TOWN OF UNDERHILL
APPLICATION OF MICHAEL LANG
FOR REVISIONS TO AN APPROVED SUBDIVISION
FINAL FINDINGS AND DECISION

In re: Michael Lang
49 Mullen Rd.
Underhill, VT 05489

Docket No. DRB-12-11: Lang

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns Michael Lang's combined sketch plan review and final hearing application for revisions to Lot 4A of the previously-approved 2-lot subdivision of property, located at 49 Mullen Rd. in Underhill, VT.

A. On November 29, 2012 and December 11, 2012, Kristen Howell of McCain Consulting, Inc. filed applications for final subdivision review and sketch plan review for the proposed revision to the subdivision on behalf of Michael Lang. A copy of the applications and additional information are available at the Underhill Town Hall.

B. On November 30, 2012, a copy of the notice of the combined sketch plan review and final hearing was mailed via Certified Mail to the Applicant, Michael Lang, 238 River Rd., Underhill, VT 05465, and to the following owners of properties adjoining the property subject to the application:

1. Kelliher, 37 Mullen Rd., Underhill, VT 05489
2. Clark, P.O. Box 7, Underhill, VT 05489
3. Clark, 31 Clark Rd., Underhill, VT 05489
4. Christie, 50 Mullen Rd., Underhill, VT 05489

Notice was also provided via email to Gunner McCain, McCain Consulting, Inc.

C. On November 30, 2012, notice of the combined sketch plan review and final hearing on the proposed Lang subdivision revision was posted at the following places:

1. The property to be developed, MU049 (by Dec. 2);
2. The Underhill Town Clerk's office;
3. The Underhill Country Store;
4. Wells Corner Market;
5. The Underhill Center Post Office;
6. The Underhill Flats Post Office;
7. Jacobs IGA;

8. The Town of Underhill website.

D. On December 1, 2012, notice of the combined sketch plan review and final hearing was published in *The Burlington Free Press.*

E. The combined sketch plan review and final hearing began at 6:35 PM on December 17, 2012.

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

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

Zoning & Planning Administrator Kari Papelbon; Gunner McCain, McCain Consulting, Inc.; Applicant Michael Lang; and Shanie Bartlett, candidate for DRB Alternate, 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:

- Gunner McCain, McCain Consulting, Inc., 93 S. Main St., Ste. 1, Waterbury, VT 05676

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

1. A copy of Michael Lang's Application for Subdivision: Sketch Plan (no date);
2. Michael Lang's Application for Subdivision: Final (dated 11-27-12);
3. A copy of the completed Subdivision Checklist: Sketch Plan;
4. A copy of the Subdivision Checklist: Final
5. A copy of the site plan prepared by Gunner McCain of McCain Consulting, Inc. (Sheets 1-2 dated November 27, 2012);
6. A copy of the completed Subdivision Standards Findings Checklist;
7. A copy of the DRB decision from the Tatro subdivision (dated 7-10-06);
8. A copy of the tax map for MU049;
9. A copy of the hearing notice published in The Burlington Free Press on 12-1-12;
10. A copy of the procedure checklist and staff memo for this hearing.

These exhibits are available in the Lang, MU049, subdivision file at the Underhill Zoning Office.

II. FINDINGS

Factual Findings

The Minutes of the meetings written by Kari Papelbon 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 seeks approval to amend the location of the previously-approved driveway on Lot 4A. The subject property is a ±7.4-acre parcel located at 49 Mullen Rd. in Underhill, VT (MU049).

B. The property is located in the Rural Residential zoning district as defined in Article II, Table 2.3 of the 2012 Unified Land Use and Development Regulations.

C. Subdivision revision approval is requested for the project pursuant to review under the following sections of the 2012 Unified Land Use and Development Regulations:

- Section 7.8 – Revisions to an Approved Subdivision
- Article II, Table 2.3 – Rural Residential zoning district
- Section 3.2 – Access
- Section 3.22 – Water Supply & Wastewater Systems
- Section 7.3 – Sketch Plan Review
- Section 7.6 – Final Subdivision Review
- Article VIII – Subdivision Standards

D. Comments were solicited via email from the Underhill Selectboard, the Underhill Conservation Commission, and the Underhill Jericho Fire Department. No written or verbal comments were received prior to or during the hearing.

III. CONCLUSIONS

Applicable Regulation Standards

Section 7.8, Revisions to an Approved Subdivision

The Board finds that the proposed revisions to the approved subdivision plans do not qualify for Administrative approval and require Board review.

Article II, Table 2.3, Dimensional Standards

The Board finds that the proposed location of the proposed driveway is in compliance with the setback requirements of this section.

Section 3.2, Access

The Board makes the following findings on the application as proposed:

A. The lot and original location of the driveway were approved through the subdivision process as evidenced in the decision dated 7-10-06.

B. Section 3.2(B) is not applicable to the proposal as the lot conforms to the district minimum requirements for acreage and setbacks.

C. No changes to the lower configuration of the driveway from the intersection with Mullen Road to the existing bridge are proposed with the revision. No new or revised access permits are required per Section 3.2(C).

D. The proposed configuration of the driveway does not include new or additional access points and the design is in conformance with setback and grade standards. An existing pull-off area will be maintained [Section 3.2(D)(1)-(6), (9)].

E. Sections 3.2(D)(7), (8), (10), and (11) are not applicable to the proposal.

Section 3.22, Water Supply & Wastewater Systems

The Board finds that the approved replacement leachfield area was impacted by the construction of the existing driveway. A revised replacement leachfield area is shown on the plans, which have been submitted to the State of Vermont for an amendment to the approved Wastewater Treatment and Potable Water Supply Permit.

Section 7.3, Sketch Plan Review

The Board finds that the requirements for Sketch Plan Review were fulfilled with the submissions and combined review hearing held December 17, 2012.

Section 7.6, Subdivision Review, Final Subdivision Review

The Board makes the following findings:

A. The submission requirements of Section 7.6(B) and the hearing requirements of Section 7.6(C) were fulfilled.

B. This decision is written in fulfillment of Section 7.6(D).

Article VIII, Subdivision Standards

The Board makes the following findings:

A. The Applicants provided responses to applicable sections of Article VIII on the Findings Checklist. The Board accepts these responses and finds that general standards of subdivision were addressed in the previous subdivision review [Section 8.1(C)].

B. No waivers have been requested. The Board waives all standards not applicable to the proposal [Section 8.1(D)].

IV. DECISION, CONDITIONS, AND ADDITIONAL REQUIREMENTS

Based upon the findings above, and subject to the conditions and requirements below, the Development Review Board grants approval for the subdivision amendments as presented at the combined sketch plan review and final hearing. All conditions of the final decision dated July 10, 2006 shall remain in effect except as specifically amended below.

A. All revised State permits shall be recorded in the land records.

B. The final site plan shall be submitted in accordance with Section 7.7.

C. All subdivision and recording fees must be paid in full prior to recording the final site plan in accordance with Section 7.7(B).

Dated at Underhill, Vermont this 21 day of January, 2013.

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 21 FEB 2013