

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

March 3, 2008

**Board Members Present:**

Scott Tobin, Chair  
Stan Hamlet  
Peter Seybolt  
Penny Miller  
Chuck Brooks

**Also Present:**

Kari Papelbon, Zoning Administrator

**6:15 PM:** Meeting called to order. Chairperson Scott Tobin began the meeting by explaining the procedure for final hearing and swore in those wishing to speak.

**6:19 PM:** Charles and Ashley Alexander preliminary hearing commenced.

**Alexander**  
**348 Irish Settlement Road**

**Applicant Present:**

Charles Alexander

**Consultant Present:**

Peter Lazorchak  
McCain Consulting  
93 South Main Street  
Waterbury, VT 05676

**Other Interested Parties Present:**

Jeff and Angela Moulton  
49 Highland Road  
Underhill, VT

**Identifier:    Contents:**

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ZA-1	Plans prepared by Peter Lazorchak of McCain Consulting for Charles and Ashley Alexander (Sheets 1-3, dated 2-7-08)
ZA-2	A copy of the survey prepared by Warren A. Robenstien for Charles and Ashley Alexander (dated 1-28-08)
ZA-3	Copies of the Warranty Deed that conveyed the land from Haverstick to Alexander and the Alexanders' Current Use Contract

- ZA-4 A copy of the letter to the UJFD requesting review of the subdivision plans (dated 2-13-08)
- ZA-5 A copy of the letter from the UJFD (dated 2-19-08)
- ZA-6 A copy of the letter to the Chittenden East Supervisory Union #12 (dated 2-13-08)
- ZA-7 A copy of the completed Act 250 School Impact Questionnaire for Residential Projects from Superintendent James G. Massingham (dated 2-14-08)
- ZA-8 A copy of the variance and waiver requests fro the proposed driveway to Lot 2 and the leachfields
- ZA-9 A copy of the Subdivision Checklist: Preliminary Hearing

- Chairperson Tobin entered submissions contained in the information pack into record.
- Peter Lazorchak, of McCain Consulting, began by providing information about the proposed 2-lot subdivision. Lot 2 will be accessed from Fuller Road, near the existing parking area. The leachfield serving Lot 2 will be located in the same area as the current leachfield serving the existing home. A small Class III wetland was designated near the Lot 1/Lot 2 proposed boundary. A waiver of the setback requirement for the leachfield are to the wetland has been submitted based on the State's setback requirements. The driveway will cross a stream near the parking area with a 5-foot culvert (to allow aquatic organism passage through the culvert). This, along with two switchbacks, is also necessary to meet the Town's 10% grade requirement.
- Board Member Penny Miller asked about spring drainage with regard to the 5-foot culvert. Mr. Lazorchak responded that drainage area is approximately 0.10 square mile; the threshold for obtaining a State permit for a stream crossing is 1 square mile. Federal Army Corps of Engineers requirements are such that a project is covered under their general permit provided the applicant follows their standards and guidelines. A written permit would not be issued, however. Chuck Alexander added that the 5-foot culvert is larger than the existing 3-foot culverts in the area. Board Member Stan Hamlet asked what kind of culvert the 5-foot culvert would be. Mr. Lazorchak explained that it would be a HDPE culvert. Board Member Hamlet asked if any consideration had been given to concrete culverts (the concern being washouts). Mr. Lazorchak explained that there are existing culverts below the proposed 5-foot culvert that are smaller.
- Mr. Lazorchak explained that the proposed contours, showing cutting, were to achieve the 10% grade for the driveway going uphill. He then stated that they will need to apply for a State Construction General Permit since the project will involve more than 1 acre of earth disturbance, as well as a State wastewater permit.
- Chairperson Tobin asked if the Construction General Permit would include the streambank development/crossing proposed. Mr. Lazorchak stated

that he had been in contact with State Stream Alteration Engineer Chris Brunelle regarding a stream alteration permit. He explained that Mr. Brunelle stated that since the project would be under the 1 square mile threshold, a stream alterations permit would not be required. The Army Corps of Engineers general permit requirements must be followed, however. Mike Adams from the ACoE and the District Fisheries Biologist will be contact to ensure compliance with the general permit requirements (under 3000 square feet of fill in the stream area and drainage area is less than 1 square mile=automatic coverage provided compliance with conditions of permit).

