

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

May 17, 2010

Board Members Present:

Scott Tobin, Chairperson
Will Towle
Charlie Van Winkle
Deb Shannon
Matt Chapek
Penny Miller
Peter Seybolt
Stan Hamlet

Also Present:

Kari Papelbon, Zoning Administrator
Justin Willis (Consultant for last hearing)
Brad Holden (Consultant for last hearing)
Steve and Wendy Guay (Applicants for next hearing)

6:20 PM: Site Visit at 295 Poker Hill Road commenced. All Board Members with the exception of Charlie Van Winkle and Deb Shannon attended. ZA Papelbon, Consultant Gunner McCain, Applicant Chris Netelkos, and three neighbors also attended.

7:03 PM: Chairperson Scott Tobin called the Netelkos preliminary subdivision hearing to order.

Applicant Present:

Chris Netelkos
295 Poker Hill Rd.
Underhill, VT 05489

Consultant Present:

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

Identifier: Contents:

ZA-1	Christopher and Beth Netelkos' Application for Subdivision: Preliminary (dated 4-16-10)
ZA-2	A copy of the completed Subdivision Checklist: Preliminary Hearing
ZA-3	A copy of the plans prepared by Gunner McCain of McCain Consulting, Inc. for Christopher and Beth Netelkos (Sheets 1 and 2 dated 4-13-10)

ZA-4	A copy of the preliminary survey prepared by Keith Van Iderstine of McCain Consulting, Inc. for Christopher Netelkos and Beth Ann Boquel (dated 4-13-10)
ZA-5	A copy of the letter from Nicole Fitch of McCain Consulting, Inc. requesting a variance (dated 4-16-10)
ZA-6	A copy of the waiver request for the bonding requirement (dated 4-16-10)
ZA-7	A copy of the draft letter to Bill Zabiloski of the Agency of Natural Resources (dated April 2010)
ZA-8	A copy of the letter to Randy Clark, Chief of the UJFD (dated 4-13-10)
ZA-9	A copy of the letter to James Massingham, Co-Superintendent of Chittenden East Supervisory Union #12 (dated 4-13-10)
ZA-10	A copy of the School Impact Questionnaire from James Massingham (dated 4-19-10)
ZA-11	A copy of the USGS Map with local well yields
ZA-12	A copy of the FIRMette for the property
ZA-13	A copy of the USGS Map showing contours and natural features
ZA-14	A copy of the draft Findings of Fact
ZA-15	A copy of the letter from Georgia Cumming (dated 4-15-10)
ZA-16	A copy of the tax map for PH295
ZA-17	A copy of the minutes from the 10-19-09 Sketch Plan Meeting
ZA-18	A copy of the confirmation email for the hearing notice to published in Seven Days (4-27-10)
ZA-19	Staff report prepared by ZA Papelbon

- Chairperson Scott Tobin began the meeting by explaining the procedure for the preliminary 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 of the ±25-acre parcel. One additional building lot will share the existing driveway to the existing house. The existing house will be on a lot of just under 5 acres. Lot 2 will be served by onsite water and sewage systems, an application for which has been submitted to the State. Representatives from the State were onsite during soils testing. With regard to Georgia Cumming's letter, there are no changes proposed to the meadow area. The land is gently sloping, soils are adequate for septic, and the driveway grades will be less than 10%. Mr. McCain then stated that he would like to consider the line along Poker Hill Road as the front line for Lot 2, although he recognized that the Board may consider the shared line between Lots 1 and 2 as the front lot line for Lot 2. If so, he would revise the line to ensure adequate setbacks. Some stakes were placed onsite when field mappers saw wet areas on the land. A "worst-case" scenario line for the potential wetland was included on the site plan, and Mr. McCain offered to have the wetland delineated if require by the Board.
- Board Member Peter Seybolt asked what a map was showing, to which Mr. McCain replied it was showing the full property for well yields in the area.

