

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

June 4, 2012

**6:30 PM:** Site Visit at 38 Poker Hill Road (PH038) for the Maheux Conditional Use Hearing.

**Board Members Present:**

Charles Van Winkle, Chair  
Matt Chapek  
Will Towle  
Chuck Brooks

**Staff/Municipal Representatives Present:**

Kari Papelbon, Zoning & Planning Administrator

**Also Present:**

Marc Mahuex, applicant; Bruce Garrapy, neighbor; James Massingham, neighbor

The Underhill Development Review Board does not take testimony during a site visit. The purpose of the visit is to afford the Board Members and interested parties the opportunity to familiarize themselves with the existing conditions of the project site. Any discussion, comments or communication made during the site visit is not considered as testimony and is therefore not part of the official record or evidence submitted for consideration.

At the conclusion of the site visit the DRB traveled back to the Underhill Town Hall for the hearing.

**7:11 PM:** Chairperson Charles Van Winkle called the Maheux combined Conditional Use/Sketch Plan Review hearing to order at the Underhill Town Hall.

**Board Members Present:**

Charles Van Winkle, Chair  
Matt Chapek  
Will Towle  
Chuck Brooks

**Staff/Municipal Representatives Present:**

Kari Papelbon, Zoning & Planning Administrator

**Applicant(s) Present:**

Marc Maheux (PH038)  
P.O. Box 236  
Underhill, VT 05489

**Others Present:**

Alton Verity  
13 Fox Run  
Underhill, VT 05489

Bruce Garrapy  
32 Poker Hill Rd.  
Underhill, VT 05489

Gunner McCain (consultant for next hearing)  
Brent Goplen (applicant for next hearing)  
Kathryn Barickman (neighbor for next hearing)

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	Marc and Jane Maheux's Application for Subdivision: Sketch Plan (dated 5-9-12)
ZA-2	Marc and Jane Maheux's Conditional Use/Site Plan Review Hearing Request (dated 5-9-12)
ZA-3	A copy of the plans prepared by Marc Maheux (dated 4-20-12 and 4-23-12)
ZA-4	A copy of the Conditional Use Review Standards Findings Checklist
ZA-5	A copy of the Site Plan Review Standards Findings Checklist
ZA-6	A copy of the tax map for PH038
ZA-7	A copy of the hearing notice published in <i>Seven Days</i> on 5-16-12

- Chairperson Van Winkle began the meeting by explaining the procedure for the hearing, which comes under the 2012 Unified Land Use and Development Regulations. He then swore in interested parties present and entered the above items into evidence.
- Marc Maheux, applicant, provided a brief overview of the project. The earth disturbance project was discussed first. Mr. Maheux stated that a gravel mound exists on his lot that he would like to push north toward the existing house to have a better slope for safer maintenance. Future development plans include a new house on that site in the current location of the barn.
- Chairperson Van Winkle provided a summary of the discussion at the site visit: no material is proposed to be moved off-site, the project is proposed to be completed in one construction season, some of the material will be moved from his neighbor's property as well (Garrapy). Mr. Maheux clarified that if he cannot complete the work in one construction season that any disturbance will be

seeded to prevent erosion. Mr. Maheux asked if a time frame would be instituted for his project. Discussion ensued. Chairperson Van Winkle asked whether a time frame of 2-3 years for completion was amenable. Mr. Maheux stated that nothing shorter than 3 years would be acceptable.

