underhill Zoning Regulations provides for the following minimum requirements:
 - A. No lot shall be less than 10 acres.
 - B. Each lot shall have a frontage of at least 400 feet.
4. §VI (E) of the Underhill Zoning Regulations provides for the following minimum requirement:
 - A. Accessory uses or buildings, parking areas and driveways shall be constructed not less than 20 feet from side and rear lot lines.
5. The property at 101 Corbett Road is a preexisting, nonconforming lot in existence for more than 15 years. The boundary line adjustment will make the nonconforming lot more nonconforming by a negligible amount (less than 1800 square feet, or less than 1.4% of the original size).
6. The property at 89 Corbett Road will increase in size by a negligible amount (less than 1800 square feet).
7. Wastewater permits are regulated by the State of Vermont. Section 1-304(a)(11)A of the Wastewater System and Potable Water Supply Rules states that “boundary line adjustments that affect either improved or unimproved lots [are exempt from permit requirements] provided that:
 - A. each lot being adjusted meets one or more of the following standards:
 - i. A lot being reduced in size is being reduced by no more than two percent;
 - ii. A lot is increased in size;
 - iii. The boundary line being adjusted is located, after adjustment, at least 500 feet from the footprint of the building or structure on an improved lot; or
 - iv. The Secretary, on a case by case basis, makes a written determination that the proposed adjustment will not have an adverse effect on any potable water supply or wastewater system on the affected lots.

- B. a diagram is submitted to the Secretary that shows the existing and revised lot boundaries; and
- C. a copy of the diagram and, if applicable the Secretary's written determination, is recorded and indexed in the land records for the municipality where the lots are located by the landowner."

III. DECISION AND CONDITIONS

Based upon the findings above, and subject to the conditions set forth below, the Development Review Board grants approval for the Renaud and Eckhardt boundary line adjustment between their properties at 101 Corbett Road and 89 Corbett Road.

§VI (D) of the Underhill Zoning Regulations

- A. The lot at 101 Corbett Road is a preexisting, nonconforming lot. The Board finds that the small change in square footage is negligible and will not make the lot more nonconforming.
- B. Each lot will have at least 400 feet of frontage after the adjustment.

§VI (E) of the Underhill Zoning Regulations

- A. The existing driveway to the lot at 89 Corbett Road will be more than 20 feet from the side lot lines after the adjustment.

Vermont Wastewater System and Potable Water Supply Rules

The Board finds that the application meets at least one of the State's criteria for exemptions under § 1-304(a)(11)A of the Wastewater System and Potable Water Supply Rules.

The Development Review Board approves the boundary line adjustment application subject to the following conditions:

1. Deeds for the lots and a survey shall be recorded in the Underhill Land Records to reflect the boundary line adjustment and the exemption from the Wastewater System and Potable Water Supply Rules.
2. No transfer or sale of property may occur prior to recording the plat and decision in the Town of Underhill Land Records.

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

Charles 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 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. No local permits shall be issued until _____, when the 30-day appeal period has expired.