

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

July 21, 2008

Board Members Present:

Scott Tobin, Chair
Penny Miller
Matt Chapek
Charlie Van Winkle

Also Present:

Kari Papelbon, Zoning Administrator
Chris Murphy, Town Planner/Administrator

6:32 PM: Meeting called to order. Chairperson Scott Tobin began the meeting by explaining the procedure for the final hearing.

6:43 PM: Martha Montgomery Trust final hearing commenced.

Martha Montgomery Trust
60 Maple Leaf Road

Consultant Present:

Gunner McCain
McCain Consulting, Inc.
93 S. Main Street, Ste. 1
Waterbury, VT 05676

Other Parties Present:

John & Jeannie Panner
55 Maple Leaf Road
Underhill, VT

Michael Luck & Barbara Wilson
42 Maple Leaf Road
Underhill, VT

Tom Montgomery
60 Maple Leaf Road
Underhill, VT

Identifier:	Contents:
ZA-1	Final Subdivision Application for the project filed by Gunner McCain of McCain Consulting on behalf of Shelly Barker, Trustee of the Martha Montgomery Trust (dated 6-24-08)
ZA-2	A copy of the final plans prepared by Gunner McCain of McCain Consulting for Shelly Barker (Sheets S-1 and S-8 revised 6-17-08; Sheets S-2 through S-5, S-7, EC-1 through EC-2, and SW-1 revised 4-28-08; Sheets S-6 and S-9 revised 1-31-08; and Sheet EC-3 revised 3-19-08)
ZA-3	A copy of the survey prepared by Keith Van Iderstine of McCain Consulting for Shelly Barker (dated 4-28-08)
ZA-4	A copy of the Letter of Transmittal and Notice of Intent information
ZA-5	A copy of the Notice of Intent for Stormwater Discharges (dated 4-8-08)
ZA-6	A copy of the School Impact Questionnaire completed by Superintendent James Massingham (dated 5-2-08)
ZA-7	A copy of the letter from Heather Mack of the VT Water Quality Division confirming receipt of the NOI (dated 4-16-08)
ZA-8	A copy of the letter from Kurk Flynn of the Underhill-Jericho Fire Department (dated 5-20-08)
ZA-9	A copy of the letter from Ernestine Chevrier confirming receipt of an application for a wastewater and potable water supply permit (dated 6-10-08)
ZA-10	A copy of the Proposed Findings of Fact (updated 6-17-08)
ZA-11	A copy of the List of PRD Waivers (updated 7-1-08)
ZA-12	A copy of the email from Roger Thompson of the VT Wastewater Management Division (dated 6-30-08)
ZA-13	A copy of the Declaration of Covenants, Conditions and Restrictions
ZA-14	A copy of the By-Laws of the Montgomery Subdivision Landowners Association
ZA-15	A copy of the Shared Driveway Deed Language for Lots 2 and 3
ZA-16	A copy of the VT AOT Minimum Width of Lanes and Shoulders
ZA-17	A copy of the completed Subdivision Checklist: Final Hearing
ZA-18	A copy of the revised plans dated 6-30-08 (Sheets S-1, S-2, S-8, EC-1, and EC-2)
ZA-19	A copy of the revised survey dated 7-16-08 (Sheets 1-2)
ZA-20	A copy of the memorandum from Mike Weisel dated July 15, 2008
ZA-21	A copy of the emails from Mike Weisel dated July 17 and July 18, 2008
ZA-22	A copy of the letter from Bill Young of Maple Leaf Farm

- Chairperson Tobin read the preliminary hearing checklist and swore in all interested parties. He then entered into record documents ZA-1 through ZA-22.