- Board Member Will Towle stated that the Conditional Use would probably have to be applied to one lot at the time of subdivision. Mr. Maheux stated that the material would be moved prior to the land becoming two lots. Discussion ensued.
- Board Member Towle asked whether Mr. Maheux would be amenable to the DRB including a requirement to retain the swale for drainage purposes as part of the conditional use permit. Mr. Maheux stated that he did not have a problem with such a condition.
- Board Member Towle stated that his impression is that Mr. Garrapy may also have in excess of 400 cubic yards that will be moved. Discussion ensued.
- Chairperson Van Winkle asked whether the topo lines had been created by Mr. Maheux or someone else. Mr. Maheux stated that some of them were from recent LiDAR and some were from a surveyor. Chairperson Van Winkle asked where on the map the concrete pad on Mr. Garrapy's land was as the pad is approximately at the grade proposed for the land after the gravel is moved. Mr. Maheux provided the location.
- Board Member Towle asked if the rear bank would be affected. Discussion ensued. Mr. Maheux stated that the whole area identified within the construction zone depicted on the map would be lowered, but that there would be no work on the bank. The plan is based on contours.
- Chairperson Van Winkle asked what erosion control measures would be utilized. Mr. Maheux stated that plantings would be utilized and the swale would direct water.
- Chairperson Van Winkle asked for public comments. There were none.
- Chairperson Van Winkle provided a brief summary of the proposed subdivision and the process. The subdivision was classified as a minor subdivision.
- Mr. Maheux explained that his only question was with regard to the frontage requirement. The proposed lot has approximately 178 feet of frontage, which meets the requirements for the Underhill Flats Village Center district. The rear portion of Mr. Maheux's land is in the Rural Residential district, which requires 250 feet of frontage. Based on conversations with ZA/PA Papelbon, the proposal includes a 2-lot subdivision rather than a 3-lot subdivision.
- Chairperson Van Winkle asked whether the Jericho-Underhill Water District would provide water to service the subdivision, to which Mr. Maheux responded that it would. On-site wastewater disposal is also proposed, although the design has not yet been completed.
- Jeremiah Mahaney, neighbor for the next hearing, arrived.

- Board Member Chuck Brooks asked for clarification on the frontage. Mr. Maheux stated that it would be approximately 178 feet for the proposed new lot.

**7:42 PM:** Chairperson Van Winkle asked if the Board felt they had enough information to make a decision on the applications. The Board indicated that they did. Board Member Chuck Brooks made a motion, seconded by Board Member Will Towle, to close the evidentiary portion of the hearing and enter a deliberative session on the application following the final hearing of the evening. The motion was passed by all Board Members present.

**7:46 PM:** Chairperson Charles Van Winkle called the Goplen final subdivision hearing to order at the Underhill Town Hall.

**Applicant(s) Present:**

Brent Goplen (LE020)  
100 Minges Creek PL #F101  
Battle Creek, MI 49015

**Consultant(s) Present:**

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

**Others Present:**

Kathryn Barickman  
2 Lower English Settlement Rd.  
Underhill, VT 05489

Anne Jobin-Picard  
13 Lower English Settlement Rd.  
Underhill, VT 05489

Jeremiah Mahaney  
35 Sand Hill Rd.  
Underhill, VT 05489

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	Brent Goplen's Application for Subdivision: Final (dated 5-1-12)
ZA-2	A copy of the completed Subdivision Checklist: Final Hearing
ZA-3	A copy of the plans prepared by Gunner McCain of McCain Consulting, Inc. (Sheets S-1 (State) through S-4 revised 5-8-12, Sheets S-5 and S-6 dated 3-13-12, and Sheets SW-1 through SW-2 dated 12-8-11)

- ZA-4 A copy of the survey prepared by Keith Van Iderstine of McCain Consulting, Inc. (dated 5-8-12)
- ZA-5 A copy of the letter dated 4-6-12 from James Sandberg of the VT DEC Drinking Water and Groundwater Protection Division
- ZA-6 A copy of the Wastewater System & Potable Water Supply permit application and Certification Statement
- ZA-7 A copy of the letter dated 4-10-12 from Kristen Rose Howell of McCain Consulting, Inc. to Kevin Burke, Environmental Analyst, Stormwater Section, VT DEC
- ZA-8 A copy of the Notice of Intent for Stormwater Discharges Associated with Construction Activity on Low Risk Sites (Construction General Permit)
- ZA-9 A copy of the letter dated 4-11-12 from Peter Lazorchak of McCain Consulting, Inc. to Kevin Burke, Environmental Analyst, Stormwater Section, VT DEC
- ZA-10 A copy of the Notice of Intent to Discharge Stormwater
- ZA-11 A copy of the Subdivision Standards Findings Checklist
- ZA-12 A copy of the letter from Gunner McCain to ZA/PA Papelbon (dated 5-11-12)
- ZA-13 A copy of the Stormwater Treatment & Discharge Narrative (dated April 2012)
- ZA-14 Copies of the draft Goplen Subdivision Piney Grove Homeowners Association, draft Subdivision Deeds, and draft deed covenants
- ZA-15 A copy of the Access Permit
- ZA-16 A copy of the Preliminary Decision (dated 4-2-12)
- ZA-17 A copy of the minutes from the 2-6-12 and 2-27-12 Preliminary Hearings
- ZA-18 A copy of the hearing notice published in *Seven Days* on 5-16-12

