TOWN OF UNDERHILL
APPLICATION OF RYAN & KRISTINIA GOSLIN AND KARIN MACHANIC
FOR A CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL
FINDINGS AND DECISION

In re: Ryan and Kristina Goslin
Karin Machanic
429 Irish Settlement Rd.
Underhill, VT 05489

Docket No. DRB-11-07: Goslin/Machanic

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding involves review of Ryan and Kristina Goslin's and Karin Machanic's application for a conditional use permit and site plan approval for an accessory apartment in a new structure on property own by the Goslins located at 429 Irish Settlement Rd. in Underhill, VT.

A. On July 7, 2011, Karin Machanic filed an application for a conditional use hearing to review the request to construct an accessory apartment in a new structure on property owned by Ryan and Kristina Goslin at 429 Irish Settlement Rd. in Underhill, VT. A copy of the application and materials are available at the Underhill Town Hall.

B. On July 19, 2011, copies of the notice of a public site visit and hearing were mailed via Certified Mail to the Applicants, Ryan and Kristina Goslin and Karin Machanic, 429 Irish Settlement Rd., Underhill, VT 05489, and to the following abutting neighbors:

1. Northrop, 414 Irish Settlement Rd., Underhill, VT 05489
2. John, 293 Lost Nation Rd., Essex Junction, VT 05452
3. Martin, 416 Irish Settlement Rd., Underhill, VT 05489
4. Grab, 449 Irish Settlement Rd., Underhill, VT 05489
5. Berry, 461 Irish Settlement Rd., Underhill, VT 05489

C. On July 19, 2011 notice of the public site visit and hearing on the proposed Goslin and Machanic conditional use/site plan review application were posted at the following places:

1. The Applicants' property, 429 Irish Settlement Rd.;
2. The Underhill Town Clerk's office;
3. The Underhill Center Post Office;
4. The Underhill Flats Post Office;
5. Jacobs IGA;
6. The Underhill Country Store;
7. Wells Corner Market;
8. The Town of Underhill website.

D. On July 21, 2011, notice of a public site visit and hearing on the proposed Goslin and Machanic conditional use/site plan review application was published in the *Burlington Free Press.*

E. The site visit began at 6:25 PM on August 8, 2011.

F. Present at the site visit were the following members of the Development Review Board:

1. Penny Miller, Vice Chair
2. Matt Chapek
3. Will Towle
4. Peter Seybolt
5. Deb Shannon
6. Chuck Brooks

Ryan Goslin and Karin Machanic, Applicants; Kari Papelbon, Zoning & Planning Administrator; and 2 neighbors also attended the site visit.

G. The hearing was scheduled to begin immediately following the second site visit scheduled for August 8, 2011.

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

1. Penny Miller, Vice Chair
2. Peter Seybolt
3. Chuck Brooks
4. Will Towle
5. Matt Chapek
6. Deb Shannon

Kari Papelbon, Zoning & Planning Administrator; Ryan Goslin and Karin Machanic, Applicants; Andy Grab, neighbor; Julia Northrop, neighbor; Justin Willis and Brad Holden, consultants for the next hearing; and Suzanne Kusserow, Applicant for the next hearing, also attended the hearing.

I. At the outset of the hearing, Vice Chairperson Penny Miller explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." Those who spoke at the hearing were:

1. Ryan Goslin and Karin Machanic, 429 Irish Settlement Rd., Underhill, VT 05489.
2. Andy Grab, 449 Irish Settlement Rd., Underhill, VT 05489.
3. Julia Northrop, 414 Irish Settlement Rd., Underhill, VT 05489.

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

1. A staff report sent by Zoning Administrator Kari Papelbon to the Development Review Board, Ryan and Kristina Goslin and Karin Machanic, the Underhill

Selectboard, the Underhill Conservation Commission Chair, and the Underhill-Jericho Fire Department;

2. Ryan & Kristina Goslin's and Karin Machanic's Conditional Use Hearing Request (dated 7-7-11);
3. A copy of the completed Conditional Use Review Standards Findings Checklist;
4. A copy of the Site Plan Review Standards Findings Checklist;
5. A copy of the Agency of Natural Resources Project Review Sheet;
6. A copy of the tax map for IS429;
7. A copy of the hearing notice (published in the Burlington Free Press on 7-21-11);
8. A copy of the letter from the Underhill-Jericho Fire Department (dated 8-3-11).

