

Town of Underhill
Development Review Board Minutes
Chairperson Charles Van Winkle

March 21, 2011

Board Members Present:

Will Towle
Matt Chapek
Penny Miller
Chuck Brooks
Scott Tobin
Charles Van Winkle, Chair

Also Present:

Kari Papelbon, Zoning & Planning Administrator

6:30 PM: Chairperson Charles Van Winkle called the Phil Jacobs subdivision amendment Sketch Plan meeting to order.

Applicant Present:

Phil Jacobs (16 Harvest Run/8 Jacobs Hill)
73 Upper English Settlement Rd.
Underhill, VT 05489

Consultant Present:

Paul O'Leary
O'Leary-Burke Civil Associates, PLC
1 Corporate Drive
Essex Junction, VT 05452

Other(s) Present:

Larry Young, consultant for the next meeting
3 neighbors for the Jacobs meeting
1 neighbor for the Potvin meeting (John Boudah)

Identifier:	Contents:
ZA-1	Phil Jacobs' Application for Subdivision: Sketch Plan (dated 3-8-11)
ZA-2	A copy of the completed Subdivision Checklist: Sketch Plan
ZA-3	A copy of the engineering plan prepared by Howard Snider of O'Leary-Burke Civil Associates, PLC (Sheet 2 revised 3-1-11)
ZA-4	A copy of the survey prepared by O'Leary-Burke Civil Associates, PLC for Phil Jacobs (Sheet SH-1 revised 3-1-11)
ZA-5	A copy of the Project Description
ZA-6	A copy of the tax map for HR016 & JB008
ZA-7	A copy of the final decision dated 7-2-08

- Chairperson Van Winkle began the meeting by explaining the procedure for sketch plan review.
- Phil Jacobs, Applicant, and Paul O'Leary, Consultant, provided an overview of the plans. The proposal is a request for approval of Lot 1 from the subdivision approved in 2008 as a building lot. The new regulations have reduced the wetland setback requirements; therefore, the building envelope now complies. The wastewater has been permitted through the state. Mr. O'Leary explained that the previous setback requirement was 100 feet and the new setback requirement is 25 feet. There are no other changes to the lot. Mr. O'Leary stated that ZA Papelbon noted some necessary changes, which have been made on the plans: the parcel code is shown, the driveway culvert was increased to 18" from 15" as required, and the building envelope line is more distinct. Mr. O'Leary stated that he would like the DRB to combine the preliminary and final hearing.
- ZA Papelbon stated that this was the first application under the new Unified Land Use and Development Regulations (effective March 2, 2011). She explained that the request is really to waive the preliminary hearing requirement.
- Chairperson Van Winkle asked for public comment. There were no comments.
- Board Member Penny Miller asked whether the DRB had to make a determination as to whether the application would be considered a major or minor subdivision. ZA Papelbon stated that they did.
- Chairperson Van Winkle provided a summary of the subdivision to-date.
- Board Member Will Towle stated that the new regulations included a new setback requirement for Class II wetlands and asked whether the identified wetland could be reclassified as a Class II wetland per the new State rules. Mr. O'Leary replied that the State has not revisited the site since the new State Wetland Rules changed. The wetland was delineated for the original subdivision as Class III by a wetland consultant, which was corroborated by the State. Discussion ensued. Board Member Towle stated that other consultants have told the DRB that many of the Class III wetlands were being reclassified as Class II wetlands. He then asked if the 25-foot distance between the proposed building envelope and wetland was needed or whether there would be a problem if the wetland was reclassified as a Class II wetland. Mr. O'Leary responded that if the wetland was reclassified then the building envelope would need to be changed. Board Member Towle asked whether the original classification could be used. ZA Papelbon stated that it would be up to the DRB to request confirmation of the wetland's class.

