

**Town of Underhill**  
**Development Review Board Minutes**  
**Chairperson Scott Tobin**

May 7, 2007

**Board Members Present:**

Scott Tobin, Chairperson  
Kathy Rupright  
Stan Hamlet  
Charlie Van Winkle, Vice Chairperson  
Pete Seybolt  
Chuck Brooks, Clerk

**Also Present:**

Chris Murphy, Zoning Administrator

**6:15 PM:** Site visit to Perline property

**6:45 PM:** Meeting called to order, Vice Chairperson Charlie Van Winkle presiding over Bill Russell hearing.

**William & Kathy Russell**  
**DRB-06-15**  
**Review of conditions set by**  
**DRB on October 12, 2006 and a**  
**Continuation of January 2007 hearing**

**Applicants Present:**

None

- ZA Murphy submitted to the board a letter from applicants dated 04-23-2007 requesting that their application for a conditional use permit to operate a construction business be withdrawn.
- The board read and discussed the applicant's letter as well as the fact that he had not complied with the conditions set when conditional use permit was granted on October 12, 2006.
- Chuck Brooks made a motion, seconded by Kathy Rupright to rescind the conditional use permit granted to applicants to operate a construction

business from their home, as requested in their letter, as well as for none compliance with conditions set in the permit. Motion passed by all board members present.

**7:00 PM:** Russell hearing concluded

Open discussion with attendees conducted until scheduled start of next hearing.

**7:30 PM:** Chairman Scott Tobin resumes duties

**Kevin & Kelly Perline  
DRB-07-08  
Conditional Use Permit Request  
Home Occupation**

**Applicants:**

Kevin & Kelly Perline  
PO Box 142  
Underhill Center VT 05490

**Location of Request:**

75 Irish Settlement Road

**Other participants:**

Bill Johnston &  
Lisa Aunchman-Johnston  
472 Poker Hill Road  
Underhill VT 05489

Ellen Duval  
25 Pine Ridge Road  
Underhill VT 05489

Frank Jackson  
84 Irish Settlement Road  
PO Box 75  
Underhill Center VT 05490

- Chair Tobin began by reading the checklist for this hearing. During this time, the DRB accepted the below listed items from ZA Murphy

**Identifier:    Contents:**

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ZA-1	Copy of the MT Gazette warning for this hearing, published 04-19-2007
ZA-2	Copy of Perline's Condition Use Permit request

- ZA-3 Copy of Perline's site plan and response to home occupation criteria
- ZA-4 This hearing's checklist

- Chair Tobin began the check list for this hearing and placed those wishing to speak under oath.
- ZA Murphy spoke, advising that due to inconsistencies under the home occupation regulations that a conditional use permit hearing before the DRB was required. She also advised that she feels the applicants have addressed the issues in their letter and meets the criteria for a home occupation
- Kevin Perline spoke, advising that they work with emotionally disadvantaged children, cancer patients and those who have experienced trauma in their life and that they use animals to help restore these children. He then presented photos to the board of the people they help. He advised that due to increasing expense, they need to recover some of the costs, hence the need for a home occupation permit.
- He then responded to all questions from the board and advised the following:

That they work with children age 6 to 15.

It is a part time practice only.

Monday and Wednesday, 4 to 7 PM

Tuesday & Thursday 10 to 12 AM

Friday 9:30 to 12 AM.

Plus different summer schedule, all of which is listed on his information sheet.

No federal or state funding, which is why they need to start charging.

The students groom and clean the animals, clean the stalls, walk the animals around and are building a goat house, play soft music and are never allowed to ride the horses.

- Bill Johnston & Lisa Aunchman-Johnston then spoke, advising that they were in support of the applicants request as they have been very helpful in treating their son

- Ellen Duval then spoke and advised that she felt the applicants request had no negative impact on the community and that she supported them
- Frank Jackson spoke, advising that while he felt bad speaking against the applicant's request; he did not want to see their request granted. He advised he has been a residence of the area for 23 years and was sensitive to noise. He liked it quiet and the applicant's activity seemed to direct noise at his house. He feels that an increase in activity can only lead to an increase in the noise level.

**8:08 PM:**

Stan Hamlet made a motion, seconded by Charlie Van Winkle to close the evidentiary portion of this hearing and move into deliberative session. Motion passed by all present.

Chuck Brooks recused himself from the Geise hearing as he is an abutting neighbor

**Applicant:** Peter Geise – Sketch Plan Application Review  
431 VT Route 15, Underhill, VT 05489

**Date:** May 7, 2007

**AMP:** Development Review Board

**Board Members Present:** Scott Tobin (Chairman); Stan Hamlet, Kathy Rupright, Peter Seybolt; Charlie Van Winkle (Acting Clerk)

**Staff Present:** Christine Murphy, Esq., Planning Director and Town Administrator

**State Representatives Present:** None.

**Interested Parties:**

Peter Lazorchak – McCain Consulting, Representing Applicant;  
93 South Main Street, Waterbury, VT 05676

