

**Town of Underhill**  
Development Review Board Minutes  
Chairperson Charles Van Winkle

April 2, 2012

**Board Members Present:**

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

**Staff/Municipal Representatives Present:**

Kari Papelbon, Zoning & Planning Administrator  
Brad Holden, Selectboard Chair

**6:31 PM:** Chairperson Charles Van Winkle called the Potvin final subdivision hearing to order at the Underhill Town Hall.

**Consultant(s) Present:**

Sheila McIntyre  
Summit Engineering, Inc.  
50 Joy Dr.  
South Burlington, VT 05403

**Others Present:**

Don Foote  
Blue Spruce Realty  
P.O. Box 394  
Johnson, VT 05656  
(for Marsh hearing)

Dennis Hill, Esq.  
333 Dorset St.  
South Burlington, VT 05403  
(representative for Marsh hearing)

neighbor

Identifier:	Contents:
ZA-1	Timothy and Theresa Potvin's Application for Subdivision: Final (dated 2-6-12)
ZA-2	A copy of the completed Subdivision Checklist: Final
ZA-3	A copy of the plans prepared by Larry Young of Summit Engineering, Inc. (Sheets S1, S2, PP1, D1, and D2 dated 1-31-12)
ZA-4	A copy of the survey prepared by Larry Young of Summit Engineering, Inc. (dated 1-31-12)
ZA-5	A copy of the letter from Sheila McIntyre of Summit Engineering, Inc. (dated 1-31-12)
ZA-6	A copy of the acknowledgement of submitted State permits (dated 2-6-12)
ZA-7	Copies of the submitted State permit applications (wetland, water/wastewater, and stormwater)
ZA-8	A copy of the Project Review Sheet (dated 2-14-12)
ZA-9	A copy of the letter from William Zabiloski of VT Department of Environmental Conservation (dated 3-12-12)
ZA-10	A copy of the letter from Harry Schoppmann of the Underhill Jericho Fire Department (dated 11-1-11)
ZA-11	A copy of Private Roadway Maintenance Agreement
ZA-12	A copy of the proposed easement language
ZA-13	A copy of the findings of fact related to the Evaluation Considerations (dated 1-31-12)
ZA-14	A copy of the final hearing requirements letter (dated 11-18-11)
ZA-15	A copy of the preliminary decision (dated 11-17-11)
ZA-16	A copy of the minutes from the 10-22-11 site visit and the 10-24-11 preliminary hearing
ZA-17	A copy of the tax map for MO027
ZA-18	A copy of the hearing notice (published in <i>Seven Days</i> on 3-14-12)
ZA-19	A copy of the procedure checklist and staff memo for this hearing
S-1	A copy of the stormwater details
S-2	A copy of the signed determination from VT Stream Alteration Engineer Chris Brunelle (dated 3-30-12)

- Chairperson Van Winkle began the meeting by explaining the procedure for the final hearing, which comes under the 2003 Zoning Regulations, the 2002 Subdivision Regulations, and the 2002 Road Policy. He then swore in all interested parties and entered the above items into record.
- Sheila McIntyre, Consultant for the Applicants, provided a brief summary of the project. Items that have changed since the preliminary hearing include the removal of Lot 2 (now part of Lot 1) and revised building envelopes to comply with setbacks.

