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TOWN OF UNDERHILL
APPLICATION OF THE LINDA G. RONDEAU FAMILY TRUST
FOR A REVISION TO AN APPROVED SUBDIVISION
FINAL FINDINGS AND DECISION

In re: Linda G. Rondeau Family Trust
26 Westman Road (WS026)
Underhill, VT 05489

Docket No. DRB-16-02, Rondeau

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a Final Subdivision amendment hearing on the application of the Linda G. Rondeau Family Trust to revise the building envelope previously approved for Lot 2 of the 2005 3-Lot Vaughan Subdivision on property they own at 26 Westman Road (WS026) in Underhill, VT. No other changes to the previous subdivision approval were sought.

A. On March 14, 2016, David Boyden filed an application on behalf of the Linda G. Rondeau Family Trust for an amendment to an approved subdivision. A copy of the application and additional information are available at the Underhill Town Hall.

B. On March 21, 2016, a copy of the notice of the final hearing was mailed via Certified Mail to the following owners of properties adjoining the property subject to the application:
1. Suzanne Stewart and Ellen Pritting, 1 Deane Road, Underhill VT 05489
2. Joseph and Anne Marie Tisbert, 5901 Pleasant Valley Road, Cambridge VT 05464
3. John and Margaret Ferguson, 19 Deane Road, Underhill VT 05489
4. Joseph and Elizabeth Harrington, 186 Vaughan's Trace, Cambridge VT 05464

A copy of the notice was also mailed to the applicant, David Boyden, at 64 VT Route 104, Cambridge VT 05444. The time, date and location of the hearing were communicated verbally to the consultant, Brad Holden, by Brian Bigelow, Town Administrator and Acting Planning and Zoning Administrator.

C. On March 19, 2016, notice of the final hearing on the proposed Rondeau subdivision amendment was posted at the following places:

1. The Underhill Town Clerk's office;
2. The Underhill Center Post Office;
3. The Underhill Flats Post Office;

D. On March 19, 2016, notice of the final hearing was published in *The Burlington Free Press.*

E. The final hearing, which combined sketch review and final review, began at 6:30 PM on April 4, 2016. This application was the first on the agenda. A site visit was held prior to the hearing at 6:00 PM.

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

- Penny Miller
- Karen McKnight
- Mark Hamlin
- Mark Green
- Charles Van Winkle, Chairperson

Town Administrator and Acting Planning and Zoning Administrator Brian Bigelow, Applicant David Boyden and the Applicant's consultant Brad Holden also testified at 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." No members of the public spoke at the hearing.

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

a) Linda G. Rondeau Family Trust Application for Subdivision: Final (dated 3/16/2016);
b) A copy of the Site Plan: entitled Revised Building Envelope—Lot 2, Planning Residential Development, prepared by Consultant Bradford L. Holden, Land Surveyor;
c) A copy of the plans for the proposed driveway, including a driveway grading plan indicating wetland impacts, construction details and erosion control details and specifications, prepared by Civil Engineering Associates;
d) A copy of a July 14, 2005 fax sent from then Town Administrator/PZA Christine Murphy to Consultant Brad Holden L.S. Fax includes copy of Planning Commission minutes of June 28, 2005. Staff has been unable to find a Final Notice of Decision;
e) A copy of the Planning Commission minutes from the 4/12/05 and 6/28/2005 meetings at which the original subdivision received Sketch Plan and Final Subdivision approval;
f) A copy of input received from the Chittenden East Supervisory Union dated 5/31/2005;
g) A copy of input received from the Underhill Jericho Fire Department dated 6/10/2005;
h) An Individual Wetland Permit issued by the Vermont Department of Environmental Conservation for the property (2014-217) on 1/8/2016;
i) A copy of the Wastewater System and Potable Water Supply Permit from the Vermont Department of Environmental Conservation, dated 7/8/2005;
j) The minutes from the 6/6/2005 Selectboard meeting at which the curb cut for this lot was approved;
k) A map showing steep slopes from the ANR Natural Resources Atlas;
l) A map showing primary agricultural soils from the ANR Natural Resources Atlas;
m) A letter from the Underhill Selectboard to the Vermont Department of Environmental Conservation confirming the approval of the curb cut, dated August 2, 2015;
n) A copy of the procedure checklist for this meeting;

o) A copy of a wetlands permit from the US Army Corps of Engineers (#NAE-2016-0130), dated March 9, 2016; and
p) A memorandum from Underhill Planning and Zoning, "Agenda and Information for 4/4/16 Hearing," dated 4/4/2016.

These exhibits are available in the Rondeau WS026 subdivision file (DRB-16-02) at the Underhill Zoning Office.

II. FINDINGS

Factual Findings

Based on the application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings:

A. The applicants seek a permit to amend the size of the building envelope as approved on Lot 2 in the Vaughan Subdivision. The subject property is a ±10.4-acre parcel located at 26 Westman Road in Underhill, VT (WS026).

B. The property is located in the Mount Mansfield Scenic Preservation district as defined in Article II, Table 2.5 of the 2014 Unified Land Use and Development Regulations.