- Board Member Hamlet asked if the stream on the plans was a regular stream or a seasonal stream. Mr. Lazorchak and other Board Members replied that it was a regular stream.
- Chairperson Tobin asked if there would be an easement to access the existing leachfield on Lot 2 for Lot 1. Mr. Lazorchak explained that the easement was extended to Fuller Road from the leachfield area so that the Alexanders and potential future lot owners would not have to cross the back area of the lot to access the leachfield. The Lot 2 primary and replacement leachfields for Lot 2 are below the existing and replacement leachfields for Lot 1. Board Member Miller asked if the leachfields were regular or modified mound. Mr. Lazorchak explained that the soils in that area were good and the leachfields were regular and provided further details of the wastewater system.
- Mr. Lazorchak explained that the variance request is for the driveway crossing of the stream and a portion of the uphill driveway is less than 100 feet from the stream. Board Member Peter Seybolt asked how far from the stream the driveway would be on the uphill side. Mr. Lazorchak stated that the variance was for a full 100 feet since the driveway would actually cross the stream. He then stated that the setback to earth disturbance would be approximately 65-70 feet. Board Member Seybolt asked if the variance was requested where the proposed culvert would be. Mr. Lazorchak responded in the affirmative.
- A discussion of the variance request ensued. Board Member Chuck Brooks suggested that the 100-foot variance could be conditioned upon the driveway being constructed as per the plan to encompass the uphill portion of the driveway rather than granting a 100-foot variance and a 30-35-foot variance for the other portion of the driveway.
- Chairperson Tobin asked what kind of erosion control measures are shown on either side of the proposed culvert. Mr. Lazorchak explained that they were boulder headwalls.
- Chairperson Tobin then asked about the final driveway grade. Mr. Lazorchak explained that generally the grade is 10% and explained where the grade transitions would be.
- Board Member Miller asked if the well shield extended onto neighboring Jeff and Angela Moulton's property. Mr. Lazorchak provided the reasoning for siting the well at the proposed location. He then explained

that the State wastewater rules do not allow Towns to require that well shields be contained on the property. A discussion of the well shield area ensued.

- Mr. Lazorchak then pointed out that the building envelope was shaped in such a way to keep the building on the existing natural shelf area and to comply with Town setback requirements.
- Chairperson Tobin asked about the UJFD driveway turnaround request. Mr. Lazorchak replied that they would be amenable to modifying the existing turnaround to satisfy the UJFD request. Another request was to widen the driveway to 15 feet, however 12 feet wide meets the Town Road Policy requirements. Board Member Seybolt asked if the culvert would hold 35,000 pounds. Mr. Lazorchak replied that he would make sure that it would.
- Chairperson Tobin explained that any approval by the DRB would be conditioned upon Selectboard approval of the driveway design. Board Member Miller asked how the Selectboard views the UJFD's requests. Chairperson Tobin and ZA Papelbon explained that they view them as requests and that the Road Policy must be followed. A short discussion of the UJFD letter ensued. Mr. Lazorchak suggested that at each switchback a pull-off space could be added. Board Member Seybolt asked how long the driveway was. Mr. Lazorchak replied that it is 650 feet. Board Member Penny Miller asked whether increasing the width of the driveway from 12 to 15 feet would be a large expense. Mr. Lazorchak replied that doing so would require approximately 20% more material and stated that they do not want to keep increasing the widths because their goal is to reduce impervious surface and stormwater runoff, keeping a balance with safety. He added that the distance between proposed pull-offs would be about 300 feet.
- ZA Papelbon spoke, stating that the Road Foreman provided suggestions for the driveway, including stone-lined ditches beginning at 5%, a side-profile of the silt fence detail, and using the filter fabric instead of sand cushion for the silt fencing. Mr. Lazorchak stated that either option is up to the discretion of the contractor at the time of construction. ZA Papelbon added that the Road Foreman also prefer at least 5-inch stone for the erosion control #6 culvert headwall. ZA Papelbon explained that the survey should include the building envelope and driveway rather than reference the engineering drawing as an inset. She explained that the inset is illegible on the survey. Also, the survey should include the zoning regulations applicable to the subdivision, and the dates in the approval boxes should be changed to the correct year. She stated that for the final hearing the engineering drawing should have the utility easements identified, although the deed language is very vague as to where the easements are situated. Other items needed for final hearing would be all State permits or evidence of application (wastewater and potable water, Construction General Permit), the standards for the Army Corps of Engineers general permit and a letter from Mike Adams regarding the