- Chairperson Van Winkle asked where the nearest Class II wetland was located. Mr. O'Leary stated that there is a small pond to the north along a seasonal stream that he assumed was mapped. ZA Papelbon stated that the tax map showed the latest Class II wetlands from the Vermont State Wetlands Inventory (VSWI); however revisions by the State as a result of site visits are not included in the layer. Mr. O'Leary stated that he guessed the Class III wetland would remain Class III as it flows into the man-made swale. Mr. O'Leary explained that the reclassification occurs when a distinct Class II wetland exists and a channel runs off that was previously a Class III wetland. The State will reclassify the Class III wetland if it is obviously connected to the Class II wetland. Board Member Towle asked whether the original consultant who performed the delineation would be able to give his opinion on the classification, to which Mr. O'Leary stated that he would.
- Board Member Matt Chapek asked whether any variance requests had been submitted. Mr. O'Leary stated that there had not been. Board Member Tobin provided a brief explanation of why a variance for the wetland setback was denied in 2008.
- Board Member Chuck Brooks stated that the Homeowners Association should include Lot 1. Mr. Jacobs and Mr. O'Leary stated that Lot 1 was included in the original document.
- Board Member Miller asked ZA Papelbon what the procedural difference is between major and minor subdivisions. ZA Papelbon stated that Section 7.2 includes the classification of subdivisions. Minor subdivisions give the DRB the authority to waive the preliminary subdivision requirement. ZA Papelbon stated that she did not recall whether the regulations specifically stated that preliminary hearing could be waived for major subdivisions. A brief discussion ensued.

6:45 PM: Chairperson Van Winkle asked if the Board had enough information to make a decision on the application. Board Member Chuck Brooks read the definition of a minor subdivision. Discussion of procedure ensued. The Board indicated that they would accept the sketch plan but did not know whether the new Unified Land Use and Development Regulations included a provision that would allow the preliminary and final hearings to be combined for a major subdivision.

6:54 PM: The Board, by consensus, moved into deliberative session on the application to discuss the matter. Three neighbors, Phil Jacobs, and Paul O'Leary left at this point.

6:58 PM: Chairperson Charles Van Winkle called the Timothy and Theresa Potvin subdivision Sketch Plan meeting to order.

Consultant Present:

Larry Young
Summit Engineering, Inc.

50 Joy Dr.
South Burlington, VT 05403

Other(s) Present:

John Boudah
318 Pleasant Valley Rd.
Underhill, VT 05489

Identifier: Contents:

ZA-1	Timothy and Theresa Potvin's Application for Subdivision: Sketch Plan (dated 3-1-11)
ZA-2	A copy of the completed Subdivision Checklist: Sketch Plan
ZA-3	A copy of the Sketch Plan drawing prepared by Larry Young for Timothy and Theresa Potvin (Sheet S1 dated 2-28-11)
ZA-4	A copy of the letter from Larry Young of Summit Engineering, Inc. (dated 3-1-11)
ZA-5	A copy of the correspondence between Sheila McIntyre of Summit Engineering, Inc. and Julie Foley, VT DEC District Wetlands Ecologist (December 2010)
ZA-6	A copy of the tax map for MO027
ZA-7	A copy of the letter from ZA Papelbon dated October 6, 2010

- Chairperson Van Winkle began the meeting by explaining the procedure for sketch plan.
- Larry Young, Consultant for the Potvins, provided an overview of the plans. There are two options for right-of-way access as shown on the plan: one off of Moose Run and one off of Pleasant Valley Rd. Julie Foley, VT DEC District Wetlands Ecologist, met with Larry, Tim, and Sheila McIntyre of Summit Engineering at the site to discuss the two options. Julie's response is included in the information packet. Mr. Young stated that approximately 200-300 feet in from Moose Run wetlands exist surrounding the area of the pond. One of the proposed road areas is on the downslope side of the pond. The area identified as #4 on the plans is a confluence of 2 small brooks, and the area identified as #2 on the plans includes wetland and ledge. A possibility to reduce wetland impacts at #1, #2, and #3 is to narrow the road to 1 lane at those sites, which would require a waiver of the 24' wide requirement. Mr. Young stated that the preferred route is off of Pleasant Valley Road.
- Board Member Penny Miller stated that a note indicated Jim Bedell's (local excavator) opinion that Option 2 would require extensive disturbance and might undermine the road due to mucky soils. Mr. Young stated no soils boring had been done but the way to build the road would be to "muck out" the soil, put down a blanket, and then add a layer of large stone followed by a layer of smaller stone. The details for building the road are not yet known.
- Board Member Scott Tobin stated that one of the concepts for exploring Option 2 was to avoid a new curb cut on Pleasant Valley Road. He asked

whether Lot 1 would still have a curb cut on Pleasant Valley Road if Option 2 was chosen for the access to the other lots. Mr. Young stated that such was included in the proposal. He added that there is an existing culvert that they intend to use.

