

TOWN OF UNDERHILL
APPLICATION OF ALAN MORSE
FOR CONDITIONAL USE REVIEW (ACCESSORY DWELLING)
FINAL FINDINGS AND DECISION

In re: Alan Morse
18 Meadow Lane
Underhill, VT 05489

Docket No. DRB 15-03: Morse

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns the application of Alan Morse for conditional use review approval to expand a portion of the existing garage for the purpose of creating a one bedroom accessory dwelling on the property located at 18 Meadow Lane in Underhill, VT.

- A. On May 14, 2015, Alan Morse filed an application for conditional use review. A copy of the application and additional information are available at the Underhill Town Hall.
- B. On May 29, 2015, a copy of the notice of a public hearing was mailed via Certified Mail to the Applicant, Alan Morse, 18 Meadow Lane, and to the following owners of properties adjoining the property subject to the application:
1. Alan & Bonita Morse, 18 Meadow Lane, Underhill, VT 05489 (applicant)
 2. Donald & Lisa Tripp, 17 Meadow Lane, Underhill, VT 05489
 3. Mark Girouard & Donna McDermid, 14 Meadow Lane, Underhill, VT 05489
 4. Malachi & Shannon McCaulley, 424 Vermont Route 15, Underhill, VT 05489
 5. Village Service c/o J & T Alexander, PO Box 111, Underhill, VT 05489
 6. Phillip Jacobs, 73 Upper English Settlement Road, Underhill, VT 05489
- C. Notice of the public hearing was posted at the following places:
1. The property to be developed MD018;
 2. The Underhill Town Hall;
 3. The Underhill Center Post Office;
 4. The Underhill Flats Post Office.
- D. On May 27, 2015, notice of public hearing was published in Seven Days Newspaper.
- E. The Conditional Use Review Hearing was held on June 15, 2015.
- F. A site visit was conducted on June 15 and attended by the following members of the Development Review Board:
- Charles Van Winkle, Chairperson

- Will Towle
- Matt Chapek
- Mark Hamelin
- Karen McKnight

Also present at the site visit was applicant Alan Morse (18 Meadow Lane, Underhill, VT).

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

- Charles Van Winkle, Chairperson
- Will Towle
- Matt Chapek
- Mark Hamelin
- Karen McKnight

Applicant Alan Morse (18 Meadow Lane, Underhill, VT), and Mark P. Green (Sand Hill Road) also attended the hearing.

H. 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:

- Alan Morse, 18 Meadow Lane, Underhill, VT 05489

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

- Conditional Use Review Hearing Request (signed by applicant 5/14/15);
- Conditional Use Review Standards Findings Checklist;
- Site Plan (tax map) indicating existing improvements and proposed accessory dwelling (5/16/15);
- Sketch drawing of proposed addition/accessory dwelling;
- Building Permit Application (signed by applicant 5/14/15);
- A copy of the public hearing notice posted in Seven Days Newspaper;
- A copy of the memo to Selectboard regarding access requirements (dated 5/20/15);
- A copy of the Listers’ Card indicating existing house and habitable floor space;
- Aerial photograph/tax map of the property;
- A copy of the procedure checklist for the public hearing.

