

**Town of Underhill**  
Development Review Board Minutes  
Acting Chairperson Chuck Brooks

April 19, 2010

**Board Members Present:**

Chuck Brooks, Acting Chairperson  
Deb Shannon  
Matt Chapek  
Penny Miller  
Peter Seybolt  
Stan Hamlet

**Also Present:**

Kari Papelbon, Zoning Administrator  
Robert Danis (Applicant for next hearing)  
Robert Newman (Applicant for last hearing)

**6:30 PM:** Acting Chairperson Chuck Brooks called the Renaud/Eckhardt final boundary line adjustment hearing to order.

**Applicants Present:**

Eric Eckhardt  
89 Corbett Rd.  
Underhill, VT 05489

Tiffany Renaud  
295 Ten Stones  
Colchester, VT 05445

**Consultant Present:**

Gunner McCain, McCain Consulting  
93 South Main St., Ste. 1  
Waterbury, VT 05676

**Identifier:      Contents:**

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|------|----------------------------------------------------------------------------------------------------------------------------------------------|
| ZA-1 | Tiffany Renaud and Eric and Mary Anne Eckhardt's Boundary Line Adjustment application (dated 3-29-10)                                        |
| ZA-2 | A copy of the survey prepared by Keith Van Iderstine of McCain Consulting for Tiffany Renaud and Eric and Mary Anne Eckhardt (dated 3-12-10) |
| ZA-3 | A copy of the tax map for CB101 and CB089                                                                                                    |
| ZA-4 | A copy of the exemption language from the VT Wastewater Rules                                                                                |
| ZA-5 | A copy of the confirmation email for the hearing notice to published in the <i>Burlington Free Press</i> (4-2-10)                            |
| ZA-6 | Staff report prepared by ZA Papelbon                                                                                                         |

ZA-7

A copy of the survey prepared by Keith Van Iderstine of McCain Consulting for Tiffany Renaud and Eric and Mary Anne Eckhardt (dated 4-13-10)

- Acting Chairperson Brooks began the meeting by explaining the procedure for the final boundary line adjustment hearing. He then swore in all interested parties and entered the above items into record.
- Gunner McCain spoke, explaining the survey and plans for a driveway access to the CB101 lot. Currently, the driveway to CB089 is the point where the traveled portion of the town road ends. Without the boundary line adjustment, access to the CB101 lot would have to traverse a fairly steep grade of Class IV road, which would have to be upgraded, with an equally steep climb up the property to potential house site. The driveway to the CB101 lot will need a variance in the future as it will be closer than 20 feet to the property line. A variation of approximately 1700 square feet between the two properties is proposed for the boundary line adjustment.
- Board Member Peter Seybolt commented that the shapes of the two parcels were strange. Mr. McCain explained that while the shape is strange, the conveyance was for the driveway, to protect a stand of trees for screening, and to keep the amount of acreage about the same for both parcels - transferring usable land from the rear of the CB101 lot to the CB089 lot in exchange for the land along Corbett Rd. for the driveway access.
- Board Member Deb Shannon asked about the topography at the rear of the lot and whether there was a drop-off. Mr. McCain responded that the property did drop off significantly at the rear. Board Member Seybolt asked how long the CB101 lot had been in existence. After a short discussion, it was stated that it had been in existence since at least the 1980s.
- Board Member Penny Miller asked for clarification of a line in the trees on the tax map. Mr. McCain and Mr. Eckhardt explained that it was a power line. Acting Chair Brooks asked if the right-of-way for the power line would interfere with the proposed driveway location, to which Mr. McCain replied it would not.
- ZA Papelbon spoke, stating that her concerns had already been addressed.
- Acting Chair Brooks asked for public comment. There were no comments (no neighbors or interested parties were in attendance).

**6:43 PM:** Acting Chairperson Chuck Brooks asked if the Board felt they had enough information to make a decision on the application. The Board indicated that they did, and Acting Chairperson Brooks asked if the Board would like to deliberate in open or closed session. Board Member Stan Hamlet made a motion, seconded by Board Member Peter Seybolt, to accept the application as presented. The motion was passed by all Board Members present.

Eric Eckhardt and Tiffany Renaud left at this point.