- Chairperson Tobin asked if there was a variance request. Mr. McCain responded that the variance was in relation to the proposed building envelope setback to the potential wetland. Board Member Penny Miller asked if the wetland was Class III, to which Mr. McCain responded that it was and there were no mapped Class II wetlands on the site.
- Board Member Will Towle asked Mr. McCain if a variance was absolutely necessary. A discussion of such ensued. Mr. McCain stated that it would be extremely difficult to develop the lot without a variance. Well shields, septic system setbacks, soils, and grades are all considerations for development of the site. Board Member Charlie Van Winkle asked if there was a wetland present in the vicinity of the house site or if it was just a wet spot. Mr. McCain replied that such was yet to be determined, but that below the proposed house site near the power lines was a wetland.
- Chairperson Tobin asked what the variance request would be in terms of distance. Mr. McCain stated that the request would probably be around 75 feet.
- Board Member Miller asked how the footprint of the proposed house was arrived at. Mr. McCain explained that the applicant had an idea in mind for the house design, although it was not necessarily final.
- Board Member Seybolt commented that it appeared from the plans that the house site could be pushed back about 20 feet and then the variance wouldn't be necessary, but he said the issue was that the wetland has not yet been delineated. Mr. Netelkos added that pushing the house site back would cause interference with site lines for the house and neighbors, and overall aesthetics.
- Chairperson Tobin asked what the distance was between stake EW-2 and the corner of the building envelope. Mr. McCain stated it was approximately 60 feet, which would require approximately 40 feet for a variance.
- Board Member Towle asked what the legality and import of having a well shield extending over neighboring properties is. Mr. McCain explained that it is legal and well shields do affect the ability to place a septic system in the shield. The State's policy is "first come, first served." Board Member Towle asked if the well could be placed so that the shield would not extend onto the neighboring property. Mr. McCain stated that issues arise with driveway setbacks and that the Board doesn't have authority or jurisdiction over that issue. A brief discussion of the possibility to move the well ensued.
- Board Member Seybolt reiterated that the issue is really determining where the wetland is and whether it is in actuality a wetland. He asked Mr. McCain how such would be determined, to which Mr. McCain stated he would have his wetland biologist visit the site.

- Board Member Matt Chapek asked how Mr. McCain determined road frontage. Mr. McCain stated that Poker Hill Road was the front since it had about 500 feet of frontage. Lot 2 would claim the frontage along Poker Hill Road, and Lot 1 would claim frontage along the right-of-way over the shared driveway.
- ZA Papelbon spoke, and asked Mr. McCain to explain how the well distance on the neighboring property was determined. Mr. McCain stated that it was determined with laser instruments.
- Board Member Miller asked why a property line is defined on the survey but only approximate on the site plan. Mr. McCain explained that until a final survey is complete after the final approval, all lines are approximate. The CAD overlays are used to make all lines the same on the survey and site plan.
- Mr. McCain stated that there is some discrepancy in the acreage from what the Netelkos believe they have. Approximately 500 feet of depth is currently unaccounted for, resulting in the ± 26 acres instead of 31 acres. A question was raised as to whether the (rear) adjoining Baslow property would need to be resurveyed, to which it was stated that it would not.
- ZA Papelbon stated that in reviewing the survey and site plan again she agreed with Mr. McCain that the front lot line for Lot 2 could be along Poker Hill Road because the curb cut would actually be part of Lot 2. The way the property line was drawn on the site plan made it difficult to determine such. The Board all agreed that Poker Hill Road would be the front lot line for Lot 2.
- Board Member Miller asked ZA Papelbon whether Georgia Cumming would be informed of the plans. ZA Papelbon explained that she and Ms. Cumming had been in contact and that she was shown the site plan prior to her trip. After seeing the site plan she indicated that she did not have an issue as the meadow would remain undeveloped, but still provided a copy of her letter written prior to seeing the plans.
- Chairperson Tobin called for public comment.
- Gary Francis, 305 Poker Hill Road, spoke. He stated that the wetland is at a 45-degree angle to the contour lines. He also stated that water comes off the hill in the spring, which sheds over and causes damage to his driveway. A discussion of the water issues and Mr. Francis' driveway ensued. Mr. Francis' concerns were for concentrating water that will flow over his driveway and cause damage. Mr. McCain stated that the project is not large enough to trigger stormwater permitting requirements. He offered to place a dispersion pad below the proposed culvert on the driveway to Lot 2. The discussion of the water situation and the driveway continued. Mr. McCain stated that he would be willing to accept a permit condition stating that the Netelkos' development will be done in such a way so that no concentrated water flows

