TOWN OF UNDERHILL
APPLICATION OF ARNOLD AND PAULA BAIZLEY
FOR A 2-LOT SUBDIVISION
PRELIMINARY 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 Arnold & Paula Baizley's preliminary hearing application for a 2-lot subdivision of property located at 623 Pleasant Valley Road in Underhill, VT.

A. On November 6, 2014, Arnold & Paula Baizley filed a preliminary application for subdivision. A copy of the application and additional information are available at the Underhill Town Hall. A sketch plan review of the project was held on June 11, 2014 and was accepted.

B. On November 7, 2014, a copy of the notice of the preliminary hearing was mailed via Certified Mail to the Applicants, 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 and 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, PO Box 187, Underhill Center, VT 05490

C. A notice of the public hearing for the proposed Baizley 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 November 12, 2014, notice of a public hearing was published in *The Seven Days Newspaper.*

E. The preliminary hearing began at 7:40 PM on December 1, 2014.

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

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

Planning & Zoning Administrator Sarah McShane; and Applicants Arnold & Paula 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 & Paula 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. A staff report sent by PZA to the Development Review Board, the Applicants, the Selectboard, the Underhill Jericho Fire Department, and the Conservation Commission Chair;
2. Application for Subdivision: Preliminary & Checklist (dated 10-22-14; received 11-6-14);
3. A copy of the plans prepared by Lamoureux & Dickenson, (Project #14047: Sheets S1, S2, and D1) dated 10-3-2014;
4. Plat of proposed 2 Lot Subdivision of Arnold & Paula Baizley, prepared by William H. Hannon, date 7-14-14, Plat #14434;
5. A copy of the Subdivision Standards Findings Checklist;
6. A copy of the tax map for PV623;
7. A copy of the minutes from the 6-2-2014 Sketch Plan meeting;
8. A copy of the letter provided to the Applicant after Sketch plan review (dated 6-11-2014);
9. A copy of the hearing notice as published in *Seven Days published on 11-12-2014*, posted in three public places, and mailed to abutting property owners;
10. A copy of the Project Review Sheet;
11. A copy of the Bridge Assessment by Michael C. Weisel, P.E. (dated 6-16-1995);
12. A copy of the List of Abutters;
13. A copy of the deed and draft shared driveway agreement;
14. Copies of ANR Natural Resource Atlas maps;
15. A copy of November 13, 2014 input from the Chittenden East Supervisory Union;

16. A copy of a procedural memo.

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

II. FINDINGS

Factual Findings

The Minutes of the meetings 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 Applicants seek a permit to subdivide land. The subject property is a ±84.20 acre parcel located at 623 Pleasant Valley Road in Underhill, VT (PV623).

B. The property is located in the Rural Residential, Scenic Preservation, and Soil & Water Conservation zoning districts as defined in Article II, Table 2.3, 2.5, and 2.6 of the 2012 Unified Land Use and Development Regulations.

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

D. Access approval is requested pursuant to review under the 2002 Underhill Road Policy and the 2012 Unified Land Use and Development Regulations. Final review of the access will be made by the Selectboard.

III. CONCLUSIONS

The Development Review Board finds the application is in conformance with the following sections of the 2012 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 7.5 – Preliminary 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 FINAL HEARING REQUIREMENTS

Based upon the findings above, and subject to the supplemental final hearing conditions below, the Development Review Board grants preliminary approval for the subdivision as presented at the preliminary hearing.

A. An Access Permit shall be obtained from the Selectboard prior to filing an application for final subdivision review in accordance with Section 8.6(A)(3).

B. A copy of the Wastewater System and Potable Water Supply Permit, or permit application, shall be submitted with the application for final subdivision review.

C. Section 3.2 (D)(9)(d) of the UULUDR requires "*Driveways that exceed 500 ft in length shall include a 10 foot by 30 foot pull-off area every 500 ft and terminate in a Y turnaround.*" The board requires a pull-off. However, the board also finds strict adherence to the 500 foot interval will place the pull-off in a floodplain. The board waives the 500 foot interval requirement and requests final design show the pull off outside of the floodplain.

D. Nothing in this decision shall be deemed to alter any existing deed restrictions.

Dated at Underhill, Vermont this 15 day of Dec, 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 1/16/2015.