**6:48 PM:** Acting Chairperson Chuck Brooks called the Danis final subdivision hearing to order.

**Applicant Present:**

Robert Danis  
898 VT Rte. 15  
Underhill, VT 05489

**Consultant Present:**

Gunner McCain, McCain Consulting  
93 South Main St., Ste. 1  
Waterbury, VT 05676

**Others Present:**

Randy Clark & Harry Schoppman  
Underhill-Jericho Fire Department  
P.O. Box 150  
Underhill, VT 05489

| <b>Identifier:</b> | <b>Contents:</b>                                                                                                                                                                                                                   |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ZA-1               | Robert and Patti Danis' Application for Subdivision: Final (dated 3-14-10)                                                                                                                                                         |
| ZA-2               | A copy of the completed Subdivision Checklist: Final Hearing                                                                                                                                                                       |
| ZA-3               | A copy of the plans prepared by Gunner McCain of McCain Consulting, Inc. for Robert and Patti Danis (Sheet SD-1 revised 3-15-10, Sheets S-1 through S-4 revised 3-9-10, Sheet EC-1 revised 3-9-10, and Sheet C-1 revised 11-17-09) |
| ZA-4               | A copy of the survey prepared by Keith van Iderstine of McCain Consulting, Inc. for Robert and Patti Danis (dated 3-11-10)                                                                                                         |
| ZA-5               | A copy of the Construction General Permit Authorization (dated 12-9-09)                                                                                                                                                            |
| ZA-6               | A copy of the letter from Frank DelGiudice of the New England District of the US Army Corps of Engineers (dated 1-15-10)                                                                                                           |
| ZA-7               | A copy of the letter from William Zabiloski of the VT Wastewater Management Division (dated 3-10-10)                                                                                                                               |
| ZA-8               | A copy of the letter from Harry Schoppmann, UJFD Duty Officer (dated 3-23-10)                                                                                                                                                      |
| ZA-9               | A copy of the draft Findings of Fact (from the Preliminary Hearing)                                                                                                                                                                |
| ZA-10              | A copy of the waiver request for the bonding requirement (dated 4-9-10)                                                                                                                                                            |
| ZA-11              | A copy of the tax map for VT898                                                                                                                                                                                                    |
| ZA-12              | A copy of the proposed subdivision conditions                                                                                                                                                                                      |
| ZA-13              | A copy of the minutes from the 1-4-10 Preliminary Hearing                                                                                                                                                                          |
| ZA-14              | A copy of the preliminary decision                                                                                                                                                                                                 |

ZA-15 A copy of the confirmation email for the hearing notice to published in the *Burlington Free Press* (4-2-10)  
ZA-16 Staff report prepared by ZA Papelbon

- Acting Chairperson Brooks began the meeting by explaining the procedure for the final subdivision hearing. He then swore in all interested parties and entered the above items into record.
- Gunner McCain spoke, explaining the plans for the subdivision. An application to VT AOT for a change of use (required as the drive would serve more lots) resulted in a requirement to relocate the curb cut about 65 feet north of the existing curb cut and to remove an outcropping of ledge. Such was required to improve site distances. Mr. McCain further explained that while it was not part of the application under review, a future boundary line adjustment would be needed with the neighbor at VT910 to clear up discrepancies between actual conditions and deed descriptions. Board Member Matt Chapek asked if the hope for such was an equal swap of land, to which Mr. McCain replied it was not.
- Mr. McCain explained that the changes required in the preliminary decision were reflected on the new maps. He further explained the changes made to the driveway to Lot 3 as was required by the DRB in the preliminary decision. A discussion of the driveway ensued.
- Acting Chair Brooks asked about the IRF labels. Mr. McCain explained that the original surveyor was licensed in two states and his pin caps reflected such.
- Board Member Stan Hamlet asked whether Lot 3 was required to have a replacement septic design. Mr. McCain explained that such was not necessary for mound systems. Board Member Hamlet then asked why the ledge was being removed, to which Mr. McCain replied it due to sight distances.
- Board Member Penny Miller asked if it was typical to show setbacks on engineering drawings. Mr. McCain explained that it depends on what the map is for. Building envelopes usually do not have setbacks noted. Board Member Miller asked ZA Papelbon whether the Board needed to make a decision on the driveway setback on Lot 3. ZA Papelbon stated that the Board could make a ruling on a waiver request. A discussion of such ensued, the consensus being that the driveway and road met the DRB's requirements
- Acting Chair Brooks asked for public comment.
- Randy Clark, Chief of the Underhill-Jericho Fire Department, and Harry Schoppmann, Duty Officer for the Underhill-Jericho Fire Department, were sworn in as they had arrived during the course of the hearing. A lengthy discussion of the road requirements ensued. An agreement was made

regarding the UJFD's ability to use the existing driveway hardpack width for access in addition to the new road that will be constructed.