- Board Member Will Towle asked if the proposed road could run through the proposed Lot 1 in the location of the label on the map. Mr. Young stated that it could not due to the presence of wetlands. The buildable area on Lot 1 is in the northwestern area. Board Member Miller asked if septic capacity existed there, to which Mr. Young replied that they did and test pits had been conducted with their wetlands expert and the State Wetlands Ecologist present. A discussion of the classification of the wetlands per the new State Wetlands Rules ensued.
- Board Member Miller asked whether moose habitat was mapped. ZA Papelbon stated that no specific moose habitat has been identified by the State.
- Chairperson Van Winkle stated that his concern for recommending a waiver of the Road Policy is for future development of the land beyond where the end of proposed road is depicted on the plans. Mr. Young stated that on smaller roads that are lengthy enough can incorporate “bump-outs” to allow cars to pass. In this case, the goal is to reduce wetland impacts. Board Member Miller stated that while the concept makes sense, the end result is an hourglass-shaped road. She stated her concerns for three building lots at the top of the road using the road and the awkwardness of traversing such a road.
- Board Member Towle asked whether there exists an option to bring the road up the existing drive around the rear of the existing house to access the lots. Mr. Young stated that there probably was but Mr. Potvin indicated that if such was a requirement he would not continue with the subdivision process. Board Member Towle stated that he assumed the area behind the existing house was drier. Mr. Young stated that he had not walked up there so he could not confirm such.
- John Boudah, 318 Pleasant Valley Road, stated that it gets steep behind the house and turns into a “goat trail.” He also commented that in area #5 a mud bog was present one year where trucks crossed and was already a road. Mr. Young stated that he did not think that vehicles could pass through now or in the fall because it is very wet, although vehicle tracks were visible. He added that more area would be disturbed to make it a permanent road. A discussion of road Option 1 ensued.
- Board Member Miller asked whether the proposed area of disturbance was a beaver dam area. Mr. Young stated that it was not.

- Chairperson Van Winkle stated that Option 1 seemed to be a more difficult option for the road in terms of wetlands mitigation. A discussion of Julie Foley's email response ensued.
- Board Member Tobin stated that other concerns were for sight distances from the proposed curb cut to the top of the hill as well, as stopping distances. Mr. Young stated that he has not surveyed it yet, but from a cursory measurement he can see approximately 500 feet in either direction. Board Member Miller asked if a vehicle was stopped whether another vehicle could see it and stop in time, to which Mr. Young replied in the affirmative. Board Member Towle asked for clarification on the note on the site plan. Mr. Young stated that the symbol was flipped and it should read greater than 500 feet.
- Mr. Boudah stated that moose typically graze where the Lot 1 label appears on the map.
- Board Member Matt Chapek asked about whether it was discussed to have the proposed road go on the opposite side of the existing pond. Mr. Young stated that Mr. Potvin would not be amenable to such an option as that is the site of his horse pasture.
- Mr. Boudah stated his preference for Option 2 as it is located further away from his lot and there exists a significant amount of ledge and watershed toward his house in the vicinity of Option 1. He added that when it rains a significant amount of water floods the proposed Lot 1, and rushes onto his land. Mr. Boudah stated that the end of the proposed Lot 4 line dips down toward his land and turns into a "raging river" when it rains. Board Member Tobin asked whether there was a stream channel there. Mr. Young stated that from Moose Run the water runs southerly, and from Moose Run northerly, the water runs north.
- Board Member Chapek asked where the proposed access for Lot 1 would be located. Mr. Young stated that the proposal would be to have it in the same location as Option 1. Board Member Tobin asked if Option 2 were used to access Lots 2-4 whether a drive would still exist for Lot 1. After some discussion, Mr. Young stated that a driveway would still come off of the area for Option 1 (Pleasant Valley Road) avoiding the wetlands if possible.
- Board Member Towle asked whether the numbered impact zones on the plans were to scale. Mr. Young stated that they were not. Board Member Towle asked if the whole area was wet and the identified areas were the worst. Mr. Young stated that they were definite wetland spots. Board Member Towle asked if it was dry in between those spots, to which Mr. Young replied that it was and was confirmed with Julie Foley and Sheila McIntyre.

