TOWN OF UNDERHILL
APPEAL/VARIANCE REQUEST OF
BRIAN AND SARA RILEY FOR A GARAGE
FINAL FINDINGS AND DECISION

In re: Brian and Sara Riley
101 Harvey Rd.
Underhill, VT 05489

Docket No. DRB-12-06: Riley

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Brian and Sara Riley's appeal and variance request for a change from a permitted 15'x20' carport to a fully sheltered 20'x40' garage addition to the east side of their home located (above 1500' elev.) at 101 Harvey Road (HA101) in Underhill, VT.

A. On May 16, 2012, Brian and Sara Riley filed an appeal/variance request related to a building permit application for a garage above 1500 feet elevation. A copy of the application and additional information are available at the Underhill Town Hall.

B. On May 19, 2012, a copy of the notice of the hearing was mailed via Certified Mail to the Applicants, Brian and Sara Riley, 101 Harvey Road Underhill VT, and to the following owners of properties adjoining the property subject to the application:

1. Pincus/Albright, P.O. Box 87, Underhill Center, VT 05490
2. VT ANR, 103 S. Main St., Waterbury, VT 05676
3. Bennett, P.O. Box 95, Underhill Center, VT 05490
4. UVM Campus Planning Services, Attn: Linda Seavey, Director, 109 S. Prospect St., Burlington, VT 05405

C. On May 19, 2012, notice of the hearing on the appeal was posted at the following places:

1. The property to be developed, HA101;
2. The Underhill Town Clerk's office;
3. The Underhill Country Store;
4. Wells Corner Market;
5. The Underhill Center Post Office;
6. The Underhill Flats Post Office;
7. Jacobs IGA;
8. The Town of Underhill website.

D. On May 19, 2012, notice of the appeal hearing was published in *The Burlington Free Press.*

E. The hearing began at 8:40 PM on June 4, 2012.

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

- Chuck Brooks
- Will Towle
- Matt Chapek
- Charles Van Winkle, Chairperson

Zoning & Planning Administrator Kari Papelbon, and Brian and Sara Riley, Appellants also attended the hearing.

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

- Brian and Sara Riley, 101 Harvey Road Underhill VT (Applicants).

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

1. A copy of Brian and Sara Riley's Building Permit Application;
2. A copy of the appeal letter from Brian and Sara Riley (dated 5-19-12);
3. A copy of the tax map for HA101;
4. A copy of the hearing notice published in The Burlington Free Press on 5-19-12;
5. A staff report prepared by the Zoning and Planning Administrator;
6. A copy of the procedure checklist for this hearing.

These exhibits are available in the Riley, HA101, Appeal file at the Underhill Zoning Office.

II. FINDINGS

Factual Findings

The Minutes of the meeting written by DRB Clerk Matt Chapek 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 seek a variance to construct a garage above 1500 feet elevation. The subject property is a ±14.4-acre parcel located at 101 Harvey Road in Underhill, VT (HA101).

B. The property is located in the Scenic Preservation zoning district as defined in Article II, Table 2.5 of the 2012 Unified Land Use and Development Regulations.

C. Approval is requested for the project pursuant to review under the following sections of the 2012 Unified Land Use and Development Regulations:

- Article II, Table 2.5 – Scenic Preservation District
- Section 5.5 – Waivers and Variances

D. No members of the public provided testimony.

III. CONCLUSIONS

Applicable Regulation Standards

Article II, Table 2.5

The Board finds that the property HA101 is in the Scenic Preservation Zoning District and meets all the applicable dimensional standards.

Section 5.5, Waivers and Variances

The Board makes the following findings:

A. The property is above the 1500' elevation limit for construction.

B. In 2000 the Zoning Board granted a variance to construct the carport addition to the house which was in compliance with the existing zoning regulations at the time.

C. The DRB may grant a variance from the provisions of the current 2012 Unified Land Use and Development Regulations if the literal enforcement of these regulations results in undue hardship to the appellant that precludes any reasonable use of the property.

IV. DECISION AND CONDITIONS

Based upon the findings above, and subject to the conditions below, the Development Review Board grants approval for the variance as presented at the hearing.

A. The Development Review Board concludes that the permit to build the garage is "granted and grandfathered".

B. A building permit should issue with this variance for a 20'x40' fully sheltered garage addition to the existing house.

Dated at Underhill, Vermont this 15 day of June 2012, 2012.

Charles Van Winkle

Charles Van Winkle, 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. Appeal period ends 7.17.2012