II. FINDINGS

Factual Findings

The minutes of the meeting written by the Acting Secretary Mark Hamelin 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 seek a conditional use review approval to expand portions of an existing garage for the purpose of creating a one bedroom accessory dwelling on property located at 18 Meadow Lane (MD018) in Underhill, VT.
- B. The property is located within the Underhill Flats Village zoning district as defined in Article II, Table 2.2 of the Unified Land Use and Development Regulations, adopted March 1, 2011, as amended through March 4, 2014.
- C. Conditional Use Review approval is requested for the project pursuant to review under the following sections of the Unified Land Use and Development Regulations, as amended:
 - Article II, Table 2.2 – Underhill Flats Village Center
 - Section 3.7 – Lot, Yard, & Setback
 - Section 3.11 – Outdoor Lighting
 - Section 3.13 – Parking, Loading, & Service Areas
 - Section 3.22 – Water Supply & Wastewater Systems
 - Section 4.2 – Accessory Dwelling
 - Section 5.3 – Site Plan Review
 - Section 5.4 – Conditional Use Review
- D. Section 4.2(B) of the Unified Land Use and Development Regulations requires conditional use review prior to the issuance of a zoning permit for the construction of a new accessory structure or the expansion of an existing structure.
- E. The DRB finds that there will be no undue adverse effect pursuant to the following conditional use review standards under 5.4:
 - 1. The capacity of existing or planned community services or facilities would not be affected as the project would add a minimal number of residents to the Underhill Flats Village Center.
 - 2. The character of the area will not be affected as the Underhill Flats Village Center is a high density residential area.
 - 3. Traffic on roads and highways in the vicinity will not be affected as the Underhill Flats Village Center is a high density residential area and the project will not significantly impact capacity.
 - 4. The project complies with the Bylaws in effect and needs no variances or waivers.
 - 5. The project will not interfere with the utilization of renewable energy resources.
- F. The DRB also finds the following Site Review of 5.3 criteria are met under review pursuant to Conditional Use review under 5.4.C.
 - 1. Existing site features do not adversely impact natural, historic or scenic resources and the project is a typical residential building consistent with the neighborhood.
 - 2. Site layout and design are adequate as the project is on a lot of sufficient size and is a typical residential building consistent with the neighborhood without impacts to significant natural, historic and scenic resources. Specifically, the project is scaled and oriented in relation to

adjoining structures, with principal façades and entrances facing the road or central greens, and shall establish or has a consistent front set back distance from the street in relation to adjoining structures.

3. Vehicle Access uses existing accesses and no impact is likely.
4. Parking, Loading & Service Areas are sufficient for the intended residential use.
5. Site Circulation is adequate for the intended residential use utilizing the existing driveways and curb cuts.
6. Landscaping and Screening consistent with the existing conventional lawn and residential landscaping on the existing site which is a typical residential building consistent with the neighborhood is sufficient.
7. Outdoor Lighting was not proposed.
8. Stormwater Management and Erosion Control. Temporary and permanent stormwater management and erosion control measures shall be used during all phases of development as necessary to minimize surface runoff and erosion, protect water quality, and to avoid damage to downstream properties and infrastructure in conformance with the following requirements. There were no permanent stormwater management systems proposed and the DRB found no reason to believe they would be necessary given the historic water flows on project's side of the street.

III. DECISION AND CONDITIONS

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

1. The applicant must obtain a zoning (building) permit from the Zoning Administrator prior to any construction.
2. Prior to the issuance of a zoning (building) permit, the Applicant shall obtain the following:
 - a. Submission of an on-site wastewater disposal plan, prepared by a VT Licensed Designer or Professional Engineer;*
 - b. A water allocation letter from the Underhill Jericho Water District.*
3. The zoning (building) permit issued for the accessory dwelling shall clearly state that the accessory dwelling is permitted only as accessory to the principal residential use of the property and as such shall be retained in common ownership.
4. The accessory dwelling must be clearly subordinate to the principal dwelling, and shall not exceed 75% of the existing total habitable floor area of the single family dwelling, excluding unfinished attics and basements.
5. The accessory dwelling shall meet all setback, building and lot coverage requirements for the Underhill Flats Village Center zoning district.
6. Prior to the issuance of a Certificate of Occupancy the Applicant must file the following with the Zoning Administrator [See Section 10.4]:

a. The applicant documents that all necessary permits and approvals required by the zoning regulations, including applicable state and federal permits, have been obtained.

b. The applicant provides certification from a professional engineer or a designer licensed by the state that wastewater and water supply systems have been installed and tested as approved by the state.

c. A VT Residential Building Energy Standards (RBES) Certificate must be filed in the land records prior to the issuance of a Certificate of Occupancy.

7. The project must be constructed in substantial compliance with the plans submitted as part of the application. Minor revisions to the location or dimensions can be administrative approved by the Zoning Administrator so long as the requested revisions are still compliant with the applicable zoning regulations and do not exceed the permitted total habitable floor area.
8. Per §10.3(D)(2)(b), conditional use approval by the DRB shall expire with the expiration of the zoning permit and may be extended only in accordance with §10.3(D)(1). Once the approved use (accessory dwelling) is established, conditional use approvals shall remain in effect and run with the land.

Dated at Underhill, Vermont this 19th day of June 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 7/20/2015.