Tom Nugent- Representing Applicant; 73 Stevensville Road, Underhill VT 05489

Bob Peterson – Interested Party; 429 VT Route 15, Underhill, VT 05489

Joe Allaire – Interested Party; 11 Brook Bend, Underhill, VT 05489

Chuck Brooks<sup>1</sup> – Interested Party, 12 Brook Bend, Underhill, VT 05489

**Hearing Overview:**

**Chairman Tobin** opened the hearing at 8: 15 PM by giving a Rules of Procedure overview, outlining the definition of interested parties and giving the audience guidelines for presenting testimony to the board. Order of testimony was

- Application overview by town Administrator Christine Murphy
- Supplemental presentation by the Applicant's representatives.
- Questions from the public

<sup>1</sup> Chuck Brooks recused himself from participating in the board decision on this matter as he is an interested party to the matter before the board

**Christine Murphy** presented an application overview.

- Applicant has purchased property formerly owned by Ken Mitchell Sr, which is adjacent to land with improvements already owed by the applicant.
- All vehicular access to be off of VT Farmhouse Road, necessitating a R-O-W width variance from the Underhill Selectmen. Christine also indicated that Murphy indicated VAOT is required to grant approval as well.
- Murphy directed the board to a letter presented by the applicant from Nick Nowland, P.E., of McCain Consulting, indicating the existing septic system service the former Ken Mitchell Jr.'s house does not show any signs of failure and therefore in his reasonable judgment is functioning.
- Because the house contains an existing, functioning septic system, the former Mitchell Jr parcel remains separated, from the Mitchell Sr. parcel despite being pre-existing and non-conforming because the lot is in two zones.

**Peter Lazorchak** - representing the Applicant, provided additional testimony regarding the application before the board.

- Two existing parcels are to be re-configured into 4 new parcels.
- No access to the development shall be provided off of Brook Bend Road.
- All access to be provided off of VT Farmhouse Road.
- The existing Ken Mitchell Sr. home shall have it's own septic system; the two new parcels coupled with the existing multi unit dwelling shall have a community septic disposal system.
- All lots will be connected to municipal water provided by the Jericho Underhill Fire District.

**Bob Peterson** – interested party, cited the following concerns

- Traffic – indicated the access onto Route 15 could be a problem.
- Traffic - indicated that the driveway to his house is currently only 30 feet away from the existing VT Farmhouse Road.
- Drainage – indicated an existing ditch located between his property and the Ken Mitchell Sr. property provides surface drainage and is not reflected on the drawing. Peterson indicated that if not properly addressed in the widening of the roadway would adversely affect his property.

**Joe Allaire** – interested party cited the following:

- Presented photographs to the board illustrating runoff and water backing up from the brook between his parcel and lands owned by Peter Geise. Notable concerns are the proximity of the water backing up to his shallow well, and the potential for contamination.
- Indicated that the water is backing up due to activity in the stream that Ken Mitchell Sr. had performed prior to selling the property to Geise.

- Consulted with Geise regarding the required drainage work and testified before the board that he was assured by Geise that the situation would be corrected

**Chuck Brooks** – Interested party cited the following:

- Echoed concerns to the board over the drainage issue and potential impact on the well created by the actions of Ken Mitchell Sr.
- Echoed that he “consulted with Geise regarding the required drainage work and testified before the board that he was assured by Geise that the situation would be corrected.”
- Contends ditch modification, which has been the source of the water back up was done in conflict with the Underhill Zoning regulations. And in its current state is a continued violation of the Underhill Zoning regulations.
- Cited additional concerns regarding the accuracy of the property lines depicted on the maps, feels that the gravel extraction point is accurately depicted on the sketch plan.

**Tom Nugent** – representing the applicant, provided response testimony to Peterson, Allaire and Brooks on behalf of the applicant, salient points of his testimony included the following:

- Indicated the Applicant Peter Geise was out of town and he was representing the applicant at the hearing.
- Acknowledged concerns regarding the gravel removal activity by Mitchell within the brook, its existence and impacts on abutters’ properties.
- Offered to facilitate ditch rectification, and indicated that Bob Manning’s Excavation of Essex VT would be contracted by Peter Geise to remove the gravel from the stream.
- Offered not to schedule another Development Review board meeting until the drainage ditch issue affecting Brook Bend residents and the Allaire / Brooks properties was addressed.

**DRB Comments:**

- The board’s comments to the applicant included the desire to have a more comprehensive overview of the area surrounding the development and suggested that the applicant include an Ortho Photo of the area with the Preliminary Plat submittal.
- Notable concerns were the location of the drainage swale between the Peterson Property and the former Ken Mitchell Sr. property south side of VT Farmhouse Road.
- A subsequent concern was the location of the aforementioned spring as it relates to the area of proposed activity on the former Mitchell Sr. property.

**Chairman Tobin** inquired if the board had enough information to make a decision. Members replied in the positive, Stan Hamlet motioned to move the hearing into deliberative session, Charlie Van Winkle seconded the motion. The board voted to unanimously move into deliberative session at 8:46 PM.

These minutes of the 05-07-07 meeting of the DRB were

{Accepted}                      {Amended as noted below and accepted}

This \_\_\_\_\_ day of \_\_\_\_\_, 2007

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Chairperson Scott Tobin

***These minutes are subject to correction by the Underhill Developmental Review Board.  
Changes, if any, will be recorded in the minutes of the meeting of the DRB.***