TOWN OF UNDERHILL
APPLICATION OF PETER AND NANCY GEISE
AND JOSEPH GREENOUGH
FOR AN AMENDMENT TO A PREVIOUSLY-APPROVED SUBDIVISION
FINAL HEARING FINDINGS AND DECISION

In re: Peter and Nancy Geise
10 Krug Road
Underhill, VT 05489

Joseph Greenough
7 Vermont Farmhouse Rd.
Underhill, VT 05489

Docket No. DRB-10-16: Geise

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Peter and Nancy Geise's and Joseph Greenough's final hearing application for an amendment to the septic allocation for an accessory apartment on Lot 2 of their previously-approved 5-Lot subdivision of property they own located at 4 Vermont Farmhouse Road, 1 Brook Bend, and 7 Vermont Farmhouse Road in Underhill, VT. The address for Lot 2 is 7 Vermont Farmhouse Road.

1. On November 9, 2010, Peter and Nancy Geise 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 November 20, 2010, notice of the final hearing was published in the *Burlington Free Press*.

3. On November 21, 2010, a copy of the notice of a final hearing was provided via e-mail to the applicants, Peter and Nancy Geise, and via hand-delivery to the following owners of properties adjoining the properties subject to the application:

   a. Greenough, 7 Vermont Farmhouse Rd., Underhill, VT
   b. Bergeron, 6 Vermont Farmhouse Rd., Underhill, VT
   a. Peterson, 429 Vermont Rte. 15, Underhill, VT
   b. Seymour, 435 Vermont Rte. 15, Underhill, VT
   c. Haley, 6 Meadow Lane, Underhill, VT
   d. Benson, 10 Meadow Lane, Underhill, VT
   e. Morse, 439 Vermont Rte. 15, Underhill, VT
   f. Newman, 441 Vermont Rte. 15, Underhill, VT
   g. Ritter, 7 Brook Bend, Underhill, VT
   h. Cardinal, 447 Vermont Rte. 15, Underhill, VT
   i. Miller, 449 Vermont Rte. 15, Underhill, VT
   j. Allaire, 11 Brook Bend, Underhill, VT

k. Koniuto, 446 Vermont Rte. 15, Underhill, VT
l. Langlois, 444 Vermont Rte. 15, Underhill, VT
m. Lavanway, 75 Palmer Ln., Jericho, VT

Notice was also emailed to Peter Lazorchak, McCain Consulting Inc., at plazorchak@mccainconsulting.com; Charles Brooks, 12 Brook Bend; Peter Mitchell, President of the Jericho-Underhill Water District; Marc Maheux, Jericho-Underhill Water District Operator; and to Jason and Sara Ritter, 7 Brook Bend.

4. On November 21, 2010, notice of the final hearing on the proposed Geise subdivision revision were posted at the following places:

a. The property to be developed, 4 Vermont Farmhouse Rd.;
b. The Underhill Town Clerk's office;
c. The Underhill Center Post Office;
d. The Underhill Country Store;
e. Jacobs IGA;
f. Wells Corner Market;
g. The Underhill Flats Post Office;
h. The Town of Underhill website.

5. The hearing was scheduled to begin immediately following the second hearing scheduled for December 6, 2010. By consensus, the hearing was the last of the evening.

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

- Matt Chapek (recused)
- Will Towle
- Penny Miller
- Peter Seybolt
- Charles Van Winkle, Vice Chairperson

Kari Papelbon, Zoning Administrator, also attended the hearing.

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

- Charles Brooks, 12 Brook Bend, Underhill, VT 05489

One letter was received from:

- Thomas Morse, 413 Vermont Route 15, Underhill, VT 05489

Consultant(s) who spoke on behalf of the Applicant(s):

- Peter Lazorchak, 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 and to Steven and Wendy Guay;
   b. Peter and Nancy Geise's Application for Subdivision: Final (dated 11-9-10);
   c. A copy of the Subdivision Checklist: Final Hearing;
   d. A copy of the plans prepared by Peter Lazorchak of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet 1 dated 9-17-10);
   e. A copy of the letter from Ernestine Chevrier of the Wastewater Management Division (dated 11-12-10);
   f. A copy of the letter from Thomas Morse (dated 11-22-10);
   g. A copy of the approved site plan prepared by Peter Lazorchak of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet S-2 revised 11-5-07);
   h. A copy of the approved survey prepared by Nicholas Nowlan of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet S-7 dated 10-24-07);
   i. A copy of the final decision (dated 10-1-07);
   j. A copy of the tax map for VF004 and BB001;
   k. A copy of the hearing notice published in the *Burlington Free Press* (11-20-10).

