

**Town of Underhill**  
Development Review Board Minutes  
Chairperson Scott Tobin

April 5, 2010

**Board Members Present:**

Scott Tobin, Chairperson  
Chuck Brooks  
Charlie Van Winkle  
Will Towle

**Also Present:**

Kari Papelbon, Zoning Administrator

**6:30 PM:** Chairperson Scott Tobin called the MacDonough final planned residential development hearing to order.

**Applicants Present:**

William and Lynn MacDonough  
P.O. Box 21 (KR042)  
Underhill Center, VT 05490

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	William and Lynn MacDonough's Application for Subdivision: Final (dated 3-10-10)
ZA-2	A copy of the completed Subdivision Checklist: Final Hearing;
ZA-3	A copy of the plans prepared by Jeffrey Olesky of Civil Engineering Associates, Inc. for William and Lynn MacDonough (Sheets C1.0, C1.2, C2.0, C2.1 revised 3-8-10 and Sheet C1.1 revised 3-25-10)
ZA-4	A copy of the Preliminary Plat prepared by Timothy R. Cowan of Civil Engineering Associates, Inc. for William and Lynn MacDonough (revised 3-25-10)
ZA-5	A copy of the letter to Ernie Christianson, VT DEC Wastewater Management Division (dated 3-10-10)
ZA-6	A copy of the letter from Ernestine Chevrier, VT DEC Wastewater Management Division acknowledging receipt of the MacDonoughs' application (dated 3-16-10)
ZA-7	A copy of the letter from Harry Schoppmann of the Underhill-Jericho Fire Department (dated 2-26-10)
ZA-8	A copy of the Proposed Findings of Fact
ZA-9	A copy of the tax map for KR042
ZA-10	A copy of the preliminary decision
ZA-11	A copy of the minutes from the 1-4-10 Preliminary Hearing
ZA-12	A copy of the hearing notice published in the <i>Mountain Gazette</i> (published 3-18-10)

- ZA-13            Staff report prepared by ZA Papelbon
- S-1              A copy of the letter from Harry Schoppman of the Underhill-Jericho Fire Department (dated March 30, 2010)
- S-2              A copy of the draft deeds and deed language
- S-3              A copy of the request to waive the bonding requirement
- Chairperson Tobin began the meeting by explaining the procedure for the final planned residential development hearing. He then swore in all interested parties and entered the above items into record.
  - William MacDonough spoke, thanking the Board for meeting and that the required revisions from the preliminary hearing were included in the final plans.
  - Chairperson Tobin asked if there was a modification of the curb cut and driveway to comply with the 20-foot setback requirement. Mr. MacDonough replied that such had been done. He then stated that erosion control measures were also included in the plans as was required in the preliminary decision.
  - Board Member Chuck Brooks asked whether the conditions from the preliminary decision were met. ZA Papelbon stated that they were and that there was one minor addition to the plat that was still necessary: the addition of the building envelope for Lot 11B. Jeffrey Olesky stated that it would be on the revised plat. Mr. MacDonough stated it was, but that he had brought the wrong plat to the hearing.
  - Board Member Brooks asked about page 3 of the submission checklist. ZA Papelbon explained that the checklist was boilerplate and that some of the checked requirements were not actually required. Other submissions that were required have been submitted.
  - ZA Papelbon pointed out that there is an error on the tax map—KR042 had been combined with KR046 because they are under common ownership. Parcel KR042 is a separate parcel that is under review. She also stated that the building envelopes have been revised to exclude the open space per the requirements in the preliminary decision.
  - Board Member Will Towle asked about the proposed deeds and easement language, specifically regarding the descriptions of the lots, and stated that the Lot A and B easements in the proposed deeds were erroneously switched. He also asked whether the easement language is clear enough with regard to location and purpose. A discussion of such ensued. Board Member Towle suggested including language stating the width of the easement on as-built lines and systems for maintenance and access.