- Gunner McCain provided an overview of the final plans and revisions from the preliminary hearing. Changes include the addition of a second driveway to Lot 3 off of the proposed Wheeler Road. Should the access of Wheeler Road be used, the impervious surface and stormwater impacts will decrease. The stormwater system and erosion control plans were designed based on the impervious surface of the longer driveway access proposed off of a right-of-way from Lot 2.
- Board Member Charlie Van Winkle asked about the language in Article 8 of the Declaration of Covenants, Conditions and Restrictions. The article states that the provisions will be in effect until such time as 100% of the owners of the lots declare a termination of the declaration. The concern is that if one person owns all of the lots immediately after the subdivision has been approved they may terminate the Declaration.
- Chairperson Tobin asked about Town Engineer Mike Weisel's email regarding Storm Pond #2. Mr. McCain explained that the drainage area had been changed and that he spoke to Mr. Weisel regarding that issue.
- Board Member Matt Chapek asked if there was a road maintenance agreement. Mr. McCain explained that there are two agreements: one for Lots 2 and 3 and another for Wheeler Road.
- ZA Papelbon explained the revised waiver requests and a discussion of frontage ensued. ZA Papelbon then asked Mr. McCain to address the Underhill-Jericho Fire Department letter with regard to the width of Maple Leaf Road and the VAOT standards. Mr. McCain did so, explaining that the width of Wheeler Road meets VAOT standards and that Maple Leaf Road does not. He offered that he believes the widths of Maple Leaf Road are adequate for the development. ZA Papelbon asked about the curve radius where Wheeler Road meets Maple Leaf Road. Mr. McCain stated that the radius is sufficient and would have minimal additional impact to the wetland. He also provided an explanation as to turning radii for trucks. Board Member Miller asked about the conditions of that radius during the winter months. Mr. McCain explained that if the road is properly maintained, the radius will still be sufficient, though a truck may have to cross the centerline slightly.
- ZA Papelbon asked Mr. McCain about the status of all State permits. Mr. McCain explained that they have submitted applications for all required permits and have received confirmation from the State of receipt of those applications, however no permits have been issued to date. He does not anticipate any issues with obtaining those permits.
- Town Planner and Administrator Chris Murphy explained that the Selectboard reviewed the UJFD letter, VAOT standards, and Maple Leaf Road. Based on the measurements submitted by Town Engineer Mike Weisel, the Selectboard would need to review the information again with recommendations from the DRB and Mr. Weisel. She also stated that Board Member Van Winkle's concern about Article 8 of the Declaration of Covenants, Conditions and Restrictions could be addressed by amending conditions 9, 10, and 11 to state that failure to maintain a Homeowners

Association, road maintenance, and stormwater infrastructure maintenance agreement would be a violation.

- Jeannie Panner, 55 Maple Leaf Road, read a letter that expressed her concerns regarding the potential erosion and impact to the stormwater infrastructure after construction. She also expressed her concern for the erosion and runoff potential on Lot 4. Mr. McCain explained that they have applied for a Construction General Permit from the State for earth disturbance for the entire project and that the limits of disturbance are delineated on the plans. He further explained that every lot owner will have coverage under the CGP. The erosion prevention and stormwater control plans are designed with the slopes and types of soils in mind, however the plans do not prohibit cutting trees. There are also many requirements for stormwater discharge, including certification to the State within 6 months of installation of the stormwater infrastructure that it is functioning properly. This certification must be renewed through engineer inspection every 3 years.
- Board Member Penny Miller asked about erosion. Mr. McCain stated that the plans look at more than just the retention ponds for the control of stormwater and the prevention of erosion. Measures included in the plans are disconnected rooftops, grassed ditches, etc. Board Member Miller asked if the homeowner must schedule and pay for the stormwater inspections, to which Mr. McCain replied yes, that the Homeowners Association must maintain the permit. Chairperson Scott Tobin stated that language to the effect of future projects with land disturbance may require additional permits could be added to the Homeowners Association agreement as a condition. Ms. Panner stated that permits would be required for the disturbance as cumulative to the project, not just the disturbance created by the landowner. Mr. McCain stated that he would research that.
- Board Member Van Winkle asked about the specifications for Storm Pond on Lot 2. Mr. McCain provided the width, length, and depth with some additional details of the materials.
- ZA Papelbon asked Mr. McCain about tree-lined screening provisions for Lot 4 to address Ms. Panner's concerns regarding erosion and runoff potential from the removal of trees on that lot. Mr. McCain responded that he would be amenable to including a 50-foot buffer along Maple Leaf Road on Lot 4 that would allow trees to be removed that would be necessary for construction and infrastructure installation.
- Michael Luck, 42 Maple Leaf Road, expressed his concerns for the road washing out and that there is an abundance of water on the road during storms. He added that one side of Maple Leaf Road is not ditched and the water has nowhere to go. John Panner, 55 Maple Leaf Road, added that existing culverts and ditches are clogged and water runs down the road. Chairperson Tobin asked if Town Administrator and Planner Murphy had spoke to the Road Crew regarding the runoff on Maple Leaf Road. She indicated that the Road Foreman was aware of the problem. Mr. Luck

then expressed his appreciation for the work done by the Board with reviewing this subdivision.