These exhibits are available in the Goslin/Machanic, IS429, Conditional Use file at the Underhill Zoning Office.

II. FINDINGS

Factual 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:

A. The Applicants, Ryan and Kristina Goslin and Karin Machanic, seek a conditional use permit and site plan approval to construct an accessory apartment in a new structure on their property.

B. The subject property, 429 Irish Settlement Rd., Underhill, VT is located in the Rural Residential zoning district per Article II, Table 2.3 of the 2011 Unified Land Use and Development Regulations.

C. Approval is requested for the project pursuant to review under the following sections of the 2011 Unified Land Use and Development Regulations:

1. Table 2.3(D): Dimensional Standards
2. §3.2: Access
3. §3.7: Lot, Yard & Setback Requirements
4. §3.19: Surface Waters & Wetlands
5. §3.22: Water Supply & Wastewater Systems
6. §4.2: Accessory Dwelling
7. §5.3: Site Plan Review
8. §5.4: Conditional Use Review

D. Mr. Grab and Mrs. Northrop, neighbors, provided testimony at the hearing. Specifics may be found in the August 8, 2011 meeting minutes.

III. CONCLUSIONS

Applicable Regulation Standards

Table 2.3 (D): Dimensional Standards

The Board finds that the proposed new accessory apartment, in the location identified at the site visit, will comply with all required setbacks. See Conclusions for Section 3.19 below.

§3.2: Access

The Board finds that the proposed accessory apartment will be accessed by the existing driveway and curb cut.

§3.7: Lot, Yard & Setback Requirements

The Board makes the following findings:

A. Only one principal structure will be located on the property. The proposed use is for an accessory apartment, which is an allowed use in the Rural Residential zoning district. [Section 3.7(A)].

B. The existing lot exceeds the area, yard, setback, frontage, coverage, and dimensional requirements of the Rural Residential zoning district. The proposed accessory apartment will also meet all dimensional requirements of the Rural Residential zoning district. [Section 3.7(B)].

C. Sections 3.7(C) and (D) are not applicable.

D. No waivers have been requested for the proposal. [Section 3.7(E)].

§3.19: Surface Waters & Wetlands

The Board makes the following findings:

A. The proposed accessory apartment, in the location identified at the site visit, will not cross the stream on the property. [Section 3.19(C)].

B. The proposed accessory apartment, in the location identified at the site visit, will be greater than the required 25-foot setback. [Section 3.19(D)(3)(a)].

C. The proposed septic system location will meet the required setback distance to the stream. [Section 3.19 (D)(4)].

D. Riparian buffer requirements are addressed in Section IV below. [Section 3.19(D)(5)].

E. All other sections of 3.19 are not applicable to the proposal.

§3.22: Water Supply & Wastewater Systems

The Board makes the following findings:

A. The application as proposed meets the requirements of (A) and (C) as a septic design to serve the new accessory apartment, designed by a profession, has been submitted to the State of Vermont Agency of Natural Resources for permitting.

B. Sections (B) and (D) are not applicable as the proposal does not include connections to community systems or off-site systems.

§4.2: Accessory Dwelling

The Board makes the following findings:

A. The existing single family dwelling will be occupied by the owners of the property. [Section 4.2(A)(1)].

B. The proposed accessory apartment will not exceed 50% of the habitable floor area of the existing single-family dwelling. [Section 4.2(A)(2)].

C. The proposed accessory apartment will meet all dimensional requirements, no waivers have been requested, and the proposed apartment will not be located within an existing nonconforming structure. [Section 4.2(A)(3)].

D. A new septic system to serve the proposed accessory apartment is proposed. The existing well on the property will be utilized for water service to the proposed accessory apartment. A Project Review Sheet from the State of Vermont Agency of Natural Resources has been submitted. [Section 4.2(A)(4)].

