TOWN OF UNDERHILL
APPLICATION OF ARMSTRONG
FOR A 2-LOT SUBDIVISION
FINAL FINDINGS AND DECISION

In re: Craig & Margaret Armstrong
41 Sam Ward Road
Underhill, VT 05489

Docket No. DRB-13-14 Armstrong

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Craig & Margaret Armstrong's final hearing application for a 2-lot subdivision of property located at 41 Sam Ward Road in Underhill, VT.

A. On February 28, 2014, Craig & Margaret Armstrong filed an application for final subdivision approval. A copy of the application materials and additional information are available at the Underhill Town Hall. A sketch plan meeting was held on January 6, 2014.

B. The Development Review Board waived preliminary subdivision review at the request of the applicant.

C. On March 17, 2014, a copy of the notice of the final hearing was mailed via Certified Mail to the Applicant, 41 Sam Ward Road, Underhill, VT 05489 and to the following owners of properties adjoining the property subject to the application:

1. Eastman, 398 Appletree Point, Burlington, VT 05401
2. Westford Town Clerk, 1713 VT Rt. 128, Westford, VT 05494
3. Walkerman, 15 Sam Ward Rd, Underhill VT 05489
4. Ferreira, 21 Sam Ward Rd, Underhill, VT 05489
5. Arnold, 166 Dorset St., S. Burlington, VT 05403
6. Heh, 32 Kelly Rd., Underhill, VT 05489
7. Bernstein, 32 Sam Ward Rd., Underhill, VT 05489
8. McPadden, 61 Repa Rd., Underhill, VT 05489
9. Servon, 512 Cottage Court, Holly Ridge, NC 28495
10. Holbrook, PO Box 286, Jericho, VT 05465
11. Thompson, 85 Repa Rd., Underhill, VT 05489
12. Senger, 99 Repa Rd., Underhill, VT 05489
13. Kindt, 93 Repa Rd., Underhill, VT 05489

D. Notice of the final hearing on the Armstrong subdivision was posted at the following places:

1. The property to be developed, SW041T;
2. The Underhill Town Clerk's Office;
3. The Underhill Center Post Office;
4. The Underhill Flats Post Office.

E. On March 20, 2014, notice of a final hearing was published in the *Mountain Gazette.*

F. A site visit was held on Monday April 7, 2014 at 6:00 PM at 41 Sam Ward Rd.

G. The final hearing was held on April 7, 2014. The hearing began at 6:55 PM. The Armstrong application was the first item on the agenda.

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

- Charles Van Winkle, Chairperson
- Will Towle
- Matt Chapek
- Karen McKnight
- Penny Miller
- Mark Hamelin
- Jim Gilmartin
- Shanie Bartlett (Alternate)

Zoning & Planning Administrator Sarah McShane also attended the hearing.

I. At the outset of the hearing, Chairperson 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:

- Craig & Margaret Armstrong, 41 Sam Ward Rd, Underhill, VT 05489 (Applicants/Landowners)

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

a. A staff report sent by Zoning & Planning Administrator to the Development Review Board, the Applicants, the Selectboard, the Underhill Jericho Fire Department, and the Conservation Commission Chair;
b. Armstrong's Application for Subdivision: Final (dated 2/27/14);
c. Copy of the Findings Checklist;
d. Copy of the plans prepared by Willis Design Assoc, Inc., (Project #13-043: Sheets S1, and S2) dated 2/28/14;
e. Copy of the Plat for Lot 1 prepared by HW Chaffee Surveying, (Map No. 2013-32, last revised 2/28/2014);
f. Copy of a map created using the Vermont Agency of Natural Resources Atlas;
g. Copy of the tax map for SW041;
h. Copy of the minutes from the 1/6/2014 Sketch Plan meeting;
i. Copy of the hearing notice as published in *The Mountain Gazette* on 3/20/2014, posted in three public places, and mailed to abutting property owners;

j. Correspondence (email) between Justin Willis and Danielle Owczarski VT DEC (dated 3/6/2014);
k. Copy of 3/14/14 input from the Chittenden East Supervisory Union;
l. Copy of draft shared easement language;
m. Copy of draft deed language for Lot 2;
n. Copy of the VT Project Review Sheet;
o. Copy of 4/7/2014 input from the Underhill-Jericho Fire Department.

