

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

May 11, 2009

Board Members Present:

Scott Tobin, Chair
Matt Chapek
Penny Miller
Chuck Brooks
Stan Hamlet

Also Present:

Kari Papelbon, Zoning Administrator

6:40 PM: A site visit at the property, 13 Baslow Lane, commenced. No neighbors were present for the site visit. The Board left the site at 6:55 PM.

7:18 PM: Chairperson Tobin called the continued Baslow preliminary subdivision hearing to order.

Applicants Present:

Deb and Michael Baslow
97 River Rd.
Underhill, VT

Consultant Present:

Gunner McCain
McCain Consulting
93 South Main Street
Waterbury, VT 05676

Others Present:

Marie Trull
17 Warner Creek Rd.
Underhill, VT

Cynthia Glenn
18 Warner Creek Rd.
Underhill, VT

Identifier:	Contents:
ZA-1	A copy of Isabel Baslow's Application for Subdivision: Preliminary
ZA-2	A copy of the completed Subdivision Checklist: Preliminary
ZA-3	Plans prepared by Gunner McCain of McCain Consulting for Isabel Baslow (Sheets 1, 2, 4, and 5 of 5 revised 4-21-09 and Sheet 3 revised 11-10-05)
ZA-4	A copy of the survey by Lynn Ribolini for Isabel Baslow (revised 9-29-06)
ZA-5	A copy of the Easement Agreement (dated 10-24-02 and recorded in the Underhill Land Records)
ZA-6	Copies of the Wastewater System and Potable Water Supply Permits for the subdivision (dated 10-4-04 and 7-25-06)
ZA-7	A copy of the Memo from Mike Weisel, Town Engineer, regarding the 2006 Baslow subdivision (dated 11-8-05)
ZA-8	A copy of the letter from Chittenden East Supervisory Union #12 Superintendent of Schools James Massingham (dated 11-1-05)
ZA-9	A copy of the letter from Underhill-Jericho Fire Department Chief Randy Clark (dated 11-16-05)
ZA-10	A copy of the November 16, 2005 Selectboard Minutes with the subdivision road and driveway design approvals (signed 12-1-05)
ZA-11	A copy of the Zoning Board of Adjustment Findings and Decision (dated 1-9-06)
ZA-12	A copy of the Planning Commission Subdivision Review Findings and Decision (dated 7-19-06)
ZA-13	A copy of the letter to Isabel Baslow from Christine Murphy regarding the missing elements from the final subdivision hearing (dated 7-24-06)
ZA-14	A copy of the letter to Isabel Baslow from Christine Murphy regarding the final Mylar (dated 10-19-06)
ZA-15	A copy of the email correspondence between State Stormwater Program Environmental Analyst Kevin Burke and Zoning Administrator Kari Papelbon regarding the required stormwater permits for the subdivision
ZA-16	A copy of the hearing notice published in the Mountain Gazette (dated 4-2-09)
ZA-17	A copy of the parcel map for BS013
ZA-18	A copy of the draft Proposed Findings of Fact
ZA-19	Staff report prepared by Kari Papelbon

- Chairperson Tobin began meeting by explaining the procedure for the sketch plan meeting. He then swore in all interested parties and entered the above items into record.
- Gunner McCain, consultant for the Baslows, provided details for the proposed subdivision. He explained that, with a few exceptions, the plans were the same as those approved by the Planning Commission and

Zoning Board of Adjustment in 2006. The survey was not filed in the statutory 180 days and thus the application is now before the Development Review Board for their approval. The road location has changed from 2006—the original proposal was to have an easement for the road over Ms. Trull's property, but the road is now going to be within the 60-foot right-of-way solely on the Baslow property. Warner Creek will be upgraded, beginning past the wetland area. A portion of the new road will also be approximately 13% grade.