E. Shared driveway access and one additional parking space are proposed. [Section 4.2(A)(5)].

F. Conditional use review is required for the proposal as a new accessory structure is requested. [Section 4.2(B)(1)].

G. Section (B)(2)-(4) and (C) are not applicable.

§5.3: Site Plan Review

The Board makes the following findings:

A. The location of the proposed accessory apartment as identified at the site visit will not have undue adverse impacts to significant natural, historic, and scenic resources as the location is on a flat surface at the top of a hill, the parcel is not above 1500 feet in elevation, the required setback and buffer area for the unnamed stream will be met, the parcel is not located within a delineated source protection area, there are no mapped significant wildlife habitat areas or travel corridors on the property, and existing scenic resources will be unaffected. [Section 5.3(B)(1)].

B. The proposed location of the accessory apartment is compatible with the proposed setting and context of the Rural Residential zoning district as it is adjacent to the existing principal structure. [Section 5.3(B)(2)].

C. Section 5.3(B)(3)(a)-(e) are not applicable. The existing driveway serving the single-family dwelling will be utilized for access to the accessory apartment.

D. The proposed parking area for the accessory apartment will be located to the side of the principal dwelling. [Section 5.3(B)(4)(a)].

E. The existing parking area will be utilized and cannot be seen from Irish Settlement Road. [Section 5.3(B)(4)(b)].

F. Sections 5.3(B)(4)(c)-(e) are not applicable.

G. Section 5.3(B)(5) is not applicable.

H. The Applicants stated that an existing treelined buffer between the property at 429 Irish Settlement Road and 449 Irish Settlement Road will remain and be enhanced with additional evergreen plantings. [Section 5.3(B)(6)].

I. The Applicants stated that only one light on the garage for the proposed accessory apartment will be installed in accordance with Section 3.11. [Section 5.3(B)(7)].

J. Silt fencing will be installed around the proposed construction area for the accessory apartment to prevent contamination of the seasonal stream. All disturbed areas will be seeded and mulched. [Section 5.3(B)(8)].

§5.4: Conditional Use Review

The Board makes the following findings:

A. The proposed accessory apartment will not result in an undue adverse effect on the capacity of existing or planned community services or facilities as the existing dwelling is currently served by private septic and water, driveway, and the proposed accessory apartment will utilize private water, sewer, and the existing driveway. [Section 5.4(B)(1)].

B. The proposed accessory apartment will not result in an undue adverse effect on the character of the area affected as defined by the Rural Residential zoning district purpose statement. Additionally, accessory apartments are encouraged in the 2010 Underhill Town Plan to fulfill low-cost and senior housing needs. [Section 5.4(B)(2)].

C. The proposed accessory apartment will not result in an undue adverse effect on traffic in the vicinity as the existing curb cut and driveway will be utilized for access and there will be only one resident (the equivalent of 10 additional vehicle trip-ends per day) of the new apartment. [Section 5.4(B)(3)].

D. Site plan review standards are addressed in Section 5.3 above. [Section 5.4(C)].

E. The proposed accessory apartment is encouraged in the 2010 Underhill Town Plan as a method of adding low-cost and senior housing. All dimensional and Rural Residential district standards will be met in the presented proposal. [Section 5.4(D)(1),(2)].

F. Section 5.4(D)(3) and (4) are not applicable.

IV. DECISION AND CONDITIONS

Based upon the findings above, the Development Review Board grants approval for the proposed conditional use/site plan review application for an accessory apartment as described at the hearing subject to the following conditions:

A. A building permit for the accessory apartment is required. The building permit will state that the accessory dwelling is permitted only as accessory to the principal residential use of the property and shall be retained in common ownership.

B. The accessory apartment shall be in the location identified at the site visit conducted August 8, 2011 and meet all dimensional requirements of the Rural Residential zoning district.

C. The existing curb cut and driveway shall be used for access to the accessory apartment.

D. All outdoor lighting shall meet the requirements of Section 3.11 of the 2011 Unified Land Use and Development Regulations.

E. Per Section 3.19(D)(5), a minimum of 12.5 feet (one-half) of the required 25-foot setback distance to the unnamed stream shall be maintained as an undisturbed, naturally vegetated riparian buffer.

F. A copy of the State of Vermont Wastewater System and Potable Water Supply Permit and associated certification shall be submitted to the Zoning Administrator prior to issuance of a Certificate of Occupancy for the accessory apartment.

Dated at Underhill, Vermont this 18 day of August, 2011.

Penny Miller

Penny Miller, Vice Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Division of Superior 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. Appeal period ends_____.