would be directed onto the Francis' property. Board Member Miller stated that she liked the condition, but asked how Mr. McCain would know that the drainage was done properly. Mr. McCain stated that the plans would have to be followed. The discussion continued. Chairperson Tobin asked Mr. Francis if the permit condition language suggested by Mr. McCain would relieve his concerns, to which Mr. Francis stated that it would. Chairperson Tobin asked if Mr. Francis had any other concerns besides the water flow. Mr. Francis stated he did not.

- Chairperson Tobin stated that the wetland delineation, shared roadway agreement, and shared easement language would be needed for the next hearing, and then asked Mr. McCain to take the Board through the Proposed Findings of Fact. Board Member Seybolt asked if there was any chance that the area above the house site could also be wetlands, to which Mr. McCain explained that the area probably had ledge on the slope.

7:55 PM: Chairperson Scott Tobin asked if the Board felt they had enough information to make a decision on the application. The Board indicated that they did. Chairperson Tobin made a motion, seconded by Board Member Stan Hamlet, to enter a deliberative session on the application (to occur after the last hearing for the evening). The motion was passed by all Board Members present.

Chris Netelkos, Gunner McCain, and Mr. and Mrs. Francis left at this point.

7:58 PM: Chairperson Scott Tobin called the Guay PRD building envelope revision hearing to order. Board Member Will Towle recused himself.

Applicants Present:

Steve and Wendy Guay
63 River Rd. (RV050)
Underhill, VT 05489

Others Present:

Justin Willis (Consultant for next hearing)
Brad Holden (Consultant for next hearing)
Ed and Betty Moore (Applicants for next hearing)
Tom Moore (Applicant for next hearing)

Identifier:	Contents:
ZA-1	A copy of Steven and Wendy Guay's Application for Subdivision: Final (dated 4-23-10)
ZA-2	A copy of the Proposed PRD Plan prepared by David Fuqua of Ridge Consulting Engineers for Steven and Wendy Guay (revised 4-9-10)
ZA-3	A copy of the Final Plat prepared by Mark Ward of Vermont Land Surveyors for Steven and Wendy Guay (revised 4-22-10)
ZA-4	A copy of the plan approved 9-8-09
ZA-5	Staff report prepared by ZA Papelbon

- Chairperson Tobin began the meeting by explaining the procedure for the final hearing. He then swore in all interested parties and entered the above items into record.
- Steve Guay spoke, explaining that his mother had a problem configuring the house within the building envelope approved in September of 2009. The small lot was created for the purpose of selling it to his mother. The request is to revise the building envelope so that the front setback is 15 feet. His mother needs to be able to turn the house and the extra 20 feet will allow them to do so.
- Board Member Seybolt asked if the distance to River Road would change, to which Mr. Guay replied that it would not.
- Board Member Hamlet asked what the setbacks were previously, to which Mr. Guay replied that all setbacks were 35 feet.
- Board Member Miller stated that she heard a rumor that there is a right-of-way over someone's land to get to Mills Riverside Park. Mr. Guay stated that such was further down the road on someone else's land.
- Chairperson Tobin asked if there were further questions.