- Chairperson Tobin asked Mr. McCain to define the section of the road that will be above a 10% grade. Mr. McCain stated that from Station 3+25 to Station 4+25 will be at 12.98%. The road currently sits outside of the 60-foot-wide right-of-way, but an easement agreement from 2002 exists and is signed by all of the lot owners at the time which allows all of the parties to use and maintain the road as constructed.
- Chairperson Tobin asked if the Selectboard would have to approve the road again despite the fact that they approved the design in 2006. ZA Papelbon stated that they would have to approve of the new design since it has changed. The DRB would make their recommendations to the Selectboard regarding the road.
- Chairperson Tobin stated that he would like to review the previously-granted variances. Mr. McCain explained that they were primarily related to wetland setback requirements. He then explained that the variance requests were to decrease the building envelope setback to the Class III wetlands on Lots 2 and 3. The variance for the septic system is no longer needed. Mr. McCain then stated that Lot 1 also needs a 50-foot waiver for the building envelope setback to the wetland. Chairperson Tobin asked if the Board was clear on where the variance requests were on the map. The Board responded in the affirmative. A short discussion of the septic system locations ensued.
- ZA Papelbon stated that there were two minor errors on the map of which she informed Nicole Fitch of McCain Consulting, but as they were not material errors they did not warrant changing the plans for the hearing—they were a misspelling of an abutter's name (Tatro-Lavigne) and one missing parcel line of an abutter (VT805). The abutters and parcels have been corrected from the previously-submitted maps. She then clarified the locations of the variances. She asked Mr. McCain if there were any updates with the orphan stormwater permit. Mr. McCain stated that there was no new information. He further explained that a new stormwater permit for the new development is needed for the impervious surface and in process. The orphan stormwater permit is separate and distinct although the Baslows are involved in both. A discussion of the orphan stormwater permit ensued.

- Chairperson Tobin wanted to formally enter into the minutes at this point the fact that the Board conducted a second site visit that was warned for 6:30 PM on May 11, 2009 to allow an abutting neighbor who did not receive notice of the previous site visit and hearing on April 20, 2009 the opportunity to participate. The abutting property owners did not attend. He then asked if the suggestions from Mike Weisel's letter in 2005 were incorporated into the revised plans. Mr. McCain stated that they had been, although the State's Construction General Permit requirements have changed since then. The plans conform to the current requirements.
- Chairperson Tobin then reviewed the recommendations from the Underhill-Jericho Fire Department and asked Mr. McCain to address them. Mr. McCain explained that there were no plans to widen the road from VT Rte. 15. Chairperson Tobin asked what the current width of the road was. Mr. McCain responded that it was about 20 feet and an area up to the "y" intersection is proposed to be widened to 24 feet. Shared driveways are proposed to be 14 feet wide and individual driveways are proposed to be 12 feet wide. ZA Papelbon asked if the UJFD had received a copy of the revised plans. Mr. McCain replied that the new plans had not been sent. ZA Papelbon suggested that he do so to make sure the previously-submitted letter from the UJFD is still valid.
- Chairperson Tobin asked for public comment.
- Marie Trull, 17 Warner Creek, expressed a concern of the neighbors for the condition of the road during construction. She also asked if there could be a dust shield near the Glenn house, although she did not want to speak for the Glenns. The other concern was for water runoff. Currently, a lot of water comes down the center "chute" and the concern is that the road will wash out. Mr. McCain explained that the plans are to improve twater management and that the expectation is for the neighbors to see an improvement over the current situation. He further explained that the Baslows and contractors are responsible for restoring the road to its pre-construction condition. Chairperson Tobin asked if there were guidelines for the Construction General Permit with regard to erosion control and site work. Mr. McCain explained that that is the main purpose of the permit. Chairperson Tobin asked what the follow-up was for that. Mr. McCain stated that the State has people to check to make sure that the permit is being followed, but that they probably do not have enough people. Auditing is probably limited to a certain number or triggered through complaints. Violations are now more common.
- ZA Papelbon asked Chairperson Tobin to enter into the record an email from Doug Varney, 329 Poker Hill Road dated April 2, 2009 (which she read). His concern of the property line was corrected on the site plan and

Mr. McCain explained such. ZA Papelbon also asked for the letter dated April 15, 2009 from Nicole Fitch of McCain Consulting to Ernie Christianson of the Agency of Natural Resources to be entered into record. This letter, accompanied by the plans, was provided to request confirmation of an exemption from the wastewater rules for a boundary line change. Mr. McCain explained that the reason for this request was that the original survey did not accurately depict a ±10-acre piece of the wetland owned by the Baslows as being part of Lot 2.