C. Subdivision approval is requested for the project pursuant to review under the following sections of the 2014 Unified Land Use and Development Regulations:

- Article II, Table 2.5 – Mt. Mansfield Scenic Preservation District (pg. 18)
- Section 3.2 – Access (pg. 27)
- Section 3.7 – Lot, Yard & Setback Requirements (pg. 35)
- Section 3.18 – Steep Slopes (pg. 53)
- Section 3.19 – Surface Waters & Wetlands (pg. 60)
- Section 3.22—Water Supply & Wastewater Systems (pg. 65)
- Article VII – Subdivision Review (pg. 132)
- Article 7.8 – Revisions to an Approved Subdivision (pg. 141)
- Section 7.6 – Final Subdivision Review (pg. 139)
- Article VIII – All (pg. 143)
- Article IX – Planned Unit Development (pg. 165)

D. No amendment to the driveway access is proposed. A driveway plan was included in the application.

III. CONCLUSIONS

Applicable Regulation Standards

Article II, Table 2.5—Mt. Mansfield Scenic Preservation District (pg. 18)

The purpose of this district is to protect the scenic vistas along Pleasant Valley Road.

The board finds that the existing lot meets all dimensional requirements. The building envelope as proposed meets the front setback requirements of 30 feet and side and rear setback requirements of 75 feet from the lot lines.

Section 3.2—Access (pg. 27)

An access permit for the lot was granted by the Underhill Selectboard at their meeting on 6/6/2005. The board finds that the driveway plans submitted with the application meet all requirements of Section 3.2, as well as the standards of the Town Road Policy.

Section 3.7—Lot, Yard & Setback Requirements (pg. 35)

The board finds that the proposed development meets all lot, yard and setback requirements.

Section 3.18—Steep Slopes (pg. 53)

The board finds that no development is proposed in areas of steep slopes.

Section 3.19—Surface Waters & Wetlands (pg. 60)

Class II wetlands are present on much of the property. The applicant has received an Individual Wetland Permit (#2014-217) from the Vermont Department of Environmental Conservation, as well as a wetlands permit from the US Army Corps of Engineers (#NAE-2016-0130), authorizing construction of the driveway in the wetlands. (The Army Corps permit was submitted at the beginning of this hearing, and therefore is not discussed in the staff report.) The Board finds that the driveway design is consistent with all local regulations.

Section 3.22—Water Supply & Wastewater Systems (pg. 65)

The Board finds that the water supply and wastewater systems have been approved by the Vermont Department of Environmental Conservation, which issued a Wastewater System and Potable Water Supply Permit (WW-2-2420) on July 8, 2005. The permit is for a four bedroom single family residence.

Section 7.2—Applicability (pg. 132) & Section 7.8—Revisions to an Approved Subdivision (pg. 141)

The Board makes the following findings:

A. This proposal is a revision to an approved subdivision in accordance with Section 7.8. Section 7.8(C) states that the amendment shall be classified by the Zoning Administrator in accordance with Section 7.2. The Acting Administrative Officer has found this to be a major subdivision in accordance with Section 7.2(E)(b).
B. This decision is written in fulfillment of Section 7.6(D).

Article VI—Flood Hazard Area Review (pg. 120)

The board finds that no development is located within the Flood Hazard Area.

Article VIII—Subdivision Standards (pg. 143)

At their meeting on 6/22/2005, the Underhill Planning Commission approved the Vaughan 2-lot subdivision. The board finds that all subdivision standards continue to be met.

Article IX—Planned Unit Development (pg. 165)

At their meeting on 6/22/2005, the Underhill Planning Commission approved the Vaughan 2-lot subdivision as a Planned Residential Development, as recorded in hanging file #222B in the Underhill Town Offices. The Planning Commission decision stipulated that the lot could not be subdivided further. This condition continues to apply.

IV. DECISION AND CONDITIONS

Based upon the findings above, and subject to the conditions below, the Development Review Board grants the subdivision amendment as presented at the final hearing (Board Members Van Winkle, Miller, McKnight, Hamelin and Green voted in favor).

A. Building envelopes and wetland setbacks shall be in accordance with the applicable zoning dimensional setback requirements stipulated in the Underhill Unified Land Use and Development Regulations and the VT Agency of Natural Resource wetland buffer zone in effect at the time of the application for building permit.
B. The final plat shall be submitted in accordance with Section 7.7.
C. All subdivision and recording fees must be paid in full prior to recording a subdivision plat in accordance with Section 7.7(B).
D. All conditions of the previous Vaughan Subdivision approval shall remain in effect unless specifically amended through this application.
E. A Zoning Permit shall be retained prior to construction in accordance with Section 10.3 of the Unified Land Use & Development Regulations.
F. 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 19th day of APRIL , 2016.

Charles Van Winkle

Digitally signed by Charles Van Winkle
DN: cn=Charles Van Winkle, o=Northern Reliability, Inc, ou=Chief Operations Officer, email=charlievanwinkle@outlook.com, c=US
Date: 2016.04.19 09:49:04 -04'00'

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 5/20/2016.

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