8:07 PM: Chairperson Scott Tobin asked if the Board felt they had enough information to make a decision on the application. ZA Papelbon recommended ensuring the approval includes the waiver of the setback and the building envelope. The Board indicated that they did. Board Member Peter Seybolt made a motion, seconded by Board Member Stan Hamlet, to accept the building envelope with the additional 20-foot waiver request for a front setback of 15 feet as depicted on the maps dated 4-9-10 and 4-23-10. The motion was passed by all Board Members present.

Steve and Wendy Guay left at this point. Board Members Will Towle, Matt Chapek, and Charlie Van Winkle recused themselves from participating in the hearing.

8:12 PM: Chairperson Scott Tobin called the Moore final PRD and BLA hearing to order.

Applicants Present:

Ed and Betty Moore
 118 Stevensville Road / P.O. Box 63
 Underhill (Center), VT

Tom Moore
 118 Stevensville Road / P.O. Box 131
 Underhill (Center), VT

Consultants Present:

Justin Willis
Willis Design Associates, Inc.
P.O. Box 98
Richmond, VT 05477

Brad Holden
60 Covey Rd.
Underhill, VT 05489

Identifier:	Contents:
ZA-1	A copy of Edwin T. Moore, II and Elizabeth W. Moore's Application for Subdivision: Final (dated 4-19-10)
ZA-2	A copy of the completed Subdivision Checklist: Final Hearing
ZA-3	A copy of the plans prepared by Justin Willis of Willis Design Assoc., Inc. for Moore (Sheets S1 and D2 revised 3-22-10 and Sheet D2 dated 2-25-10)
ZA-4	A copy of the Final Plat prepared by Bradford Holden for Edwin T. & Elizabeth W. Moore, II and Edwin T. and Deborah Anne Moore, III (dated March 22, 2010)
ZA-5	A copy of the B-71 Standard from the Vermont Agency of Transportation
ZA-6	A copy of the letter from Ernestine Chevrier of the VT Wastewater Management Division (dated 3-30-10)
ZA-7	A copy of the Wastewater System and Potable Water Supply Permit (dated 4-20-10)
ZA-8	A copy of the Waiver Request List
ZA-9	A copy of the preliminary decision
ZA-10	Staff report prepared by ZA Papelbon

- Chairperson Tobin 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.
- Justin Willis spoke on behalf of the applicants, giving an overview of the plans and a recap of the project to date. 16-acre lot with existing 2-br house and existing 3-br house with outbuildings, 3-lot PRD. Lot 1=6 acres, Lot 2=7 acres, Lot 3=3 acres. Lot density=5.43 acres/lot. W/WW permit received. Revised waiver request received (from preliminary), evidence of permit, deeds to lot to incorporate language prohibiting further subdivision (will be added), plans revised to ensure Lot 3 driveway meets setbacks with the exception of the curb cut, driveway cross-sections (b-71 reference), include note concerning VT Low-Risk Site Handbook, clearly id front lot line on lot 2—addressed in waiver request, parcel code on Lot 3, zoning dist. info on survey, show approx. utilities.
- Chairperson Tobin asked to review the Waiver Requests. Brad Holden provided an explanation of the requests.

- ZA Papelbon stated that although Board Member Deb Shannon was present for the site visit she did not participate in the preliminary hearing. She was given the information to review prior to the hearing. ZA Papelbon asked if everyone, including Deb, was comfortable with her making a decision on the application. All stated that they were ok with making the decision. ZA Papelbon stated that she had already spoken to Ed regarding incorporating the deed language prohibiting further subdivision and was fine with receiving it later.
- Board Member Miller asked about seeing a conventional subdivision layout for the property as was required by previous PRD applications. It was stated that a conventional layout was presented at the sketch plan meeting, and Mr. Willis provided a copy of such. Mr. Moore added that the original concept was for a conventional subdivision, but the suggestion by his consultants to create a PRD resulted in a better layout for everyone.
- ZA Papelbon stated that she invited the Selectboard to attend the hearing, but since they did not attend she will take the plans to them for their approval of the access. The applicants are not required to attend that meeting.
- Mr. Willis asked ZA Papelbon if she received a copy of the State's Project Review Sheet. She stated that she hadn't. Mr. Willis provided a copy and ZA Papelbon asked Chairperson Tobin to enter it into record.