- Marie Trull, 17 Warner Creek, asked if the wetland for Lot 2 was the swamp, and asked about the culvert. Her question was confirmed and her concerns about the culvert were addressed by Mr. McCain.
- Cynthia Glenn, 18 Warner Creek, then arrived. Chairperson Tobin swore her in and she expressed her concerns for the privately-maintained road being restored to its original condition post-construction. She was also concerned about runoff from the road to be developed and provided a general history of the maintenance requirements for the road. Mrs. Glenn asked if the road as proposed is sited all the way to the left of the 60-foot right-of-way—it was stated that it is. She also requested a screen to prevent dust and dirt from entering her home from the construction traffic. Mrs. Glenn stated that a road maintenance agreement currently exists for all neighbors on the road and asked whether the new road would be maintained by the new lot owners. Mr. McCain explained that the new residences would be solely responsible for the road beyond the Trull and Glenn driveways. The new lot owners would also be responsible for a portion of the maintenance of the road from VT Rte. 15.
- Chairperson Tobin asked if the current road maintenance agreement defines how the maintenance expenses are proportioned. Mrs. Glenn could not recall. The agreement recorded with the Town states that the cost is shared on a pro-rated basis. Mr. McCain explained that the new lot owners would be responsible for contributing to the maintenance of the existing road and the new road.
- Chairperson Tobin asked Mr. McCain if he could address Mrs. Glenn's questions and concerns. Mr. McCain explained that the road would be returned to its pre-construction condition. He then stated that the plans are designed to reduce the water runoff potential and that stormwater would be better managed. A discussion of the current water issues and how the plans would address those ensued. Screening measures, though not included in the plans, were also discussed, with the understanding that the Baslows would negotiate with the Glens for such. This could also be discussed at the final hearing if necessary.

- Mrs. Glenn asked if a date had been set for the final hearing. It was stated that it had not yet been set. A discussion of the final hearing requirements and process ensued.
- Mrs. Glenn and Ms. Trull asked for advanced notice for when the construction would begin. Mrs. Glenn asked if the road maintenance agreement would be available at the final hearing. ZA Papelbon explained that a draft would be.
- Chairperson Tobin asked to review the Proposed Findings of Fact. They are the original Findings from the previously-approved subdivision. Mr. McCain summarized the submitted responses and added that the project is now pursuing a Construction General Permit.
- ZA Papelbon asked to review the survey. Mr. McCain provided an explanation of the survey. The survey submitted previously contained errors referred to in a letter from then-ZA Chris Murphy. The surveyor made the corrections, but the Mylar was never sent to the Town as Isabel Baslow fell ill during that time. The corrected survey from Chris Murphy's letter has been submitted with the current project. Discrepancies between that survey and the current situation include the easement over Ms. Trull's property—this is no longer proposed. There is also an error on one of the septic easements. As Mr. Ribolini, the original surveyor, is presumed to be retired the changes cannot be made by him. To avoid a costly resurvey by McCain Consulting, Mr. McCain proposed to Town Administrator/Planner Chris Murphy and ZA Papelbon that a second survey would be submitted relevant to anything that was changing from the Ribolini survey—essentially the intersection of the Trull and Lunn lots with the new road. ZA Papelbon asked if the second Mylar would also include the corrections to the widths of VT Rte. 15, to which Mr. McCain replied that the map is accurate for where VT Rte. 15 and the Baslow land abut. This prompted a discussion of the depiction of VT Rte. 15. ZA Papelbon explained that she just wants to make sure that whatever is filed in the Land Records is right, accurate, and that the requirements in the regulations are met. She then asked if the natural features could be shown on the revised survey or if the site plan could be overlaid onto the revised survey. Mr. McCain requested to Mylar the Sheet 1 (the site plan) instead of revising the Ribolini survey.
- Board Member Chuck Brooks asked if there were any issues with the property lines. Mr. McCain replied that there were not, that the issues raised by then-ZA Murphy were corrected in the revised Ribolini survey. The survey discussion continued.

8:45 PM: Chairperson Tobin asked if the Board had enough info to make a decision on the application. The Board indicated that they did. Board Member

Stan Hamlet made a motion, seconded by Board Member Matt Chapek, to enter a closed deliberative session. The motion was passed by all Board Members present.

9:15 PM: Board Member Stan Hamlet made a motion, seconded by Board Member Matt Chapek, to come out of closed deliberative session. The motion was passed by all Board Members present.

9:17 PM: Board Member Stan Hamlet made a motion, seconded by Board Member Matt Chapek, to approve the preliminary application with the following conditions:

1. That the variance requests be presented in writing for the final hearing.
2. That the final plans include an additional survey sheet reflecting the changes to the proposed road, shared driveways, and easements as discussed at the hearing.

The Board will also recommend approval of the proposed road to the Selectboard. The motion was passed by all Board Members present.

9:18 PM: Meeting adjourned.

These minutes of the 5-11-09 meeting of the DRB were

Accepted

This _____ day of _____, 2009.

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.