

TOWN OF UNDERHILL
APPLICATION OF ARNOLD & PAULA BAIZLEY
FOR A 2-LOT SUBDIVISION
FINAL FINDINGS AND DECISION

In re:

Arnold & Paula Baizley
623 Pleasant Valley Road
Underhill, VT 05489

Docket No. DRB 14-04 Baizley

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a final subdivision hearing on the application of Arnold & Paula Baizley for a 2-lot subdivision of property located at 623 Pleasant Valley Road in Underhill, VT.

- A. On February 2, 2015, Arnold & Paula Baizley filed an application for final subdivision approval. A copy of the application and additional information are available at the Underhill Town Hall.
- B. On February 5, 2015, a copy of the notice of the final hearing was mailed via Certified Mail to the Applicant, Arnold & Paula Baizley, 623 Pleasant Valley Road, Underhill, VT 05489 and to the following owners of properties adjoining the property subject to the application:
 - 1. Howard & Nancy McCrae, 599 Pleasant Valley Road, Underhill, VT 05489
 - 2. Carolyn Johnson, 621 Pleasant Valley Road, Underhill, VT 05489
 - 3. Joe & Anne Marie Tisbert, 5901 Pleasant Valley Road, Cambridge, VT 05444
 - 4. Timothy Frost, 654 Irish Settlement Road, Underhill, VT 05489
 - 5. William & Lisa Timbers, 662 Irish Settlement Road, Underhill, VT 05489
 - 6. Michael & Pat Weisel, PO Box 71, Underhill Center, VT 05490
 - 7. Richard & Karen Tuthill, 586 Irish Settlement Road, Underhill, VT 05489
 - 8. Elliot Clarke & Jennifer Whitcomb, 560 Irish Settlement Road, Underhill, VT 05489
 - 9. Bryn Tynddyn LLC, 1654 Moores Hill Road, Syosset, NY 11791
 - 10. Daniel Clayton & Christine Ryan, Daniel Clayton Inc., PO Box 187, Underhill Center, VT 05490
- C. A notice of the final hearing on the proposed subdivision was posted at the following places:
 - 1. The property to be developed, PV623
 - 2. The Underhill Town Clerk's Office
 - 3. The Underhill Center Post Office
 - 4. The Underhill Flats Post Office
- D. On February 11, 2015, notice of a final hearing was published in *The Seven Days Newspaper*.
- E. The final hearing began at 6:35 PM on March 2, 2015.
- F. Present at the final hearing were the following members of the Development Review Board:

- Charles Van Winkle, Chairperson
- Will Towle
- Matt Chapek
- Penny Miller

Planning & Zoning Administrator Sarah McShane and Applicant Arnold Baizley 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:

- Arnold Baizley, 623 Pleasant Valley Road, Underhill, VT 05489

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

1. Cover sheet from Brian Tremback (Lamoureux & Dickinson) dated 1-29-2015;
2. Application for Subdivision: Final & Checklist (dated 1/26/2015);
3. Subdivision Standards Findings Checklist;
4. Wastewater System & Potable Water Supply Permit issued by the VT Dept. of Environmental Conservation (WW-4-4377) (dated 1-13-2015);
5. A list of property abutters;
6. A copy of the Overall Site Plan (Sheet S1) prepared by Lamoureux & Dickinson (project no. 14047, date 10-3-2014, last revised 1-16-2015);
7. A copy of the Site Plan for Proposed Improvements (Sheet S2) prepared by Lamoureux & Dickinson (project no. 14047, date 10-3-2014, last revised 1-16-2015);
8. A copy of the Water & Wastewater System Details and Specifications (Sheet D1) prepared by Lamoureux & Dickinson (project no. 14047, date 10-3-2014, last revised 1-16-2015);
9. A copy of the survey plat of ‘Proposed 2 Lot Subdivision Arnold & Paula Baizley’ prepared by William H. Hannon, Plat No. 14434 (dated 7-14-2014);
10. A copy of the DRB Preliminary Decision (dated 12-15-2014);
11. A copy of DRB minutes from 6-2-2014 and 12-1-2014;
12. A copy of the approved Access Permit dated 1-6-2015;
13. A copy of the zoning map of the property;
14. A copy of the hearing notice as published in Seven Days, posted at three public locations and mailed to abutters;
15. A copy of the procedure checklist for this meeting; and
16. Procedural Memo.

These exhibits are available in the Baizley, PV623, subdivision file (DRB 14-04) at the Underhill Planning & Zoning Office.

II. FINDINGS

Factual Findings

The Minutes of the 3/2/2015 meeting 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 approval to subdivide land. Lot 1 of the subject property is 55.9 acres and Lot 2 is 28.3 acres. The parcels are located at 623 Pleasant Valley Road in Underhill, VT (PV623).
- B. The subject property is located in the Rural Residential, Soil & Water Conservation, Mt. Mansfield Scenic Preservation zoning districts as defined in Article II, Tables 2.3, 2.5 and 2.6 of the 2014 Underhill Unified Land Use and Development Regulations.
- C. Approval is requested for the project pursuant to the Underhill Unified Land Use and Development Regulations, as amended on 4 March 2014.

III. CONCLUSIONS

The Development Review Board finds the application is in conformance with the following sections of the 2014 Underhill Unified Land Use and Development Regulations:

- Article II, Table 2.3 – Rural Residential District
- Article II, Table 2.5 – Mt. Mansfield Scenic Preservation District
- Article II, Table 2.6 – Soil & Water Conservation District
- Article II, Table 2.7 – Flood Hazard Overlay District
- Section 3.2 – Access
- Section 3.7 – Lot, Yard & Setback Requirements
- Section 3.13 – Parking, Loading & Service Area
- Section 3.18 – Steep Slopes
- Section 3.19 – Surface Waters & Wetlands
- Section 3.22 – Water Supply & Wastewater Systems
- 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 2014 Underhill 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, and subject to the conditions below, the Development Review Board grants approval (4-0) for the 2-Lot subdivision as presented at the final hearing.

- A. The shared road maintenance agreement, the 40' wide access and utilities easement from Lot 1 to Lot 2, and the wastewater system easement from Lot 2 to Lot 1 shall be recorded in the town land records prior to or in association with recording of a deed for Lot 2.

- B. The 10' x 30' driveway pull-off shall be constructed outside of the mapped floodplain as indicated on the Site Plan for Proposed Improvements (Sheet S2) prepared by Lamoureux & Dickinson (project no. 14047, date 10-3-2014, last revised 1-16-2015).
- C. A zoning permit shall be retained prior to construction in accordance with Section 10.3 of the Underhill Unified Land Use & Development Regulations.
- D. All permitted structures including the primary dwelling and any accessory structures are required to meet the setbacks and relevant zoning regulations in effect at the time of submitting a building permit application.
- E. The E-911 codes for Lot 2 shall be posted per the Underhill Jericho Fire Department specifications prior to issuance of a zoning permit.
- F. 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.
- G. 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)].
- H. 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.
- I. The final plat and engineering site plan(s) shall be submitted for recording within 180 days of the date of this approval 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. Nothing in this decision shall be deemed to alter any existing deed restrictions or covenants applicable to the subject property.

Dated at Underhill, Vermont this 16th day of March, 2015.

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 17 April 2015.