

TOWN OF UNDERHILL  
APPLICATION OF RICHARD & BARBARA ALBERTINI,  
ALBERTINI REVOCABLE TRUST, JOHN & DENISE ANGELINO  
FOR A 5-LOT SUBDIVISION/PRD/ BOUNDARY LINE ADJUSTMENT  
PRELIMINARY FINDINGS AND DECISION

In re: Richard & Barbara Albertini  
109 Pleasant Valley Road  
Underhill, VT 05489

Docket No. DRB-15-01

**I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns lands owned by Richard and Barbara Albertini, and Albertini Revocable Trust's preliminary hearing application for a 5-lot subdivision and boundary line adjustment of property located at 109 Pleasant Valley Road in Underhill, VT.

- A. On 31 August 2015, the Albertini's filed an application for subdivision for the project. A sketch plan review of the project was held on 16 February 2015, continued on 1 June 2015 and was accepted.
- B. Application for Preliminary Approval was made on 31 August 2015. A hearing was scheduled for 5 October 2015 at that time. The application was still incomplete by that deadline, so the hearing was rescheduled for 10/19/2015. On 10/5/2015, a copy of the notice of preliminary hearing was mailed via Certified Mail to the following owners of properties adjoining the property subject to the application:
  - 1. Carolyn Gregson
  - 2. Andrew Fitzgerald
  - 3. Underhill Town Selectboard
  - 4. Mary Tomasi
  - 5. Richard and Barbara Albertini
- C. On the same date a copy of the preliminary hearing notice was also sent out via First Class Mail, to the following people, registered as interested parties at the Sketch Plan Hearing.
  - 1. Peter Duval
  - 2. Jean Archibald
  - 3. Cynthia Seybolt
  - 4. Steve Abair
  - 5. Peter Bennett
  - 6. Carla Hochschild
  - 7. Ann Linde
  - 8. Irene Linde
  - 9. Mike & Pat Weisel

10. Marcy Gibson

- D. On October 2, 2015, notice of the public hearing for the proposed Albertini subdivision 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
- E. During the week of 10-7-2015, the notice of the public hearing was published in *The Seven Days*.
- F. A site visit was held at the property at 6:00 PM on 19 October 2015, no testimony was taken on-site. The preliminary plat hearing convened at 6:40 PM on 19 October 2015 at the Underhill Town Hall.
- G. Present at the site visit and preliminary hearing were the following voting members of the Development Review Board: Charles Van Winkle, Chairman, Matt Chapek, Mark Hamelin, Karen McKnight, Penny Miller, Jim Gilmartin and Will Towle. Mark Green a DRB Alternate was also present at the site visit and hearing.

Planning and Zoning Administrator Rachel Fifield, Applicants Richard and Barbara Albertini and Consultant Jenn Desautels (Trudell Engineering) also testified at 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:
1. Peter Duval (25 Pine Ridge Road)
  2. Seth Friedman (144 Pleasant Valley Road)
  3. Carolyn Gregson (99 Pleasant Valley Road)
  4. Pat Wiesel (626 Irish Settlement)
  5. Cynthia Seybolt (95 Pleasant Valley Road)
  6. Marcy Gibson (50 New Road)
  7. Mike Wiesel (626 Irish Settlement)
  8. Irene Linde (68 Pleasant Valley Road)
- I. Those who sent letters to be read at the hearing were:
1. Jean Archibald (22 Harvey Road)
  2. Steve Abair (39 Mountain Road)
- J. During the course of the hearing the following exhibits were submitted to the Development Review Board:
1. A copy of the letter provided to the Applicant after Sketch Plan Review (dated 6/3/2015)
  2. A copy of the minutes from the Sketch Plan meeting (2/16/2015)

3. Cover letter from Jennifer A Desautels, P.E. of Trudell Consulting Engineers (dated 9/2/2015);
4. Richard & Barbara Albertini- Application for Subdivision: Preliminary (undated);
5. A copy of the completed Subdivision Checklist: Preliminary;
6. A copy of the proposed Albertini Subdivision Preliminary Plan prepared by Trudell Consulting Engineers (C00-00-C8-05);
7. A copy of the project review sheet
8. A copy of the hearing notice as sent to the applicant and property abutters, publicized in three locations and published in *The Seven Days* the week of 10-7-2015.
9. A copy of the ability to serve letter from the UJFD (dated 6/1/2015)
10. A copy of the ability to serve letter from the MMUSD (dated 8/5/2015)
11. A copy of the traffic study completed by Trudell Consulting Engineers (dated 8/31/2015)
12. A copy of the correspondence regarding the independent review of the traffic study
13. A copy of the independent review letter from Lamoureaux & Dickinson (dated 10/9/2015)
14. A copy of the draft shared maintenance agreements and enforcement documents
15. A copy of the procedure checklist for the meeting.
16. A copy of the State of Vermont "Guidelines for Review and Mitigation of White-Tailed Deer Habitat"
17. Source Protection Map

These exhibits are available in the Albertini PV109, subdivision file (DRB- 15-01) at the Underhill Zoning & Planning Office.

## II. FINDINGS

### **Factual Findings**

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

- A. The Applicant seeks a permit to subdivide land and perform a boundary line adjustment with an adjacent landowner John & Denise Angelino. The subject property is parcel located at 109 Pleasant Valley Road in Underhill, VT (PV109).
- B. The property is located in the Water Conservation and Rural Residential zoning districts as defined in Article II, Table 2.3 of the 2014 Updated Unified Land Use and Development Regulations.
- C. Subdivision approval is requested for the project pursuant to review under the following sections of the 2012 Unified Land Use and Development Regulations, as amended on 6 March 2014.
- D. Access approval is requested pursuant to review under the 2012 Unified Land Use and Development Regulations, as amended in 6 March 2014. The Selectboard has ultimate

jurisdiction over the access onto Pleasant Valley Road, and a separate curb cut permit is required.