- Board Member Hamlet asked how far Mr. Danis was required to pave per the VT AOT. Mr. McCain and Mr. Danis responded that it was approximately 30 feet to the edge of the right-of-way.
- Acting Chair Brooks asked if there were further questions. There were none.

**7:33 PM:** Acting Chairperson Chuck Brooks asked if the Board felt they had enough information to make a decision on the application. The Board indicated that they did. Board Member Stan Hamlet made a motion, seconded by Board Member Peter Seybolt, to enter a closed deliberative session. The motion was passed by all Board Members present.

Gunner McCain and Robert Danis left at this point. The Board took a break to accommodate interested parties who were en route to the hearing.

**7:48 PM:** Acting Chairperson Chuck Brooks called the Newman final conditional use hearing to order.

**Applicant Present:**

Robert Newman  
441 VT Rte. 15  
Underhill, VT 05489

**Others Present:**

Randy Clark & Harry Schoppman  
Underhill-Jericho Fire Department  
P.O. Box 150  
Underhill, VT 05489

Shannon and Malachi McCaulley  
424 VT Rte. 15  
Underhill, VT 05489

Emmett and Paige Manning  
421 VT Rte. 15  
Underhill, VT 05489

Dori Richeidei  
P.O. Box 278  
12 Harvest Run  
Underhill, VT 05489

Theresa Jennings  
423 VT Rte. 15  
Underhill, VT

| <b>Identifier:</b> | <b>Contents:</b>                                                                                                  |
|--------------------|-------------------------------------------------------------------------------------------------------------------|
| ZA-1               | A copy of Robert Newman's Conditional Use Hearing Request (dated 4-2-10)                                          |
| ZA-2               | A copy of the site plan (printed 4-2-10)                                                                          |
| ZA-3               | A copy of the Proposed Findings of Fact                                                                           |
| ZA-4               | A copy of the tax map for HR016                                                                                   |
| ZA-5               | A copy of the Signs section of the zoning regulations                                                             |
| ZA-6               | A copy of the confirmation email for the hearing notice to published in the <i>Burlington Free Press</i> (4-2-10) |
| ZA-7               | Staff report prepared by ZA Papelbon                                                                              |

- Acting Chairperson Brooks began the meeting by explaining the procedure for the final subdivision hearing. He then swore in all interested parties and entered the above items into record.
- Robert Newman, Applicant, explained his desire to operate a snack bus serving hot dogs, creemees, etc. on land owned by Phil Jacobs at 16 Harvest Run. Picnic tables would be provided behind the bus looking at the field.
- Board Member Penny Miller stated that she heard Mr. Newman mention at the site visit that the bus currently operates as a business in Mallets Bay, and asked Mr. Newman if he expected the same volume of business. He replied that he was unsure since he has not operated such a business previously. Mr. Newman estimated that the customers would be local townspeople and commuters who would be passing through town anyway.
- Board Member Peter Seybolt asked if employees would be cooking food inside the bus, to which Mr. Newman replied they would. Board Member Seybolt asked whether there would be any odors from such cooking, to which Mr. Newman replied that neighbors might smell French fries cooking. Board Member Seybolt then asked about hours of operation. Mr. Newman stated that he would like to operate until 8:30 PM, but that he was flexible.
- Board Member Miller asked which months Mr. Newman planned to operate, to which he replied June, July, and August.
- Board Member Deb Shannon asked Mr. Newman if he would provide bathrooms, to which he replied he would not unless required to do so.
- Board Member Seybolt asked if there would be a problem with cars driving on the grass, especially in rain, since there was not a parking lot with gravel. Mr. Newman stated that he did not foresee a problem since the ground would eventually become hardpacked and people would not generally come during rainy periods.
- Board Member Miller asked if Mr. Newman had any discussions with the UJFD regarding use of their picnic tables. Mr. Newman replied that if that became a problem he would put up a sign or a fence.