- Mr. McCain explained that runoff from the subdivision will go through the 24-inch culvert by the Panners' driveway and that the 12-inch culvert near 42 Maple Leaf Road was indeed clogged. He then explained that while water will be added to the culvert, the rate will not change.
- Barbara Wilson, 42 Maple Leaf Road, stated that in the winter there are high banks of snow on the driveways and asked whether emergency vehicles will be able to traverse Wheeler Road with the proposed grade, width, and radius. Mr. McCain stated that snow removal is more of a maintenance issue and not really due to the width for construction. Ms. Wilson stated that Maple Leaf Road is currently not well maintained and that is part of her concern.
- Tom Montgomery, 60 Maple Leaf Road, asked if the plans took snow melt into consideration. Mr. McCain explained that it did. Board Member Matt Chapek asked whether Mr. McCain had any advice for the Town for the design of ditches and whether stone check dams would be effective. Mr. McCain explained that check dams are temporary measures designed to trap sediment and should not be used as a permanent solution for the Town ditches. He further explained that stone-lined ditches are permanent controls to help keep erosion down and slow water, however they require routine cleaning. Mr. McCain referred the Town to the Better Back Roads manual.
- Chairperson Tobin asked if there were further questions or comments. He then read the Proposed Findings of Fact. The suggested 50-foot buffer on Lot 4 will be added to #4 and #13 for erosion control and screening.
- Tom Montgomery stated that his concern is for the erosion of the road as it affects current neighbors. He asked if there would be recourse for the neighbors if the infrastructure fails. Mr. McCain stated that the neighbors should contact ANR should that occur.
- John Panner explained how the Currans were told to clear cut in order to build their house. The logging on their site resulted in damage to the soils and downed trees.
- ZA Papelbon read the letter from Bill Young, Executive Director of Maple Leaf Farm, dated July 21, 2008. The letter indicated no objection to the proposal provided it would not result in pollution or reduced flow to the Maple Leaf Farm wetland.
- Chairperson Tobin read the waiver requests dated 7-1-08. ZA Papelbon explained that the workshop on Lot 2 is located 7 feet from the lot line and is required to be 20 feet.
- Chairperson Tobin read the proposed conditions for the subdivision. Town Administrator/Planner Murphy stated that an additional condition would be Selectboard approval of the road and driveways. ZA Papelbon asked if the language regarding the additional State permits should be included in Condition #2. Town Administrator/Planner Murphy stated that it should be in the Homeowners Association agreement.

- Mr. McCain expressed his concerns and objections to Condition #4. ZA Papelbon stated that the potable water provisions in Condition #4 should not be included. A discussion of the condition ensued with a recommendation that it be amended to stated that the shared infrastructure will be installed to the lot per the phasing plans.
- Mr. McCain expressed his concerns and objections to Condition #8. Chairperson Tobin stated that he had spoken to one lending institution that does not require a building permit prior to issuing a construction loan.
- Conditions #9 -11 were discussed with the amendment that maintenance of agreements would be required and a lack of those agreements would be violations.
- Condition #12 was amended to include the word “residential” for adjoining lots.
- Condition #14 was amended to clarify that site plan meant sheet S-1 of the submitted plans.
- An additional condition was added for the 50-foot buffer along Maple Leaf Road on Lot 4.

8:39 PM: Chairperson Tobin asked if the Board had enough information to make a decision on whether the meeting fulfills the requirements of the Underhill regulations for final hearing. All Board Members present agreed that they had enough information to move forward. Chairperson Tobin then asked the Board if they would like to deliberate in open or closed session.

8:39 PM: Board Member Matt Chapek made a motion, seconded by Board Member Charlie Van Winkle, to move into deliberative session. The motion was passed by all Board Members present.

10:00 PM: Chairperson Scott Tobin asked if the Board would like to come out of closed deliberative session. Board Member Penny Miller made a motion, seconded by Chairperson Scott Tobin, to move into open session.

The following votes on the requested waivers were cast:

Lot line setbacks for Lot 3: It was discovered that the proposed curb cut for Lot 3 from Wheeler Road would change the front lot line and thus the waiver request for the proposed shed and barn/apartment. The Board decided to consider an additional waiver to the front lot line setback for the existing shed on Lot 3 to reflect the change in the front lot line should it change to Wheeler Road. A 93-foot waiver from the 100-foot front lot line setback requirement is required for the shed for such time as the front lot line is the western lot line adjoining Lot 2. A 13-foot waiver from the 20-foot side lot line requirement is required for the shed at such time the front lot line is along Wheeler Road. A 73-foot waiver from the 100-foot front lot line setback requirement for the barn/apartment is required for such time as the front lot line is the western lot line adjoining Lot 2. The previously-granted waiver for the side lot line setback requirement for existing

shed for such time as the front lot line is along Wheeler Road is still valid. All Board Members present voted to grant waivers for the setbacks listed above.

Frontage requirement for Lot 4: As there is some question to whether frontage includes the lot line along Maple Leaf Road in addition to the frontage along Wheeler Road (where the driveway will be located), a 22-foot waiver from the 300-foot frontage requirement was granted by all Board Members present.

All waivers previously granted in the preliminary decision that have not been amended above are still valid.

10:01 PM: Chairperson Scott Tobin made a motion, seconded by Board Member Charlie Van Winkle, to grant the requested waivers as amended and approve the 8-lot planned residential development with conditions. The motion was passed by all Board Members present.

10:02 PM: Meeting adjourned.

These minutes of the 7-21-08 meeting of the DRB were

Accepted

This _____ day of _____, 2008

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.