- Board Member Penny Miller asked whether the driveways to the lots would be able to maintain grades per the regulation requirements. Ms. McIntyre stated that they would meet requirements.
- Chairperson Van Winkle asked about the width of the road to Lot 3. Ms. McIntyre explained that the road meets road standards (24' wide travel way within a 60' right-of-way) to the driveway for Lot 3, at which point it becomes a 12' wide travel way with a 60-foot right-of-way for the driveway to Lot 4.
- Chairperson Van Winkle asked whether the septic system depicted on Lot 1 was the replacement system for the existing house, to which Ms. McIntyre replied that it was.
- Board Member Miller asked if any waivers were requested. Ms. McIntyre stated that the removal of Lot 2 also removed the need for waiver requests for setbacks to the wetlands.
- Board Member Will Towle stated that an old road maintenance agreement had been submitted. Ms. McIntyre stated that the agreement draft had been sent in prior to the acceptance of a proposed road name. All documents will be updated with the correct road name.
- Chairperson Van Winkle asked about the stormwater plans for the site. Ms. McIntyre explained that a stormwater permit application had been submitted to the state and is now under review. There are 3 discharge points, most of the stormwater is overland flow with proposed culverts, and stormwater retention ponds are not required for the site per the state's rules.
- Board Member Chuck Brooks asked if the maps submitted were the most recent. Ms. McIntyre explained that there had been a revision for the septic replacement area on Lot 1 (easement) as part of the state wastewater review. Ms. McIntyre also stated that the property codes are on the revised maps with the approved private road name and signature block. Board Member Brooks stated that the revision date will be required for final approval purposes. Brief discussion ensued.
- Board Member Brooks asked whether all of the items in the letter from the state dated 3-12-12 had been addressed, to which Ms. McIntyre responded that all had been submitted.
- Board Member Miller asked if any comments on the project had been received from the Conservation Commission. ZA/PA Papelbon stated that no comments had been received. Chairperson Van Winkle asked about the intentions for the VASA trail. Ms. McIntyre replied that she was unaware of the intent for the trail.

- Board Member Towle asked if the proposed building envelopes were the requested restrictions or whether they had been designed with the area left to be developed after meeting district requirements. Ms. McIntyre stated that they are the requested restricted building areas that also meet minimum requirements.
- Board Member Brooks asked whether all of the requirements in the preliminary decision were met. ZA/PA Papelbon provided responses to all requirements. Underground utilities are depicted on Sheet S2 and revised maps will include the private road name, parcel codes, and wetlands. Discussion continued. Ms. McIntyre stated her concerns for including wetlands on a survey plat due to the limited timeframe that the delineation is valid. ZA/PA Papelbon stated that a note on the survey stating that the delineation is valid for a maximum timeframe is acceptable.
- Board Member Brooks asked whether a waiver of the bonding requirement had been received. Ms. McIntyre requested a waiver of the requirement. Chairperson Van Winkle stated that such would be forwarded to the Selectboard for their approval.
- Chairperson Van Winkle provided a summary of the proposed road and driveways for Selectboard Chair Brad Holden, who was also sworn in. A brief discussion ensued.
- ZA/PA Papelbon provided her comments on the application. She asked whether an Army Corps of Engineers permit was required. Ms. McIntyre explained that the project is under the 3000 square-foot wetland impact threshold and is considered a non-reporting category project. Ms. McIntyre stated that such was also the case for the state Stream Alteration General Permit and provided Stream Alteration Engineer Chris Brunelle's confirmation of a non-reporting project. ZA/PA Papelbon asked whether Construction General Permits would be obtained. Ms. McIntyre stated that the project is considered a low-risk site and that the permit application would be submitted upon local approval.
- Interested parties for the Marsh hearing arrived.
- Board Member Matt Chapek asked what the required setback is for a mound system. A brief discussion ensued and ZA/PA Papelbon provided the state's setback requirements from their rules.
- The signed information from VT Stream Alteration Engineer Chris Brunelle was entered into the record as evidence.

- ZA/PA Papelbon stated that a question about previous subdivisions of the land had been asked at the preliminary hearing. Her review showed that the land had been subdivided in the past and had been transferred to several property owners. The subdivisions, from her review, did not go through the local process and ZA/PA Papelbon stated that she was unaware of any restrictions on the remaining Potvin land.
- Board Member Brooks stated that he saw a note on the plans referencing a survey performed by his brother in 1997. He explained that he did not assist with the survey nor did he feel that this provided a conflict of interest.
- Chairperson Van Winkle asked for public comment. No interested parties provided comments.

**7:20 PM:** Chairperson Van Winkle asked if the Board felt they had enough information to close the evidentiary portion of the hearing. The Board indicated that they did.

**7:21 PM:** Board Member Will Towle made a motion, seconded by Board Member Matt Chapek, to close the evidentiary portion of the hearing. The motion was passed by all Board Members present.

Chairperson Van Winkle asked if the Board wished to deliberate in open or closed session. The Board indicated that they would like to deliberate in closed session. Board Member Matt Chapek made a motion, seconded by Board Member Chuck Brooks, to enter a closed deliberative session after the second (Marsh) hearing. The motion was passed by all Board Members present.

