TOWN OF UNDERHILL
APPLICATION OF DAVID AND JANET ELY
FOR A BOUNDARY LINE ADJUSTMENT
FINDINGS AND DECISION

In re: David and Janet Ely
14 Moose Run
Underhill, VT 05489

Docket No. DRB-09-09: David and Janet Ely

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns David and Janet Ely's application for a boundary line adjustment between two properties they own located at 12 and 14 Moose Run in Underhill, Vermont.

1. On July 21, 2009, David Ely submitted a request via telephone for a boundary line adjustment. A copy of the survey is available at the Underhill Town Hall.

2. On July 22, 2009, a copy of the notice of a hearing on the boundary line adjustment application was provided to the Applicants, David and Janet Ely, 14 Moose Run, Underhill, Vermont, 05489, and mailed via certified mail to following owners of properties adjoining the properties subject to the application:

   a. Potvin, P.O. Box 135, Underhill Center, VT 05490
   b. Frisbie, P.O. Box 342, Jericho, VT 05465
   c. Suhadolc, P.O. Box 192, Underhill Center, VT 05490
   d. Russell, P.O. Box 218, Jericho, VT 05465
   e. Wyman, 33 Henderson Terrace, Burlington, VT 05401

3. By July 22, 2009, notice of the hearing on the proposed Ely boundary line adjustment was posted at the following places:

   a. The subject property, 14 Moose Run;
   b. The Underhill Town Clerk's office;
   c. The Underhill Center Post Office;
   d. The Underhill Flats Post Office;
   e. The Deborah Rawson Memorial Library;
   f. The Town of Underhill website.

4. The hearing was scheduled to commence immediately following the hearing scheduled for 6:30 PM on August 17, 2009.

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

- Stan Hamlet
- Matt Chapek
- Chuck Brooks
- Charlie Van Winkle (recused, no vote cast)
- Scott Tobin, Chair

Kari Papelbon, Zoning Administrator, also attended the meeting.

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

   - David Ely, 14 Moose Run, Underhill, VT 05489

7. 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 and David and Janet Ely;
   b) A copy of the Final Plat: Subdivision Modification – Boundary Adjustment for David and Janet Ely prepared by Stuart J. Morrow (dated December 2007);
   c) A copy of the email to David Ely from ZA Papelbon regarding the hearing requirements (dated 7-22-09);
   d) A copy of the hearing notice published in Seven Days (dated 7-29-09);
   e) A copy of the parcel map for MO012 and MO014.

These exhibits are available in the Ely, MO012 and MO014, 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 at 12 and 14 Moose Run lie in the Scenic Preservation zoning district.

2. The two lots were created by a subdivision approved by the Development Review Board in the decision dated March 3, 2008.

3. The Applicants, David and Janet Ely, are applying for a boundary line adjustment between the two parcels, MO012 and MO014. They still own both lots. No new

building lot will be created by the adjustment and both lots will retain at least 10 acres.

4. Lot 1, MO014, has an existing wastewater system and a State permit for the replacement system. The replacement system will be on Lot 2 after the boundary line adjustment.

5. Applicants should contact the State to determine whether the boundary line adjustment is considered exempt from needing a new wastewater permit or if an amendment to the current wastewater permit is required.

6. An easement deed for Lot 1's replacement system on Lot 2 shall be required to be recorded in the Land Records. A State permit is effective for the septic system on Lot 2.

7. All setback distances and right-of-way widths remain unchanged from the approved subdivision plans.

8. A revised engineering site plan Mylar reflecting the boundary line adjustment shall be required in addition to the revised survey Mylar.

9. The revised date on the survey shows the incorrect date. The corrected revised date shall be required on the final Mylar.

III. DECISION

Based upon the findings above, and subject to the conditions below, the Development Review Board grants approval for the boundary line adjustment.

Conditions

1. Both lots, MO012 and MO014, shall retain at least 10 acres after the boundary line adjustment.

2. A revised engineering site plan Mylar reflecting the change in lot lines and acreages shall be recorded in the Land Records.

3. The revised survey Mylar shall contain the correct revision date.

4. The deeds to the lots shall incorporate the lot lines and acreages from the approved boundary line adjustment.

5. An easement deed for the Lot 1 replacement septic area on Lot 2 shall be recorded in the Land Records.

6. A copy of any letter of exemption or permit amendment from the State of Vermont for the septic systems as a result of the boundary line adjustment shall be filed with the Zoning Administrator.

Dated at Underhill, Vermont this 8th day of September, 2009.

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 October 8, 2009, when the 30-day appeal period has expired.

UNDERHILL TOWN CLERK'S OFFICE
Received For Record 11.10 A.D., 2009
At 11 O'clock — minutes A M. & Recorded
In Book 177 Page 409-412 of Underhill Records
Attest [illegible]
Town Clerk

END OF DOCUMENT