- Board Member Miller asked if Mr. Newman would be purchasing the land, to which he replied that he would not. She then stated that Mr. Newman mentioned he would be willing to put up a fence between the neighbor's lot and the concession stand, but asked about willingness for plantings. Mr. Newman stated he is willing to work with the neighbors on whatever they would like.
- Board Member Stan Hamlet asked if Mr. Newman had spoken to the State regarding a curb cut. Mr. Newman replied that VT AOT requires a paved apron 33 feet from the centerline of the road, and that a culvert already exists. Board Member Hamlet asked if the State mentioned any concerns with traffic, to which Mr. Newman replied that they had not. He reiterated that he did not believe that it would attract any more traffic than what already exists.
- Acting Chair Brooks asked how large of a parking area or how many parking spaces Mr. Newman would like on the lot. Mr. Newman replied that he would like room for 20 parking spaces. A brief discussion of Joe's Snack Bar's parking area ensued as a comparison. Acting Chair Brooks asked where the concession stand would be located, to which Mr. Newman responded that he would like it as it was drawn on the submitted site plan with picnic tables in the back.
- Board Member Miller pointed out that the site plan was not to scale and that her estimate from the site visit was that 6-7 cars would fit if lined up edge to edge. Mr. Newman stated that there's a lot of room for cars, but he did not need the whole area for a parking lot.
- Acting Chair Brooks asked if Mr. Newman planned to have exterior lights, to which Mr. Newman replied he would not.
- Board Member Hamlet asked what the size of the bus was, to which Mr. Newman replied it was a standard school bus, about 30 feet. Board Member Seybolt asked if it was already set up with refrigeration, etc., to which Mr. Newman replied that it was.
- Board Member Miller asked about the number of windows. Mr. Newman stated that there was only one window. Board Member Shannon asked if the window would be facing VT Rte. 15 or the picnic tables, to which Mr. Newman replied it would face VT Rte. 15.
- Board Member Shannon asked about where the sign would be located. Mr. Newman stated that the menu would be on the bus, and the sign for the business would be a sandwich board or a mailbox-style sign (unlit). Acting Chair Brooks stated that he believed the Board needed a formal request because a permanent sign would be handled differently from a sandwich board. Mr. Newman requested a sandwich board sign.

- Board Member Miller stated that she would like to see something to scale with regard to the parking area and access. Board Member Hamlet agreed. A discussion of the number of cars ensued. Mr. Newman stated that the situation is the same as with the restaurant across the street and the gas station up the road.
- Board Member Matt Chapek stated that he assumed the bus would be onsite 24 hours/day. Mr. Newman stated it would be during the summer. Board Member Shannon asked if the bus would be moved at the end of the season, to which Mr. Newman stated he would take it offsite.
- Board Member Shannon asked where the garbage cans would be located, to which Mr. Newman responded that they would be in back and garbage would be removed daily. She then asked if there would be a dumpster, to which Mr. Newman replied that the cans would be plastic. Mr. Newman stated that he wants to keep the site clean because it's in a neighborhood—he lives right up the street—and he wants to be a good neighbor. Board Member Shannon stated that it would be helpful to draw such things on the map.
- Acting Chair Brooks asked if the Board had more questions for Mr. Newman. There were none. Acting Chair Brooks then asked for public comment.
- Dori Richiedei, 12 Harvest Run, stated that she thought the business was out of character for Underhill. She also expressed her concerns for odor and the aesthetics of having a bus serving food in Underhill.
- Malachai McCaulley, 424 VT Rte. 15, stated his concerns for parking and traffic safety on the road. Also, concerns for pedestrians walking across the lawn, uncontained and blowing trash, and odor. He also stated that he does not believe that the business is in keeping with the Town Plan.
- Shannon McCaulley, 424 VT Rte. 15, stated her concerns for the amount of people walking around the area and over her yard the whole summer.
- Emmett Manning, 421 VT Rte. 15, stated that in the 17 years he and his family have lived there many issues have arisen from the annual Harvest Market in the area—cars parked along VT Rte. 15 and in his driveway, parking in the UJFD parking lot, the amount of time it takes to recover from that weekend (about 1 month), muddy conditions. Other concerns are for traffic on VT Rte. 15 (non-passing zone) and general safety.
- Paige Manning, 421 VT Rte. 15, stated her concerns for trash, odor (different from occasional bakery items), gulls and rodents, traffic, safety for people and pets, aesthetics. She feels that the location is not right for the business. She is also concerned for bicyclists and children. Mrs. Manning suggested using the Jacobs' store parking lot for the bus, and stated that there has never been a problem with the parking lot at the bakery. She is also concerned about the impact to existing recreation opportunities.