8:34 PM: Chairperson Tobin asked if there were further questions and if the Board felt they had enough information to make a decision. Board Member Deb Shannon asked about the size of the waiver for the frontage for Lot 3. The Board explained that the driveway could have been extended through a right-of-way over Lot 1, but the waiver allows Lot 3 to own their own access and well.

8:36 PM: Chairperson Tobin then stated that the evidentiary portion of the hearing was closed. Chairperson Scott Tobin made a motion, seconded by Board Member Peter Seybolt, to enter a closed deliberative session. The motion was passed by all Board Members present.

9:08 PM: Chairperson Tobin moved the Board into open session. Board Member Charlie Van Winkle made a motion, seconded by Board Member Will Towle, to approve the Netelkos preliminary application with the following conditions:

1. The applicant (or consultant) shall provide proposed language regarding the prevention of runoff from the development onto neighboring properties.
2. A wetlands delineation shall be conducted to determine the presence of a Class III wetland in the vicinity of the proposed building envelope.
3. All culverts and splash pads for the driveway on Lot 2 shall be shown on the final plans.

The motion was passed by all Board members with the exception of Board Member Deb Shannon, who was recused.

9:09 PM: Board Members Charlie Van Winkle, Will Towle, and Matt Chapek left as they recused themselves from the Moore hearing. Chairperson Tobin moved the Board back into deliberative session to discuss the Moore final planned residential development application.

9:22 PM: Chairperson Tobin moved the Board into open session and made a motion, seconded by Board Member Penny Miller, to approve of the final planned residential development and boundary line adjustment with the following conditions:

1. The following waivers are approved:
 - a. Lot 1 – 11 feet for the existing house to the proposed side lot line (setback is 39 feet)
 - b. Lot 2 – 59 feet for the existing garage to the proposed side lot line (setback is 16 feet)
 - c. Lot 2 – 32 feet for the existing house (“Barse”) to the proposed front lot line (setback is 43 feet)
 - d. Lot 2 – 10 feet for the existing shed (“Shed A”) to the proposed side lot line (setback is 10 feet)
 - e. Lot 3 – 220 feet for the frontage requirement (frontage is 80 feet)
 - f. Lot 3 – 20 feet for the existing curb cut (curb cut is on the proposed property line)
2. 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 all applicable permits in the Town of Underhill Land Records.
3. No lot in this subdivision shall be further subdivided. This language shall appear in any deed to the lots in this subdivision.
4. The shared driveway maintenance agreement shall be recorded in the Land Records. A reference to this agreement shall appear in the deeds to Lots 1 and 2.
5. All required State and local permits shall be recorded in the Land Records.
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 Lot 3 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 plat and Sheet 1 in digital format. The format of the digital information shall require approval of the Zoning Administrator.

9. Lots 2 and 3 shall have their 911 codes posted prior to issuance of any building permit (Lot 2: ST116, Lot 3: ST122).
10. All subdivision fees shall be paid in full to the Zoning Administrator prior to filing of the final plat.
11. Applicant shall obtain approval of the curb cut and driveway design, underground utilities, and waiver request for the bonding requirement from the Selectboard prior to filing the final plat.

The Board also approved the recommendation to the Selectboard for approval of the existing curb cut and driveway design for Lot 3, the underground utilities, and the waiver request of the bonding requirement with the following standard condition:

1. Upon completion of construction of the driveway to Lot 3, the designer/engineer must certify by letter to the Zoning Administrator that the driveway has been constructed as designed (per B-71 Standards and the Underhill Road Policy).

The motion was passed by all Board Members present.

The Board discussed their upcoming schedule.

9:30 PM: Meeting adjourned.

These minutes of the 5-17-10 meeting of the DRB were accepted

This _____ day of _____, 2010.

Chairperson Scott Tobin

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.