TOWN OF UNDERHILL
APPLICATION OF STEVEN AND WENDY GUAY
FOR A REVISION TO THE PREVIOUSLY-APPROVED
PLANNED RESIDENTIAL DEVELOPMENT
FINAL HEARING FINDINGS AND DECISION

In re: Steven and Wendy Guay
63 River Road
Underhill, VT 05489

Docket No. DRB-10-06: Steven and Wendy Guay

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Steven and Wendy Guay's final hearing application for a revision to the building envelope on Lot 2 of their previously-approved 2-Lot Planned Residential Development (PRD) of property they own located at 63 River Road in Underhill, VT. The address for Lot 2 is 50 River Road.

1. On April 23, 2010, Steven and Wendy Guay filed an application for a final subdivision hearing for the project. A copy of the application is available at the Underhill Town Hall.

2. On April 26, 2010, a copy of the notice of a final hearing was mailed to the applicants, Steven and Wendy Guay, 63 River Road, Underhill, VT 05489, and via certified mail to the following owners of properties adjoining the property subject to the application:

   a. Jericho-Underhill Water District, P.O. Box 174, Underhill, VT 05489

   Additional notice was provided to the following owners of properties that do not adjoin 50 River Road, but do adjoin 63 River Road:

   a. Jericho-Underhill Park District, P.O. Box 164, Underhill, VT 05489
   b. Sullivan, 91 River Road, Underhill, VT 05489
   c. Tower, 73 River Road, Underhill, VT 05489
   d. Derouchie, 12 Maple Ridge, Underhill, VT 05489
   e. Quinn, P.O. Box 92, Underhill Center, VT 05490
   f. Underhill Cemetery Association, c/o 899-3336 and c/o Randy Clark, Clark's Truck Center, 1-866-415-4623

   Notice was also emailed to David Fuqua, Ridge Consulting Engineers, at dfuqua@heindelnoyes.com and to Mark Ward, Vermont Land Surveyors, at vtls-mark@comcast.net.

3. On April 28, 2010, notice of the final hearing was published in *Seven Days*.

4. On April 30, 2010, notice of the final hearing on the proposed Guay PRD revision were posted at the following places:

   a. The property to be developed, 50/63 River Road;
   b. The Underhill Town Clerk's office;
   c. The Underhill Country Store;
   d. Jacobs IGA;
   e. Wells Corner Market;
   f. The Town of Underhill website.

5. The hearing was scheduled to begin immediately following the hearing scheduled for 7:00 PM on May 17, 2010.

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

   - Will Towle (recused)
   - Penny Miller
   - Deb Shannon
   - Peter Seybolt
   - Stan Hamlet
   - Matt Chapek
   - Charlie Van Winkle
   - Scott Tobin, Chair

   Kari Papelbon, Zoning Administrator, 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:

   - Steven and Wendy Guay, 63 River Road, 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 and to Steven and Wendy Guay;
   b. A copy of Steven and Wendy Guay's Application for Subdivision: Final (dated 4-23-10);
   c. A copy of the Proposed PRD Plan prepared by David Fuqua of Ridge Consulting Engineers for Steven and Wendy Guay (revised 4-9-10);
   d. A copy of the Final Plat prepared by Mark Ward of Vermont Land Surveyors for Steven and Wendy Guay (revised 4-22-10);
   e. A copy of the plan approved 9-8-09.

These exhibits are available in the Guay, RV050, PRD Revision 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 applicants seek a permit to modify the building envelope on a previously-approved subdivided lot. The subject property is a 0.50-acre parcel located at 50 River Road in Underhill, VT (RV050).

2. The property is located in the Water Conservation zoning district as defined in §VII of the Underhill Zoning Regulations.

3. Approval is requested for the project pursuant to review under the following sections of the Town of Underhill Subdivision Regulations and Zoning Regulations:

   - General Application Requirements, "Revisions," page 19
   - §III(R): Planned Residential Development
   - §VII(E)(1)(d) of the Underhill Zoning Regulations

4. The General Application Requirements, "Revisions" section of the Underhill Subdivision Regulations applies to this application. The section states: "No changes, erasures, modifications, or revisions shall be made on any subdivision plat after final approval, unless said plat is first resubmitted to the [DRB] and the [DRB] approves the modifications."

5. §III(R) of the Underhill Zoning Regulations applies to this application. The relevant portion states: "…the [DRB] may modify the area and dimensional requirements of the applicable zoning regulations simultaneously with the approval of a subdivision plat. Planned Residential Development proposals will be reviewed as subdivisions under the Underhill Subdivision Regulations."

6. The applicants have requested the following waiver:

   a. Lot 2 – additional 20' waiver of the building envelope setback to the front lot line (the building envelope is proposed to be 15' from the front lot line)

7. The waiver request is submitted for §VII(E)(1)(d) of the Underhill Zoning Regulations: "Minimum Yard Requirements, Primary dwelling or use, Front yard – 75 feet."

III. DECISION AND CONDITIONS

Based upon the findings above, and subject to the conditions set forth below, the Development Review Board grants final approval for the waiver request and revision to the building envelope as presented at the final hearing.

General Application Requirements, "Revisions" section of the Underhill Subdivision Regulations

1. The Board finds that the requested revision to the building envelope requires approval by the Board per this section. The Board finds the revision request to be acceptable.

§III(R) of the Underhill Zoning Regulations

1. The Board finds that the modifications to the building envelope and front setback require their approval. The Board finds the modification requests to be acceptable.

§VII(E)(1)(d) of the Underhill Zoning Regulations

1. The Board finds that waiver request for the front setback has been submitted. The request is for an additional 20 feet for the building envelope to the front lot line. The proposed building envelope will be 15 feet from the front lot line. The Board finds this to be a reasonable request as the front lot line is on a shared access and no abutting neighbors have provided testimony against the request.

The Development Review Board approves the additional 20-foot waiver for the front lot line setback requirement for the Lot 2 building envelope, and the revised envelope subject to the following conditions:

1. Per the Underhill Subdivision Regulations, final approval of the subdivision is granted upon filing of the final subdivision plat in the Underhill Land Records. No transfer or sale of property may occur prior to recording the final plat and all applicable permits in the Town of Underhill Land Records

2. All subdivision fees shall be paid in full to the Zoning Administrator prior to filing of the final plat.

3. All conditions of the DRB approval dated 9-8-09 for the PRD remain effective, except as specifically amended herein.

Dated at Underhill, Vermont this 28th day of May, 2010.

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 issued until 6-27-10, when the 30-day appeal period has expired.