

TOWN OF UNDERHILL  
APPLICATION OF KIM COOK FOR A CONDITIONAL USE PERMIT  
FINDINGS AND DECISION

In re: Kim Cook  
16 Paul Cook Road  
Underhill, VT 05489

Docket No. DRB-08-07: Kim Cook

**I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns Kim Cook's hearing application for a conditional use permit for a kennel at property located at 16 Paul Cook Road in Underhill, VT.

1. On May 2, 2008, Kim Cook filed an application for a conditional use permit for a kennel on her property at 16 Paul Cook Road in Underhill, VT. A copy of the application is available at the Underhill Town Hall.
2. On May 15, 2008, notice of a public hearing was published in the Mountain Gazette.
3. On May 14, 2008, a copy of the notice of a public hearing was mailed via certified mail to the applicant, Kim Cook, P.O. Box 45, Underhill Center, VT 05490 and to the following abutting neighbors:
  - a. Carbone, 6 Paul Cook Road, Underhill, VT 05489
  - b. French, 515 Pleasant Valley Road, Underhill, VT 05489
  - c. Kennedy, P.O. Box 32, Underhill Center, VT 05490
  - d. Hopkinson/Wood, 61 Cove Road, Huntington, NY 11743
4. By May 19, 2008, notice of the hearing on the proposed Cook conditional use were posted at the following places:
  - a. The applicant's property, 16 Paul Cook Road;
  - b. The Underhill Town Clerk's office;
  - c. The Underhill Center Post Office;
  - d. The Underhill Flats Post Office;
  - e. The Town of Underhill website;
5. The hearing was scheduled to begin immediately following the preceding hearing scheduled for 6:30 PM on June 2, 2008.
6. Present at the preliminary hearing were the following members of the Development Review Board:

- Scott Tobin, Chairperson
- Chuck Brooks
- Matt Chapek
- Penny Miller
- Peter Seybolt
- Charlie Van Winkle
- Stan Hamlet

Kari Papelbon, Zoning Administrator, and Chris Murphy, Town Planner also attended the meeting.

7. At the outset of the hearing, Chairperson Scott Tobin explained the criteria under 24 V.S.A. § 4465 (b) for being considered an “interested party.” Interested parties who spoke at the hearing were:

- Kim Cook, 16 Paul Cook Road, Underhill, VT
- French, 515 Pleasant Valley Road, Underhill, VT

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

1. A staff report sent by Zoning Administrator Kari Papelbon to the Development Review Board and Kim Cook;
2. Kim Cook’s Conditional Use Hearing Request;
3. A copy of the parcel map for PC016.

These exhibits are available in the Kim Cook, PC016 Conditional Use file at the Underhill Zoning Office.

## **II. FINDINGS**

### **Background**

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:

1. The subject property, 16 Paul Cook Road, lies in the Scenic Preservation zoning district.
2. The Applicant, Kim Cook, is applying for a conditional use permit for a kennel on her property at 16 Paul Cook Road in Underhill, Vermont.

3. Kennels are considered conditional uses in the Scenic Preservation zoning district. There is not a definition for a kennel in the Underhill zoning regulations.
4. Per §III (F) of the Underhill Zoning Regulations, “Approval of use by the [Development Review Board] after public notice and public hearing have determined that the proposed Conditional Use complies with standards applicable to it as set forth in the By-Laws, and that the proposed Conditional Use is not injurious, noxious or offensive to the neighborhood and does not adversely affect:
  - The character of the area
  - Traffic on roads or highways in the vicinity
  - By-Laws then in effect
5. The applicant currently owns 12 dogs and will have an occasional litter for sale. The 12 dogs on the premises are pets and show dogs.
6. The Board finds that the applicant will not board animals, install additional lights, construct a sign, have hours of operation, or breed animals primarily for commercial or monetary purposes. Waste generated by the animals is disposed of as compost.
7. Neighboring residences in the Scenic Preservation zoning district have multiple animals. The nearest abutting neighbors have voiced their support for the kennel and have no complaints regarding noise.
8. Based on the above findings, the Board finds that the kennel will not be injurious, noxious or offensive to the neighborhood. The Board also finds that the kennel will not adversely affect the character of the area as other residences have multiple animals, will not adversely affect traffic on roads or highways in the vicinity as the kennel will not be a business, and complies with the current by-laws.

### **III. DECISION**

Based upon the findings above, and subject to the conditions below, the Development Review Board grants approval for the kennel as a conditional use as presented at the hearing.

#### **A. Conditions:**

1. No more than 20 dogs over the age of 6 months shall be allowed onsite.
2. No additional outside lighting shall be installed for the kennel.
3. No signs shall be erected for the kennel.

4. There shall be no commercial boarding of animals on the premises or hours of operation.
5. Nothing in this decision supersedes the authority of the Animal Control Officer and the Selectboard.

Dated at Underhill, Vermont this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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Scott Tobin, Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding 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. No documents shall be recorded until \_\_\_\_\_, when the 30-day appeal period has expired.