9. The hearing was continued to January 17, 2011 at 6:30 PM.

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

- Matt Chapek (recused)
- Charles Brooks (recused)
- Will Towle
- Penny Miller
- Peter Seybolt
- Charles Van Winkle, Vice Chairperson

Kari Papelbon, Zoning Administrator, and 4 other parties present for the subsequent hearing also attended the hearing.

11. At the outset of the hearing, Vice Chairperson Charles Van Winkle explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." No interested parties spoke at the hearing.

Consultant(s) who spoke on behalf of the Applicant(s):

- Gunner McCain, McCain Consulting, Inc., 93 South Main St., Ste.1, Waterbury, VT 05676

12. During the course of the hearing the following exhibits were submitted to the Development Review Board:

    a. A copy of the Wastewater System and Potable Water Supply Permit Application signed by Peter and Nancy Geise on 1-5-11 and by Joseph Greenough on 1-14-11.

    These exhibits are available in the Geise, VF004 & BB001, Subdivision Amendment file at the Underhill Zoning Office.

II. FINDINGS

Factual Findings

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 septic system allocation for an accessory apartment on Lot 2 of the previously-approved subdivision. The septic system allocation and accessory apartment will be forfeited by Lot 2 and moved to the barn on Lot 1. The subject properties are a ±1.09-acre parcel and a 3.02-acre parcel located at 4 Vermont Farmhouse Road in Underhill, VT (VF004) and 7 Vermont Farmhouse Road in Underhill, VT (VF007).

2. The properties are located in the Residential and Rural Residential zoning districts as defined in §V and §VI respectively 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:

    - General Application Requirements, "Revisions," page 19
    - Application Submission Requirements, pages 9-11, "Final Plat for Subdivisions"

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. Application Submission Requirements, "Final Plat for Subdivisions" – The final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements: The final plat shall be drawn to a scale of not more than two hundred (200) feet to the inch, and shall show:

a. #7 - The location of all of the improvements referred to in Article VIII and in addition thereto the location of all utility poles, sewage disposal systems, and rough grading and other devices and methods of draining the area within the subdivision.

b. #8 - The location and results of all percolation tests for each lot of the subdivision, the location of all proposed sanitary sewage systems, and a statement that all such systems will be designed and constructed in conformance with the Sewage Ordinance for the Town of Underhill, as well as to applicable state regulations and standards.

III. CONCLUSIONS

Applicable Regulation Standards

Application Submission Requirements, "Final Plat for Subdivisions"

a. The Board finds that the proposed plan includes the location of the new sewage disposal line connecting Lot 1 with the 1000 gallon pump station on Lot 2. The existing septic system capacity will not change with the revision. No other changes to the subdivision are proposed.

b. The Board finds that the results of the percolation tests and locations for all septic systems were included on the plans. The Applicants have submitted a copy of their completed Wastewater System and Potable Water Supply Permit Application for the project revision as required by the State of Vermont. The Board recognizes that the Town of Underhill no longer has jurisdiction over septic system permitting.

IV. DECISION

Based upon the findings above, the Development Review Board approves the final application and plat as presented at the hearing subject to the following conditions:

1. Prior to submitting the final Mylars and prior to issuance of a permit for the project, the Applicant shall submit a copy of the Town's application form signed by Joseph Greenough, 7 Vermont Farmhouse Road indicating his assent to the application.

2. 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

3. All conditions of the DRB approval dated 10-1-07 for the subdivision remain effective, except as specifically amended herein.

4. The survey plat shall be revised to reflect the new septic easement and allocation for the barn/accessory apartment Lot 1. The revised septic allocations are:

   a. Lot 1 – existing 3-bedroom house plus a 1-bedroom accessory apartment
   b. Lot 2 – existing 3-bedroom house
   c. Lot 3 – existing 3-bedroom house

d. Lot 4 – existing 3-bedroom house plus a 1-bedroom accessory apartment
e. Lot 5 – 5 bedrooms (existing structures)

5. All required State and local permits shall be recorded in the Land Records.

6. Prior to recording the final Mylars, the applicant shall submit a copy of the plat and Sheet 1 in digital format. The format of the digital information shall require approval of the Zoning Administrator.

7. At such time the barn is converted into an accessory apartment, a new 911 code shall be required and shall be posted concurrent with the issuance of a zoning permit.

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

Dated at Underhill, Vermont this 7 day of February, 2011.

Charles Van Winkle

Charles Van Winkle, Vice 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 March 9, 2011, when the 30-day appeal period has expired.