

Town of Underhill
Development Review Board Minutes
January 29, 2007
Acting Chairperson Charles Van Winkle

Board Members Present: Charles Van Winkle (Acting Chair), Kathy Rupright, Roy Dunphey, Chuck Brooks, Stan Hamlet, Matt Chapek, Peter Seybolt

Also Present: Chris Murphy, Zoning Administrator; Laurel Williams, Town Office Assistant

6:20 PM: Meeting called to order

- **ZA Murphy** asked the board about how strictly to interpret the town's streambank dumping regulations. Currently the regulations could be interpreted as allowing property owners to place absolutely no yard waste or fallen branches within 100 feet of the bank. There is some discussion of what type of materials are referred to, what the concerns are, and ways that the board could draw a bright line about what is allowed. The board agrees to revisit the issue later in the meeting during deliberative session.

6:30 PM: Minutes are reviewed and accepted

6:37 PM: Russell landscape plan review meeting opened

Russell Landscape Plan Review

Applicants Present: William and Katherine Russell

Consultants Present: None

Meeting: Landscape Plan Review
(as per findings and decision on Docket No. DRB-06-15)

Other Participants: None

- The DRB accepted the below listed written information from Christine Murphy:

Introduced Written Information:

Identifier #: Contents:

- ZA-1 A copy of the Mountain Gazette warning for this hearing that was published on 12/21/06
- ZA-2 A copy of the Development Review Board's Findings and Decision regarding the Russells' Application for Conditional Use, Docket No. DRB-06-15, dated 10/12/06
- ZA-3 A copy of a letter and attached information on the eastern white cedar submitted by Bill Russell
- ZA-4 A copy of additional information on the eastern white cedar submitted by Bill Russell
- ZA-5 A copy of a floodplain map with annotations by Stan Hamlet, submitted by Bill Russell on 10/16/2006
- ZA-6 A copy of a landscape plan with annotations by Stan Hamlet, submitted by Bill Russell on 10/16/2006
- ZA-7 A copy of a letter regarding hearing materials, sent by Town Assistant Laurel Williams to Bill and Kathie Russell, dated 12/28/2006
- ZA-8 Information from the internet on the white pine, submitted by Bill Russell at the meeting, 1/29/2007
- ZA-9 Information from the internet on the white spruce, submitted by Bill Russell at the meeting, 1/29/2007
- ZA-10 Photographs of Russell's property and equipment taken from Jackie Stoner's property, submitted by Jackie Stoner at the meeting, 1/29/2007
- ZA-11 Photographs of Russell's property and equipment taken from the Lehouiller's property, submitted by Joan Lehouiller at the meeting, 1/29/2007
- ZA-12 Information on balsam firs, submitted by Joan Lehouiller at the meeting, 1/29/2007
- ZA-13 A staff report prepared by the ZA before the meeting and mailed to Board members and the applicant prior to the hearing

- **ZA Murphy** says Bill Russell submitted a map that wasn't necessarily to scale, so Stan Hamlet used Nick Nowlan's septic plan to scale Russell's plan. The sight lines depicted on his map are Russell's; Stan just transferred them. She says Russell can speak to the sight lines' validity. Stan also added a planting on the Aikens' property line and one cedar (making 7 instead of 6) on the Lehouillers' boundary. Russell is proposing to plant white cedars, and the information packet contains the information he submitted on this tree.
- **Bill Russell** says ZA Murphy did a good job explaining his submission. He adds that the trees don't have to be white cedars. He is not opposed to any trees that are native to northern Vermont. He submits some additional information on the white pine and white spruce.

Van Winkle says he would prefer that Russell pick the tree because that is not the DRB's responsibility. The Board also asks about dimensions of the trees and how fast they grow. Russell says that he has provided information about mature size of the trees. He will plant 7-foot-tall trees, or what is wanted or needed, as much as is practical (20 feet would not be.) Russell says he picked cedars because they have a good horizontal spread, which can be enhanced by pruning. He says maybe the town should maintain the trees, while Hamlet says Russell should. In further questioning, Russell says he will guarantee the trees for one year, as landscapers do.

Russell also clarifies that he used a hand transit and GPS to construct the sight lines on his map.