- permit coverage for the project. ZA Papelbon also explained that while the applicants are in the State's Current Use program, they would have to re-file their application with the proposed 3.4-acre parcel withdrawn and that this could have tax implications. She explained that she spoke with Charles Alexander regarding this to ensure that he was aware of the details and to verify that he wanted to continue with the subdivision process.
- ZA Papelbon asked the Board whether they would like to have a variance for the stream crossing for the driveway and another variance for the portion of the driveway that is uphill and approximately 65 feet from the stream. The Board decided that the 100-foot variance would be inclusive of the uphill portion and be conditioned upon construction as per the approved plans. Chairperson Tobin further explained that the Board would also require a letter certifying that the driveway had been constructed according to the approved plans. ZA Papelbon then provided an explanation of the waiver requests for the leachfield area and the difference between a waiver and variance. Board Member Seybolt added that the leachfield area is located outside of the State's required 50-foot buffer zone.
  - Jeff Moulton asked whether the utilities would be buried or overhead, how the access to Lot 2 would enter Fuller Road, and for information regarding the culvert, access to the rear of the property, and the well shield. Board Member Seybolt asked whether the applicants would have to cut into the existing ledge on Fuller Road. Mr. Lazorchak explained the driveway access from Fuller Road and the culvert details. Charles Alexander added that the access would be past the parking area and the existing power pole. Board Member Miller asked Mr. Moulton if his concern was that the access would not work. A discussion about the access and culvert ensued. Mr. Moulton suggested making the driveway access onto Fuller Road wider for extra area for snow removal and increased visibility. Mr. Lazorchak explained that the utilities, while siting them has not yet been decided, would most likely be buried and follow the driveway to a point and then straight to the house site. Board Member Hamlet suggested that they could add a pole as well. Board Member Miller asked if the utilities would lie on top the culvert. Mr. Lazorchak explained that he would probably have enough room to do so. Board Member Seybolt asked how deep the buried line would have to be to keep frost from affecting them. Approximately 2 feet would be enough.
  - Angela Moulton asked for further explanation of the well shield. Mr. Lazorchak explained that it is an area that he has to define to ensure that no leachfields are in that area. Chairperson Tobin further explained that it helps to prevent seepage or contaminants from entering the aquifer. Mr. Moulton asked if you can put multiple wells in the well shield. Mr. Lazorchak replied that you can but that you cannot put wells closer together than approximately 100 feet. Mr. Moulton and Mr. Alexander then explained where their properties come together.

- Jeff Moulton asked what the test pits for the Kerrigans had produced. Mr. Alexander, ZA Papelbon, and the Board replied that no information regarding a subdivision had been submitted.

**7:23 PM:** Chairperson Tobin asked if the Board had enough information to make a decision on whether the preliminary hearing fulfills the requirements of the Underhill regulations. Board Members Peter Seybolt and Stan Hamlet replied that they had enough information. Board Member Chuck Brooks stated that although the Board likes to see more work finished at preliminary, he had no objections to moving forward.

**7:24 PM:** Chairperson Tobin asked if the Board would like to deliberate in open or closed session. Board Member Peter Seybolt made a motion, seconded by Stan Hamlet, to move into deliberative session. The motion was passed by all Board Members present.

**8:10 PM:** Board Member Stan Hamlet made a motion, seconded by Board Member Chuck Brooks, to move out of deliberative session. The motion was passed by all Board Members present. Chairperson Scott Tobin asked for a vote on the 5 variance criteria for the 100-foot variance request submitted for the driveway. All Board Members present voted that each criterion was met.

**8:16 PM:** Chairperson Tobin asked for a vote on whether to grant preliminary approval for the 100-foot variance conditioned upon constructing the driveway per the Selectboard approval of the final plans. All Board Members present voted to grant preliminary approval for the variance with the condition.

The Board then discussed each waiver and the criteria for granting waivers per the Underhill subdivision regulations. The Board determined that the criteria for each waiver was met.

**8:20 PM:** Chairperson Tobin asked for a vote on whether to grant preliminary approval to the two waivers for the leachfield setbacks to the stream and wetland. All Board Members present voted to grant preliminary approval for each waiver.

**8:20 PM:** Board Member Stan Hamlet made a motion, seconded by Board Member Chuck Brooks, to accept the preliminary application for subdivision conditioned upon the following:

1. That the engineering drawing will include a “fan out” and the end of the proposed driveway per Jeff Moulton’s request.
2. That the engineering drawing include two “pull-offs” at each driveway switchback per Peter Lazorchak’s suggestion.
3. That the engineering details include the Road Foreman’s suggestions that stone-lined ditches be used for grades of 5% and over, the erosion control

number 4 for silt fences include a side profile, and that the culverts be lined with at least 5-inch stones.

4. That a letter from Mike Adams of the Army Corps of Engineers or Chris Brunelle, State Stream Alterations Engineer, regarding the driveway stream crossing and earth disturbance in a stream be provided for final hearing along with the standards and requirements for coverage under the Army Corps of Engineers general permit.
5. That the survey incorporate the pertinent zoning regulations, that the year in the approval boxes be changed to 2008, and that Lot 2 will show the building envelope and driveway without the engineering drawing inset (see requirements for final hearing).
6. That the engineering drawing identify the existing and proposed utility easements.
7. That evidence of submission of application for all required State and Federal permits be provided for final hearing.

**8:21 PM:** Board Member Stan Hamlet made a motion, seconded by Board Member Chuck Brooks, to adjourn. The motion was passed by all Board Members present.

**8:21 PM:** Meeting adjourned.

These minutes of the 3-3-08 meeting of the DRB were

Accepted

This \_\_\_\_\_ day of \_\_\_\_\_, 2008

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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.***