TOWN OF UNDERHILL
APPLICATION OF LUTHER MARTIN
FOR A BOUNDARY LINE ADJUSTMENT
FINDINGS AND DECISION

In re: Luther Martin
59 Harvey Road
Underhill, VT 05489

Docket No. DRB-08-08: Luther Martin

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Luther Martin's application for a boundary line adjustment between property he owns located at 59 Harvey Road in Underhill, Vermont and property owned by the University of Vermont, Proctor Maple Research Center located at 58 Harvey Road in Underhill, Vermont.

1. On December 17, 2007 Luther Martin filed an application for a boundary line adjustment. A copy of the application and site plan are available at the Underhill Town Hall.

2. On May 15, 2008, notice of a public hearing was published in the Mountain Gazette.

3. On March 20, 2008 a copy of the notice of a hearing on the boundary line adjustment application was mailed via certified mail to the applicant, Luther Martin, 161 St. Paul Street #304, Burlington, VT 05401 and to following owners of properties adjoining the properties subject to the application:

   a. State of VT-Green Mountain Club, Attn: Chris Hanna, 28 Germain St., Burlington, VT 05401
   b. Strek, 73 Harvey Road, Underhill, VT 05489
   c. Wood, 63 Harvey Road, Underhill, VT 05489
   d. Pincus/Albright, P.O. Box 87, Underhill Center, VT 05490
   e. Nugent, 73 Stevensville Rd., Underhill, VT 05489
   f. Poetzsch, 356 Meadowrun Rd., Williston, VT 05495
   g. Riley, P.O. Box 188, Underhill Center, VT 05490
   h. Bennett, P.O. Box 95, Underhill Center, VT 05490
   i. UVM Proctor Maple Research Center, P.O. Box 233, Underhill Center, VT 05490
   j. Clark, P.O. Box 117, Underhill Center, VT 05490
   k. Archibald, P.O. Box 156, Underhill Center, VT 05490
   l. Fredericks, P.O. Box 186, Underhill Center, VT 05490
   m. Drew/Pendleton, P.O. Box 158, Underhill Center, VT 05490
   n. Hamlet, P.O. Box 209, Underhill Center, VT 05490
   o. Otis, 242 Pleasant Valley Rd., Underhill, VT 05489

p. Gibbons, P.O. Box 115, Underhill Center, VT 05490
q. Henry, P.O. Box 159, Underhill Center, VT 05490
r. Shepard, P.O. Box 207, Underhill Center, VT 05490
s. Suhadolc, P.O. Box 192, Underhill Center, VT 05490
t. Frisbie, 329 East Road, Colchester, VT 05446
u. Ely, P.O. Box 235, Underhill Center, VT 05490
v. Potvin, P.O. Box 135, Underhill Center, VT 05490

Notice was also mailed to Krebs & Lansing Consulting Engineers, Inc., 164 Main Street, Colchester, VT 05446; Julie Barrett, UVM Campus Planning Services, 109 South Prospect St., Burlington, VT 05405; and Linda Seavey, UVM Campus Planning Services, 109 South Prospect St., Burlington, VT 05405.

4. By May 20, 2008, notice of the hearing on the proposed Martin boundary line adjustment was posted at the following places:

   a. The Martin property, 59 Harvey Road;
   b. The Underhill Town Clerk's office;
   c. The Underhill Center Post Office;
   d. The Underhill Flats Post Office;
   e. The Town of Underhill website.

5. The hearing was scheduled to commence at 6:30 PM on June 16, 2008.

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

   - Chuck Brooks
   - Penny Miller
   - Matt Chapek
   - Peter Seybolt
   - Charlie Van Winkle
   - Scott Tobin, Chair

   Kari Papelbon, Zoning Administrator, also attended the meeting.

7. At the outset of the hearing, Chairperson Scott Tobin swore in all interested parties. Interested parties who spoke at the hearing were:

   - Luther Martin, 161 St. Paul Street #304, Burlington, VT 05401
   - Brian Stowe, UVM Proctor Maple Research Center, P.O. Box 233, Underhill Center, VT 05490

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, Luther Martin, Brian Stowe, Proctor Maple Research Center, and Krebs & Lansing Consulting Engineers, Inc.;
   b. Luther Martin's Boundary Line Adjustment application (dated 12-14-07);

c. A copy of the proposed survey detailing the boundary line adjustment prepared by Ian Jewkes of Krebs and Lansing Consulting Engineers, Inc. (dated 4-11-08);
d. A copy of the letter to Bill Zabiloski of the VT Agency of Natural Resources from Peter Lazorchak of McCain Consulting regarding the septic replacement area for the property (dated 4-23-08);
e. A copy of the letter from Bill Zabiloski of the VT Agency of Natural Resources to Peter Lazorchak of McCain Consulting regarding the septic replacement area for the property (dated 4-30-08);
f. A copy of the current state Wastewater System and Potable Water Supply Rules pertaining to boundary line adjustments;
g. A copy of the parcel map for HA059 and HA059x;
h. A copy of the newspaper warning (published 5-15-08);
i. A copy of the Boundary Line Adjustment checklist.

These exhibits are available in the Luther Martin, HA059 boundary line adjustment file at the Underhill Zoning Office.

II. FINDINGS

Background

The Minutes of the meeting 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 subject properties, 59 Harvey Road and 58 Harvey Road, lie in the Scenic Preservation and Soil & Water Conservation zoning districts. These zoning district boundaries and provisions shall be shown on the plat.

2. The Applicant, Luther Martin, is applying for a boundary line adjustment between properties at 59 Harvey Road (HA059) and 58 Harvey Road (HA058x). Approximately 30 acres will be transferred from HA059 to HA058x. Approximately 10 acres will be retained with the existing dwelling at HA059.

3. The acreage to be conveyed will become part of the UVM Proctor Maple Research Center land and will be used for agricultural research.

4. A portion at the rear of the acreage to be conveyed and a portion at the rear of the retained parcel lie in the 1500-foot elevation zone. No structures subject to Town permitting shall be permitted in this zone. This zone and restriction shall appear on the plat.

5. No new roads or curb cuts have been requested. Access for the conveyed acreage will be via trails or woods roads. Access for the retained parcel will be via the existing driveway.

6. The applicant has received a letter from the Vermont Agency of Natural Resources confirming that the proposed boundary line adjustment is exempt from State wastewater and potable water supply permitting, and identifying a replacement septic area is not required as the new boundary line will be located more than 500 feet from the existing septic system at 59 Harvey Road.

7. Some record owners of property have changed due to sales of adjoining property. These owners shall be updated and shown on the plat.

III. DECISION

Based upon the findings above, and subject to any conditions listed below, the Development Review Board grants approval for the boundary line adjustment as presented at the hearing.

Conditions

1. The Scenic Preservation and Soil & Water Conservation zoning district boundaries and provisions shall be shown on the plat.

2. The 1500-foot elevation limit zone and provisions shall be shown on the plat. No structures subject to Town permitting shall be permitted in this zone.

3. All current record owners of adjoining properties shall be shown on the plat.

4. The deed reflecting the 30-acre conveyance from Luther Martin, HA059, to UVM Proctor Maple Research Center, HA058x, shall be recorded in the Town of Underhill Land Records.

5. All boundary line adjustment hearing and related fees shall be paid in full to the Zoning Administrator prior to filing the plat with the Town Clerk.

Dated at Underhill, Vermont this 3rd day of July, 2008.

Scott Tobin

Scott Tobin, 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 documents shall be recorded until August 2, 2008, when the 30-day appeal period has expired.