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

In re: Martin & Betty Danaher
PO Box 208
Underhill, VT 05489

Docket No. DRB-13-07 Danaher

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Martin & Betty Danaher's final hearing application for a 2-lot subdivision of property located at 20 Russin Drive in Underhill, VT.

A. On May 1, 2014, Martin & Betty Danaher 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 June 17, 2013.

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

C. On May 12, 2014, a copy of the notice of the final hearing was mailed via Certified Mail to the Applicant, PO Box 208 (20 Russin Drive), Underhill, VT 05489 and to the following owners of properties adjoining the property subject to the application:

1. Edward & Kathleen Danaher, P.O. Box 32 Underhill, VT 05489
2. Shawn & Pamela Martell, 4 Russin Drive, Underhill, VT 05489
3. Jeffrey Wynne & Heidi Noland, 3 Russin Drive, Underhill, VT 05489
4. Bernice Kelman, 12 Kelley Road, Underhill, VT 05489
5. Shawn & Karen Danaher, 50 Kelley Road, Underhill, VT 05489

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

1. The property to be developed, RU020;
2. The Underhill Town Clerk's Office;
3. The Underhill Center Post Office;
4. The Underhill Flats Post Office.

E. On May 14, 2014, notice of a final hearing was published in the *Seven Days Newspaper.*

F. A site visit was held on Monday June 2, 2014 at 6:00 PM at 20 Russin Drive.

G. The final hearing was held on Monday June 2, 2014 and continued on Monday June 16, 2014.

H. Present at the final hearing on Monday June 2, 2014 were the following members of the Development Review Board:

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

I. Present at the continued final hearing on Monday June 16, 2014 were the following members of the Development Review Board:

- Charles Van Winkle, Chairperson
- Karen McKnight
- Penny Miller
- Jim Gilmartin
- Mark Hamelin

Zoning & Planning Administrator Sarah McShane also attended both hearings.

J. 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:

- Martin Danaher, 20 Russin Drive, Underhill, VT 05489 (Applicant/Landowner)

Pam and Shawn Martell provided written comments dated 6/2/2014.

K. 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. Martin & Betty Danaher's Application for Subdivision: Final (dated 5-1-14);
c. Copy of the Subdivision Checklist: Final Hearing;
d. Copy of the Findings Checklist;
e. Written request for front setback waiver;
f. Copy of the ANR Project Review Sheet;
g. Copy of the Wastewater System and Potable Water Supply Permit;
h. Copy of the plans prepared by Grover Engineering PC (Project 04009- DWG NO. 1 last revised 10/11/13, DWG NO. 2 date 11/5/04, DWG No. 3 date 11/5/04);
i. Copy of the Property Subdivision Plat prepared by William Robenstein (Project No. 321-24; dated 10/22/2004);

j. Copy of the tax map for RU020 indicating the locations of wetland and surface water;
k. Copy of the ANR Natural Resource Map indicating slope;
l. Copy of the hearing notice as published in *Seven Days* on 5/14/2014, posted in three public places, and mailed to abutting property owners;
m. Copy of email correspondence from Everett Marshall regarding Habitat Block designation (dated April 21, 2014);
n. Copy of the draft minutes from the 6-17-2013 Sketch Plan meeting;
o. Copy of 5/23/2014 input from the Chittenden East Supervisory Union;
p. A copy of the procedure checklist for this meeting;
q. Copy of emailed comments from Pam & Shawn Martell (dated 6-2-2014);
r. Comments from the Underhill Jericho Fire Department (dated 6-11-2014);
s. Copy of Shared Right-of-Way and Easement Maintenance Agreement;
t. Copy of Easement Deed;
u. Copy of the revised subdivision plan prepared by Grover Engineering PC (Project 04009- DWG NO. 1 last revised 6/6/14) (submitted at 6/16/14 cont. hearing).

These exhibits are available in the Danaher, RU020, subdivision file at the Underhill Town Hall.

II. FINDINGS

Factual Findings

The Minutes of the 6/2/14 and the 6/16/14 meetings written by Sarah McShane are incorporated by reference into this decision. Please refer to these Minutes for additional detail.

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 ±5.005 acres and Lot 2 is ±5.005 acres. The parcels are located at 20 Russin Drive in Underhill, VT (RU020).

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 & Water Conservation
Article III, Section 3.2 - Access
Article III, Section 3.7 - Lot, Yard & Setback Requirements
Article III, Section 3.13 - Parking, Loading & Service Area

Article III, Section 3.17 - Source Protection Areas
Article III, Section 3.18 - Steep Slopes
Article III, Section 3.19 - Surface Waters & Wetlands
Article III, Section 3.22 - Water Supply & Wastewater Systems
Article V, Section 5.5 - Waivers and Variances
Article VII, Section 7.6 - 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 grants approval (4 in favor, 1 abstained, 0 opposed) 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 1.

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. Failure to do so shall void this board's approval.

C. A revised and executed Road Maintenance Agreement reflecting the newly created subdivision shall be recorded in the Town Land Records. Failure to do so shall void this board's approval.

D. A building permit will be needed for Lot 1. A Zoning Permit shall be retained prior to construction in accordance with Section 10.3 of the Unified Land Use & Development Regulations.

E. The applicant shall obtain a curb cut permit from the Underhill Board of Selectmen.

F. No building permits shall be issued until all the conditions have been fulfilled.

G. 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.

H. 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)].

I. 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.

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

K. 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 2 day of July, 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 2 Aug 2014.