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TOWN OF UNDERHILL
APPLICATION OF SUZANNE KUSSEROW AND
CRAIG AND SUSAN LASSITER FOR A BOUNDARY LINE ADJUSTMENT
FINAL FINDINGS AND DECISION

In re: Suzanne Kusserow
P.O. Box 125 (BE053)
Underhill Center, VT 05490

Craig and Susan Lassiter
5 High Meadows Rd. (HI005)
Underhill, VT 05489

UNDERHILL TOWN CLERK'S OFFICE
Received For Record 3-31 A.D., 20 10
At 12 O'clock — minutes P M. & Recorded
In Book 179 Page 496-497 of Underhill Records
Attest
Town Clerk

Docket No. DRB-10-03: Kusserow/Lassister

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Suzanne Kusserow's and Craig and Susan Lassiter's final hearing application for a boundary line adjustment between properties located at 53 Beartown Road and 5 High Meadows Road in Underhill, VT.

1. On March 1, 2010, Brad Holden filed an application for a boundary line adjustment on behalf of the Applicants for the project. A verbal application had been received on February 24, 2010. A copy of the completed application and supporting materials are available at the Underhill Town Hall.

2. On February 26, 2010, a copy of the notice of final hearing was mailed to the applicants, Suzanne Kusserow, P.O. Box 125, Underhill Center, VT 05490 and Craig and Susan Lassiter, 5 High Meadows Rd., Underhill, VT 05489, and via certified mail to the following owners of properties adjoining the property subject to the application:

    a. L. Lamphere c/o P. Lamphere, 178 Beartown Rd., Underhill, VT 05489
    b. Kusserow/Lair, 39 Beartown Rd., Underhill, VT 05489
    c. Frey, 135 Beartown Rd., Underhill, VT 05489
    d. Wiltshire, 4 High Meadows Rd., Underhill, VT 05489
    e. Vanhorn, 51 Beartown Rd., Underhill, VT 05489
    f. Lord, 10 High Meadows Rd., Underhill, VT 05489
    g. Close/Bowker, 11 High Meadows Rd., Underhill, VT 05489
    h. Boyson, 15 High Meadows Rd., Underhill, VT 05489
    i. Mantone, 52 Stevensville Rd., Underhill, VT 05489
    j. Witte, P.O. Box 189, Underhill Center, VT 05490

3. On February 25, 2010, notice of a public hearing was published in the *Burlington Free Press*.

4. By February 24, 2010, notice of the final hearing on the proposed Kusserow and Lassiter boundary line adjustment was posted at the following places:
    a. The properties under review, BE063 and HI005;

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 Town of Underhill website.

5. The final hearing was scheduled to begin at 6:30 PM on March 15, 2010.

6. Present at the final hearing were the following members of the Development Review Board:
   - Scott Tobin, Chair
   - Peter Seybolt
   - Stan Hamlet
   - Chuck Brooks
   - Will Towle

   Kari Papelbon, Zoning Administrator; Brad Holden, consultant; Suzanne Kusserow, applicant; Craig and Susan Lassiter, applicants; Robert Lair, neighbor; Justin Willis (consultant for next hearing); Tom Moore (applicant for next hearing); and Ed and Betty Moore (applicants for next hearing) also attended the hearing.

7. At the outset of the hearing, Chairperson Scott Tobin explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." Interested parties who spoke at the hearing were:

   - Suzanne Kusserow, 53 Beartown Rd., Underhill, VT (mailing address in (2) above).

   Consultant(s) who spoke on behalf of the Applicants were:

   - Brad Holden, 60 Covey Rd., Underhill, VT 05489

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, Suzanne Kusserow, and Craig and Susan Lassiter;
   b. Suzanne Kusserow and Craig and Susan Lassiter's Application for Boundary Line Adjustment (dated 2-26-10);
   c. A copy of the survey prepared by Brad Holden for Suzanne Kusserow and Craig and Susan Lassiter (dated 3-1-10);
   d. A copy of the tax map for BE053 and HI005;
   e. A copy of the exemption language from the VT Wastewater Rules;
   f. A copy of the hearing notice published in the Burlington Free Press (2-25-10);
   g. Draft Warranty Deed for the transfer of land.

These exhibits are available in the Kusserow/Lassiter, BE053 & HI005, 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 ±10.4-acre parcel located at 53 Beartown Road and a ±1.6-acre parcel located at 5 High Meadows Road in the Town of Underhill.

2. The properties are located in the Water Conservation 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 requirement:

    A. No lot shall be less than 5 acres.

4. The property at 53 Beartown Road originally merged with a 2.5-acre parcel. Approximately 1.3 acres were deeded to the adjacent lot at 11 High Meadows Road in 1993.

5. The lot at 5 High Meadows Road is pre-existing, non-complying lot created through a subdivision. The addition of 1.3 acres will make it less non-complying.

6. 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."

7. 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. A reference to this exemption will be included in the deeds to the lots.

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 Kusserow and Lassiter boundary line adjustment between their properties at 53 Beartown Road and 5 High Meadows Road.

The Development Review Board approves the 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.

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 30th day of March, 2010.

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 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 recorded until April 29, 2010, when the 30-day appeal period has expired.

END OF DOCUMENT