- E. Richard and Barbara Albertini, and Albertini Revocable Trust are the record owners of the property.
- F. The board finds the development contains lands that consist of Steep Slopes and Very Steep Slopes as defined by the UULDR as amended, and development is proposed in these areas. The board recognizes that area along Pleasant Valley Road of this parcel and an adjacent parcel to the north was significantly impacted during the roadway realignment project conducted by the town. The board recognizes and in light of the recent road realignment work, this development presents an opportunity to provide better stabilization to the disturbed area.

The board does not find sufficient evidence was presented with regards to stormwater management as required in Section 3.18-C-5. The board has particular concerns with the driveway culvert on lot #3, lot#5 and the project access off of Pleasant Valley Road. The board expects this information to be presented in sufficient detail as part of the Final Plat Application.

The board does not find sufficient evidence was presented with regards to permanent vegetation establishment and maintenance following final construction and grading as necessary to stabilize disturbed and graded slopes, to minimize stormwater runoff and erosion, during or after construction in the areas of proposed disturbance along Pleasant Valley Road, (specifically lot 1 and lot 2). The proposed grading plan on lot 1 does not conform to 3.18-D-2-h, (maximum 3:1 slope) and the board expects this to be modified with the final plat submission.

The board does not find the building envelope on lot #1 as presented conforms to the slope setback for development in areas comprised of steep and very steep slopes.

The board does not find sufficient evidence was presented with regard to screening the development and specifically lot 1, as viewed from public vantage points in particular northbound traffic on Pleasant Valley Road to avoid undue adverse visual impacts as outlined in section 3.18-D-2-i. The board is expecting a more aggressive landscaping plan than proposed, to provide not only slope stabilization but also screening and expects this to be modified with the final plat submission.

- G. The board finds that the proposed Applewood Drive development generally conforms to access requirements as outlined in section 3.2-D-10. However the development road is the subject of much concern, as expressed by interested parties and select members of the DRB. The board finds that instances involving local knowledge can sometimes conflict and be more accurate than expert testimony based on a limited sample size and contrasted against academic or theoretical criteria. In light of the significant amount of testimony received regarding the access location, the board finds they would be remiss in not seeking additional evidence regarding traffic impacts.

The board does not find sufficient evidence was presented to alleviate concerns of the

proposed intersection geometry of the development road and Pleasant Valley Road. The board considered the testimony of the applicant's engineer, the applicant's traffic study and the independent analysis of the traffic study, the board is not convinced the proposed development road is in the "best" location. The board requests that a design be presented showing a 4 way intersection of the development road, Pleasant Valley Road and Mountain Road, and an analysis of that design be prepared that compares and contrasts the benefits of the 4 way vs the current proposal. The board is requesting a written statement from the traffic engineer specifying an opinion on the 4 way intersection vs the current configuration.

The board does not find sufficient evidence was presented to alleviate safety concerns raised by interested parties regarding vehicular accidents along this section of Pleasant Valley Road. The board is therefore requesting accident history data and summary be submitted as far back as records allow, along Pleasant Valley Road for ½ mile in either direction from the Mountain Road intersection.

- H. The board does not find sufficient evidence was presented with regard to the public benefit achieved as part of the PRD process. In particular the designation of functional open space incorporates natural and scenic resources identified for protection. The Board would like deed restrictions that prohibit the clear cutting of the deer yard and associated buffer as designated on lots 4 and 5.

In addition to the deer yard protections, the board requests that an easement be established that allows for non-motorized recreational access of the lands within the protected deer yard and associated buffer. The expectation is that the easement should occur along traditional pedestrian traffic patterns or an alternate route proposed by the applicant. Ideally the easement would extend through to New Road.

### **III. CONCLUSION**

The board is disappointed with the level of engineering detail presented with the preliminary plat submittal and had difficulty in achieving positive findings relative to stormwater management, slope stability and erosion control during and after construction, aesthetic impact, and traffic safety. The board has concerns (especially in light of neighborhood concerns) about the safety of the proposed development road, and wants more than reasonable assurances on subsequent submittals that location chosen for the access road is the best possible alternative.

The board concludes that the level of detail requested can be supplied as part of the Final Plat application.

### **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. The proposed curb-cut for the development road shall carry an Access Permit as approved by the Underhill Selectboard pursuant to the Underhill Driveway, Road

and Trail Ordinance. This step is required prior to filing an application for final subdivision review in accordance with Section 8.6(A)(3).

- B. Additional evidence shall be submitted addressing the boards concerns outlined in Findings F, G & H. The additional evidence shall be incorporated into the Final Plat Application.
- C. A copy of the ANR Wastewater System and Potable Water Supply Permit application shall be submitted with the application for final subdivision review.
- D. Building envelopes, driveways, road and utility corridors shall be located to minimize site disturbance on steep slopes (15% or more) and to the greatest extent feasible, avoid site disturbance on very steep slopes (>25%) in accordance with sections 3.18, 8.3 and 8.5.
- E. The Board approves a Planned Residential Development layout for the property, with some lots less than the standard minimum acreage.

Dated at Underhill, Vermont this 16<sup>th</sup> day of **November, 2015**.

*Charles Van Winkle*

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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 end **16 December 2015**.