These exhibits are available in the Armstrong, SW041T, subdivision file at the Underhill Town Hall.

II. FINDINGS

Factual Findings

The Minutes of the meeting written by Sarah McShane 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 Applicant seeks a permit to subdivide land. Lot 1 of the subject property is a ±17.08 acres and Lot 2 is ±77 acres. The parcels are located at 41 Sam Ward Road in Underhill, VT (SW041T).

B. The properties are located in the Rural Residential and Soil & Water Conservation zoning districts as defined in Article II, Table 2.3 and Table 2.6 of the 2012 Unified Land Use and Development Regulations.

C. Subdivision approval is requested for the project pursuant to review under the 2012 Unified Land Use and Development Regulations.

III. CONCLUSIONS

The Board finds the application is in conformance with the following sections of the Town of Underhill Unified Land Use & Development Regulations:

Article II, Table 2.3 Rural Residential District
Article II, Table 2.6 Soil and Water Conservation District
Article II, Table 2.7 Flood Hazard Overlay District
Article III, Section 3.2 Access
Article III, Section 3.7 Lot, Yard, and Setback Requirements
Article III, Section 3.13 Parking, Loading, and Service Area
Article III, Section 3.17 Source Protection Area
Article III, Section 3.19 Surface Waters & Wetlands
Article III, Section 3.22 Water Supply & Wastewater Systems
Article VII, Section 7.5 Subdivision Review, Preliminary Subdivision Review
Article VII, Section 7.6 Subdivision Review, Final Subdivision Review
Article VIII – Subdivision Standards

Per section 8.1(D), all Sections above considered not applicable are waived. The Board finds that waiving such requirements will not nullify the intent and purpose of the 2102 Unified Land Use and Development Regulations and the Underhill Town Plan, and such waivers are not requisite in the interest of public health, safety and general welfare. Sufficient evidence, in the form of submitted testimony and plan layout, has been submitted to justify the waiver.

IV. DECISION AND CONDITIONS

Based upon the findings above, the Development Review Board unanimously grants approval for the 2-lot subdivision as described at the hearing and in the submitted application documents, with the following conditions:

A. The parcel codes for both Lots shall appear on the final Mylars. Prior to submitting the Mylars, please contact the Zoning Administrator for the parcel code for Lot 2.

B. As a condition of approval, the applicants shall furnish a copy of the Wastewater System and Potable Water Supply Permit, issued by the Agency of Natural Resources, and it shall be recorded in the Town Land Records.

C. A building permit will be needed for the conversion of the barn on Lot 2. A Zoning Permit shall be retained prior to construction in accordance with Section 10.3 of the Unified Land Use & Development Regulations.

D. Per Section 7.2(B), no land shall be subdivided until final subdivision approval has been obtained from the DRB and the approved subdivision plat is recorded in the Underhill Land Records.

E. No transfer, sale or long-term lease of title to property as defined under 32 VSA §9601 of any portion of an existing lot; predevelopment site work; or issuance of zoning permits to develop a subdivided lot shall occur until final subdivision approval has been obtained from the DRB and the final Mylars have been recorded in the Underhill Land Records [Section 7.2(C)].

F. The final plat and engineering site plan(s) shall be submitted for recording within 180 days of the date of final subdivision in accordance with Section 7.7.

G. All subdivision and recording fees must be paid in full prior to recording a subdivision plat in accordance with Section 7.7(B).

H. The E-911 codes for Lot 2 shall be posted per the Underhill Jericho Fire Department specifications prior to issuance of a building permit.

Dated at Underhill, Vermont this 18 day of April, 2014.

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 5/18/2014.