7:25 PM: Chairperson Van Winkle asked for final comments and if the Board had enough information to make a decision on whether the proposed sketch plan fulfills

the application requirements. Board Member Penny Miller asked about process. Chairperson Van Winkle provided a brief summary.

Board Member Will Towle stated that there was an above-average need for a site visit for this proposal. Chairperson Van Winkle explained that the DRB typically does not conduct site visits until the preliminary plans have been submitted. Mr. Young asked whether the DRB would still push for Option 2 if a State Wetlands Permit were obtained for Option 1. Discussion of process and the wetlands ensued.

Chairperson Van Winkle stated his initial concerns over Option 1 were the traffic safety issues with sight distances. Board Member Towle indicated that he was leaning toward Option 2, but that he was curious about an option for the road around the back of the existing house. Board Member Miller stated that she was inclined to lean toward Option 2 given the proposal to have the road narrow in several spots in Option 1, and she questioned why the road ends at Lot 4. Mr. Young stated that other roads in town just end and that the hourglass suggestion could be changed. He then stated that Moose Run would have to be upgraded (it is now between 14 and 18 feet wide) and that wetlands were present on both sides of the road.

Board Member Chuck Brooks asked whether the Dragon lot was accessed off Moose Run. Mr. Young stated that it and two other lots access off Moose Run.

Board Member Chapek asked if there existed a different layout for Lot 1 so that the road could come off of Moose Run at a lower spot. Discussion of the district requirements, road frontage, potential access options, the building location of Lot 1, and future development ensued.

Board Member Towle asked what the logic was for creating Lot 1 considering its development challenges. Mr. Young stated that it was a nice lot to walk on, wetlands are pleasant to walk in. Board Member Towle asked if there was a nice building site on the lot. Mr. Young replied that the building site was an average to below-average building site, but Mr. Potvin believes he can sell it.

ZA Papelbon asked whether Moose Run is owned by Mr. Potvin. Mr. Young stated that such was correct - Moose Run crosses over Mr. Potvin's land.

Board Member Chapek asked whether Lot 1 could be eliminated in favor of a right-of-way. It was stated that Mr. Potvin wants the proposed configuration as presented.

Chairperson Van Winkle requested a motion on the sketch plan.

7:49 PM: Board Member Will Towle made a motion, seconded by Board Member Scott Tobin, to accept the submitted sketch plan. Board Member Towle also stated that he would like to make recommendations to the Applicant as well. Board Member Chuck Brooks stated that with a motion to accept the sketch plan would have to be accepted "as-is," and asked whether the DRB wanted to include recommendations with the acceptance motion. After some discussion, the motion was passed by five Board Members. Board Member Matt Chapek voted in opposition.

The Board discussed recommendations for the preliminary plans.

1. Board Member Will Towle – recommendation for Option 2, which keeps the infrastructure for access and future development closer to the developer’s house and away from neighbors. He also stated that there seems to be an advantage to the longer road route through prior disturbed areas rather than a shorter route through a pristine wetland option. There may also be other options for access not included in the present proposal.
2. Chairperson Charles Van Winkle – recommendation for Option 1. He stated that the right to decide which option is chosen lies with the Applicant.
3. Board Member Penny Miller – the hatched areas for wetland disturbance should be shown on either side of Moose Run for Option 2.
4. Board Member Chuck Brooks – stated that Moose Run will need to be upgraded to road standards. He stated that he had no opinion yet for either road option.

Mr. Young asked Board Member Matt Chapek if he had an idea for a different approach since he voted in opposition. Board Member Chapek stated that he felt the lots themselves were blocked out.

8:02 PM: Board Member Chuck Brooks made a motion, seconded by Board Member Will Towle, to enter a deliberative session on the previous Jacobs sketch plan application. The motion was passed by all Board Members present.

8:55 PM: By majority consensus, the Board moved into open session.

8:57 PM: End of meeting.

These minutes of the 3-21-11 meeting of the DRB were accepted

This _____ day of _____, 2011.

Chairperson Charles Van Winkle

These minutes are subject to correction by the Underhill Development Review Board. Changes, if any, will be recorded in the minutes of the meeting of the DRB.