End of hearing. Ms. McIntyre left. Board Member Will Towle recused himself for the Marsh hearing.

**7:25 PM:** Chairperson Charles Van Winkle called the Marsh Site Plan Review/Access hearing to order.

**Staff/Municipal Representatives Present:**

Kari Papelbon, Zoning & Planning Administrator  
Brad Holden, Selectboard Chair  
Seth Friedman, Selectboard Member

**Applicant(s) Present:**

John and Barbara Marsh  
35 S. Summit St.  
Essex Junction, VT 05452

**Representative(s) Present:**

Dennis Hill, Esq.  
333 Dorset St.  
South Burlington, VT 05403

**Others Present:**

Will Towle  
260 Stevensville Rd.  
Underhill, VT 05489

Don Foote  
Blue Spruce Realty  
P.O. Box 394  
Johnson, VT 05656

2 neighbors

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	John and Barbara Marsh's Site Plan Review Hearing Request (dated 1-25-12)
ZA-2	A copy of the completed Site Plan Review Standards Findings Checklist
ZA-3	John and Barbara Marsh's Access Permit Application (dated 10-19-11)
ZA-4	A copy of the Septic Plan prepared by David Tudhope (Sheet 1 dated 11-28-11)
ZA-5	A copy of the Wastewater System and Potable Water Supply Permit (dated 2-23-12)
ZA-6	A copy of the original subdivision survey prepared by John Marsh (revised 11-11-91, approved by the Planning Commission Chair 1-14-92)
ZA-7	A copy of the letter from ZA Papelbon to Don Foote, Blue Spruce Realty (dated 4-29-09)
ZA-8	A copy of the letter from William Towle (dated 10-20-11)
ZA-9	A copy of the letter to John Marsh from the Underhill Selectboard (dated 3-11-91)
ZA-10	A copy of the letter to John Marsh from the Underhill Selectboard (dated 11-20-91)
ZA-11	A copy of the letter to John and Barbara Marsh from the Underhill Planning Commission (dated 12-16-91)
ZA-12	A copy of the tax map for ST264
ZA-13	A copy of the hearing notice (published in <i>Seven Days</i> on 3-14-12)
ZA-14	A copy of the procedure checklist and staff memo for this hearing

- Chairperson Van Winkle began the meeting by explaining the procedure for the hearing, which comes under the 2011 Unified Land Use and Development

Regulations and the 2002 Road Policy. He then swore in all interested parties and entered the above items into record.

- Dennis Hill, Esq., Representative for the Applicants, explained that there were concerns about the proposed access raised by neighbor Will Towle. There is an agreement in principle between Mr. Towle and the Applicants, who would like to request that the hearing be continued to allow for a written agreement to be entered into evidence. Discussion amongst the Board Members ensued.
- Chairperson Van Winkle asked for public comment.
- Will Towle, 260 Stevensville Road, stated that he would like to enter an appearance for on-the-record purposes. He stated that he agrees with Attorney Hill and would recommence comments at the next meeting to allow for the written agreement.

**7:35 PM:** Board Member Chuck Brooks made a motion, seconded by Board Member Penny Miller, to continue the hearing to the next available regular meeting date (May 7) at 6:30 PM. The motion was passed by all Board Members present.

The Selectboard Members and all interested parties for the Marsh hearing, with the exception of Will Towle, left. The Board entered a deliberative session on the Potvin application.

**8:41 PM:** Board Member Penny Miller made a motion, seconded by Board Member Chuck Brooks, to move into open session. The motion was passed by all Board Members present. Board Member Chuck Brooks made a motion, seconded by Board Member Penny Miller, to approve the Potvin final subdivision application subject to conditions. The motion was passed by all Board Members present.

The Board signed a decision and discussed their upcoming schedule.

**9:15 PM:** Board Member Chuck Brooks made a motion, seconded by Board Member Penny Miller, to adjourn. The motion was passed by all Board Members present.

These minutes of the 4-2-12 meeting of the DRB were accepted

This 16 day of April, 2012.



Charles Van Winkle, Chairperson

*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.*