- Theresa Jennings, 423 VT Rte. 15, was sworn in and stated her concerns for traffic and safety in the area. She stated that she doesn't feel it is the proper place for a business.
- Randy Clark, Underhill-Jericho Fire Department at 420 VT Rte. 15, provided a brief history of the property. He believes that there is a 60 foot-wide "right-of-way" which is the access point for the field and is concerned for activity in a right-of-way. Fire Department concerns are for parking, especially overflow parking that is already an issue with the restaurant across the street, and trash is taken care of. There are no issues with the use of the picnic tables.
- Mr. Newman responded, stating that he understands the concerns as a neighbor. He does not believe that he will be contributing more traffic than is already in the area, and reiterated that similar businesses (the restaurant, gas stations) are in the area on VT Rte. 15.

**8:32 PM:** Acting Chairperson Chuck Brooks asked if the Board felt they had enough information to make a decision on the application. The Board indicated that they did. Board Member Peter Seybolt made a motion, seconded by Board Member Deb Shannon, to enter a closed deliberative session. The motion was passed by all Board Members present. Acting Chairperson Chuck Brooks stated that the evidentiary portion of the hearing was closed.

**9:29 PM:** Board Member Deb Shannon made a motion, seconded by Board Member Peter Seybolt, to move into open session. The motion was passed by all Board Members present. Board Member Stan Hamlet made a motion, seconded by Acting Chairperson Chuck Brooks, to approve the Danis 4-lot subdivision with the following conditions:

1. Per the Underhill Subdivision Regulations, final approval of the subdivision is granted upon filing of the final subdivision plat in the Underhill Land Records. No transfer or sale of property may occur prior to recording the final plat and decision in the Town of Underhill Land Records.
2. An 85-foot variance of the wetland setback to the western portion of the building envelope (near flag A4 on the plans) is approved for Lot 3.
3. A 50-foot variance of the wetland setback to the northwestern portion of the building envelope (near flag A12 on the plans) is approved for Lot 4.
4. All State and local permits shall be recorded in the Land Records.
5. The road maintenance agreement shall be recorded in the Land Records. A reference to this agreement shall appear in any deed in this subdivision.
6. All building envelopes and septic areas shall be staked out by the surveyor/engineer prior to any construction, and off-set stakes shall be held in place until completion of construction.

7. A copy of the engineer's letter to the State certifying that the septic system for any lot out of this subdivision has been installed per the approved plans shall be filed with the Zoning Administrator.
8. Prior to recording the final Mylars, the applicant shall submit a copy of the final plats and site plan Sheet S-1 in digital format to the Zoning Administrator.
9. All lots shall have their 911 codes posted prior to issuance of any building permit (Lot 1: BD005, Lot 2: BD007, Lot 3: BD011, Lot 4: BD012).
10. All subdivision fees shall be paid in full to the Zoning Administrator prior to filing the final plat with the Town Clerk.
11. Applicant shall obtain approval of the curb cut, driveways, and waiver request from the Selectboard prior to filing the final plat.

The motion was passed by all Board members present. The Board also approved the recommendation to the Selectboard for approval of the curb cut, driveways, and road design with the following condition:

1. The proposed road shall conform to the agreement with the Underhill-Jericho Fire Department regarding the width (16 feet) and intermediate widenings along Black Dog Lane for emergency vehicle passing zones made at the final hearing (exact wording to be confirmed with the Applicant's consultant and the UJFD for inclusion in the written decision).

The Board also approved the recommendation to the Selectboard for approval of the waiver request of the bonding requirement with the following standard condition:

1. Prior to issuance of a building permit to any lot out of this subdivision, an engineer shall provide a letter to the Zoning Administrator certifying
  - a. that the shared infrastructure has been installed to the lot;
  - b. that the approved curb cut has been installed per the plan; and
  - c. that the driveway has been "roughed in" per the approved plan.

Driveway top treatment may be installed at the end of the construction period. All erosion prevention, sediment control, and stormwater measures shall be installed per the approved plans.

Upon completion of construction, the designer/engineer must certify by letter to the Zoning Administrator that the shared infrastructure and driveways have been constructed as designed.

**9:30 PM:** Acting Chairperson Chuck Brooks made a motion, seconded by Board Member Deb Shannon, to approve the Robert Newman Conditional Use application. The motion was opposed by all Board Members Present.

The Board also discussed their upcoming schedule.

**9:36 PM:** Meeting adjourned.

These minutes of the 4-19-10 meeting of the DRB were accepted

This \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Acting Chairperson Chuck Brooks

***These minutes are subject to correction by the Underhill Development Review Board. Any changes will be recorded in the minutes of the meeting of the DRB.***