- Board Member Brooks asked why the deeds were quit-claiming the property back and forth to the applicants. Mr. MacDonough stated that it was something their attorney had written and he was unclear as to why.
- Board Member Charlie Van Winkle stated that there needs to be a mechanism in place, in instances where septic systems and wells are shared, for one party to access the shared septic system or well for repairs.
- Board Member Brooks stated that the DRB can only make a recommendation to the Selectboard regarding the waiver request for the bonding requirement. ZA Papelbon stated that she would provide the information to the Selectboard for consideration at their next meeting.
- ZA Papelbon stated that she realized Board Member Van Winkle had not participated in the preliminary hearing but had reviewed all of the documents. She asked if the MacDonoughs had any objection to his participation, to which they replied that they did not.
- Board Member Van Winkle asked about where the check valve was in the septic system. He found it and there was not an issue.
- ZA Papelbon stated that proposed Findings of Fact had been submitted. The Board reviewed them. ZA Papelbon mentioned that for finding #5 a waiver had been granted at the preliminary hearing for the frontage and a second waiver of the bonding requirement had been submitted.
- Board Member Towle stated that he saw some disparity between the proposed findings and the deed language. After a discussion, it was agreed that the finding would be changed to remove the words “under the current zoning regulations.” The Board continued their review of the findings.
- ZA Papelbon asked to review the waiver. A discrepancy exists between the waiver granted in the preliminary decision (22 feet for frontage for each lot) and the waiver required (32 feet for frontage for each lot). ZA Papelbon recommended a new vote on the revised frontage waiver. The Board continued their review of the findings.
- Board Member Towle asked who does the well tests. Mr. MacDonough stated that Spafford conducted the test. A discussion of this ensued. Board Member Van Winkle explained that that driller does a one-hour test. If the yield is twice the demand then nothing else is required, and ANR would sign off on such in a permit. The Board continued their review of the findings.
- A discussion of procedure and required clarifications ensued.

**7:14 PM:** Board Member Charlie Van Winkle made a motion, seconded by Board Member Chuck Brooks, to accept the waiver modification and grant a waiver of 32

feet for the frontage requirement for each lot. The motion was passed by all Board Members present.

**7:15 PM:** Chairperson Tobin asked if the Board felt they had enough information to make a decision on the application. The Board indicated that they did, and Chairperson Tobin stated that the evidentiary portion of the hearing was closed. Board Member Charlie Van Winkle made a motion, seconded by Board Member Chuck Brooks, to enter a closed deliberative session. The motion was passed by all Board Members present.

**7:32 PM:** Chairperson Tobin, upon approval of the Board, moved the Board into open session. Chairperson Tobin made a motion to approve the planned residential development with conditions. A discussion of conditions ensued.

**7:50 PM:** Chairperson Tobin made a motion, seconded by Board Member Charlie Van Winkle, to approve the planned residential development 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 all applicable permits in the Town of Underhill Land Records
2. The final plat shall be revised to include the building envelope on Lot 11B.
3. The deed language for the easements shall be revised to clarify that the easements will be centered on as-built lines. Easement language shall contain a mechanism for the lot owners to share maintenance and other expenses related to the shared field and water system.
4. The deed language shall be revised to include the correct descriptions of the lots and easements.
5. No lot in this subdivision shall be further subdivided. This language shall appear in any deed to the lots in this subdivision.
6. All required State and local permits shall be recorded in the Land Records.
7. 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.
8. 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.
9. Prior to recording the final Mylars, the applicant shall submit a copy of the plat and Sheet C1.1 in digital format. The format of the digital information shall require approval of the Zoning Administrator.

10. Lots 11A and 11B shall have their 911 codes posted prior to issuance of any building permit (Lot 11A: KR042, Lot 11B: KR034).
11. All subdivision fees shall be paid in full to the Zoning Administrator prior to filing of the final plat.
12. 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 motion was passed by all Board members present. The Board also approved the recommendation to the Selectboard for approval of the curb cut and driveway design, and approval of the waiver request of the bonding requirement with the following standard condition:

Prior to issuance of a building permit to Lot 11B, an engineer shall provide a letter to the Zoning Administrator certifying

- a. that the approved curb cut has been installed per the plan; and
- b. that the driveway has been "roughed in" per the approved plan.

Driveway top treatment may be installed at the end of the construction period.

A copy of the engineer's letter to the State certifying that the septic system and upgrades to the well have been made in accordance with the approved plans shall be filed with the Zoning Administrator.

**7:59 PM:** Meeting adjourned.

These minutes of the 4-5-10 meeting of the DRB were accepted

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

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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.***