- **Harry Pappaceno** asks about Russell's oil tank, which is not shown on the map. After some discussion Van Winkle says this issue is not relevant to the landscape plan, and that oil tanks are not under the jurisdiction of the board except with regard to accessory setbacks. ZA Murphy says that the tank would need to be screened if it is part of the small construction business, but perhaps it already is screened on the map.
- **Terry Aiken** asks if the plan takes into account the elevation of the Aikens' house above the Russells'. He questions the proposed spacing of the trees and suggests balsam firs because they have a wider spread. His son graduated with an Associates' degree in landscape architecture and suggested this, but he does not have a written submission. In the summer they get a lot of natural screening from brush but this disappears in the winter.
- **Van Winkle** reminds interested parties that the board rules on evidence.
- **Jackie Stoner** requests screening for her property as well. She says the Russells' materials and equipment have affected her enjoyment of her property, her views, and her property values, and presents photographs to prove this. Condition #3 of the decision says that Russell's materials shouldn't be stored outside, but the photos show he is doing so. The equipment and materials also are not being stored in the designated parking area. Also, River Road is designated as a scenic road on page 13 of the Town Plan and she says this should be taken into account. She asks if the trees will be dug up in the wild or will they come from a nursery? Who maintains them, and who would replace them if they had problems? Has the permit for the proposed barn been obtained? She expresses doubt about whether the conditions in the decision will be enforced. The board

discusses whether and how Stoner could be added onto the plan. She would still request screening if his materials and equipment were in the designated location, because she sees his equipment when it is active.

- **Russell** says he is temporarily parking his equipment in a different area until the site plan review is done with. ZA Murphy says that the piles of wood in Stoner's photos are for Russell's wood stove, and not for his business, so they are not covered by the screening requirements. However, she does agree that the vehicles should not be parked, even temporarily, in locations other than the designated parking area. She has seen them parked in the other location many times herself. The decision is clear as to where he is supposed to be parking his business equipment. Russell grows very angry and says he has done everything that the town has asked him to do, and that his neighbors are determined to shun him. He says the pictures were taken while he was doing work. Also, that the parking area is too muddy for him to park in at this time of year. ZA Murphy reiterates her earlier comments and adds that the designated parking area was a condition of the decision permitting him to do his work.

7:10 PM: The Board begins to ask additional questions of Bill Russell, who grows more upset and leaves the meeting. His wife Kathie remains, so the meeting proceeds.

- Joan Lehouiller says her house is not correctly located on Russell's map. It shows the house where actually her garden is. She submits photos. She believes the proposed screening would not be dense or fast-growing enough. She proposes balsam firs instead and submits information on balsam firs. She has questions about replacement and maintenance as well, and suggests additional plantings on the Lehouillers' land and access roads. She spoke to John Lang on Route 15, but does not have any written testimony.
- Kyle Clark says that he knows Bill Russell well and that he will bend over backwards for anyone, he just needs a little respect.
- The Board asks if the Lehouillers, Aikens, and Russells could get together and agree on a site plan rather than the Board acting as a mediator among all the different parties. Kathie Russell, Joan Lehouiller, and the Aikens agree to try to come up with a mutual site plan. If they are unable to work out an agreed-upon plan the Board will enforce one. More information is needed before the Board can reach a conclusion. Stan Hamlet motions to continue the hearing to May 7th at 6:45 PM, with a site visit at 6:00 PM beforehand, and also that in the meantime the Stoners, Aikens, Lehouillers, and Russells should get together and try to come to a solution

amongst themselves. The motion is seconded and approved by all except Chuck Brooks.

7:37 PM: Continued Clark variance hearing convened

- The DRB accepted the below listed written information from Christine Murphy:

Introduced Written Information:

Identifier #:	Contents:
ZA-1	A copy of a revised site plan submitted by Kyle and Katie Clark
ZA-2	A copy of a letter regarding the revised site plan submitted by abutter Sandy Murphy, dated 1/7/2007
ZA-3	A staff report prepared by the ZA before the meeting and mailed to Board members and the applicant prior to the hearing

- ZA Murphy reminds the Board that when the Clark hearing initially convened, Sandy Murphy disputed the location of the boundary between her property and the Clarks'. A new property line has been agreed upon: she reads the letter confirming this from Sandy Murphy (ZA-2). Therefore, the only objection to the variance has been removed. This is not so much a variance as permission to put an accessory apartment in the barn where the lot is non-conforming. Stan Hamlet makes a motion to approve the variance and the motion is seconded and approved.

8:15 PM: The Board enters deliberative session.

9:30 PM: The Board adjourns.

These minutes of the January 29, 2007 meeting of the Development Review Board are

{Accepted} {Amended as noted below and accepted}

This _____ day of _____, 2007

Charles Van Winkle, Acting Chairperson

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