- 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 interested parties present and entered the above items into evidence.
- Gunner McCain, consultant for Brent Goplen, provided a brief review of the project to date. No significant changes have been made since the preliminary approval. Per ZA/PA Papelbon's review, the building envelope on Lot 2 was adjusted to comply with setbacks, culverts are now shown on plans, a 75-foot "no-cut zone" is depicted per the DRB's requirements, a note on the plans states that wetland and buffer areas are open space, and an access permit from the Selectboard was issued.
- Board Member Chuck Brooks referred to Section E, page 7 of the Preliminary Decision. Mr. McCain stated that no new lawn areas are proposed in the wetland buffer, parcel codes and the private road name are on the plans, the state wastewater permit is in process as is the stormwater permit. Board Member Brooks asked what the survey note regarding bearings and distances subject to change on final plat meant. Mr. McCain explained that iron pins have

not yet been set, and that pins along internal boundary lines may be moved slightly due to, for example, the presence of a tree.

- Chairperson Van Winkle stated that stormwater was a concern and that his concern was for the integration of the subdivision stormwater plans with the existing Lower English Settlement stormwater plans prepared for the Town by Champlain Consulting Engineers in 2000. Chairperson Van Winkle continued that he reviewed the calculations and the subdivision plans state that there will be no undue adverse impact to the existing road drainage. Mr. McCain stated that while the project does not exactly match the study, it is consistent with the intent of the study including sizing of culverts.
- ZA/PA Papelbon explained that the proposed covenants in the Homeowners Association can only be enforced by the Association and not by the town. Discussion ensued. ZA/PA Papelbon stated that minor adjustments to the draft legal documents need to be made (road name, stormwater infrastructure maintenance requirements, tree-cutting plan, etc.). The letter from the UJFD is still valid. ZA/PA Papelbon asked why the driveway to Lot 1 is not proposed at 12' wide. Mr. McCain stated that such would be corrected. ZA/PA Papelbon asked Mr. McCain what his opinion would be of a condition to include a stormwater infrastructure easement to the Town since the proposed detention pond was very close to the town road. Discussion ensued.
- Chairperson Van Winkle asked for further public comments.
- Kathryn Barickman, 2 Lower English Settlement Rd., stated that she had received a letter regarding the wastewater disposal isolation area on her property and asked what that meant for development on her land. Mr. McCain stated that a drilled well could not be located in that area.
- Anne Jobin-Picard, 13 Lower English Settlement Rd., asked what HDPE culvert meant. Mr. McCain stated that it was High-Density Poly Ethylene (plastic). Ms. Jobin-Picard asked where that culvert would be placed. Mr. McCain stated that it was replacing the existing driveway culvert. Ms. Jobin-Picard asked about the driveway to Lot 1. Mr. McCain stated that no new curb cuts were proposed and that the Lot 1 driveway would come off of the existing driveway. Ms. Jobin-Picard asked for clarification on the wastewater disposal isolation area. Mr. McCain stated that it could extend onto someone else's land. Ms. Jobin-Picard asked what pond ZA/PA Papelbon was referring to with the proposed stormwater infrastructure easement. ZA/PA Papelbon stated it was the one closest to Lower English Settlement Rd. Ms. Jobin-Picard asked when the construction would begin. Mr. McCain stated that it may start during the present construction season assuming all permits are in place.
- Jeremiah Mahaney, 35 Sand Hill Rd., stated that he was told there was a period of time prior to his purchase of the land when there was a water shortage that necessitated the well to be dug deeper. He asked what analysis had been done to determine sufficient water supply for the subdivision. Mr. McCain stated that drilled well locations, depths, and yields were presented to the town in previous

hearings. He then explained sufficient yields for single-family houses. Mr. Mahaney asked how the tree-cutting would be communicated to buyers. ZA/PA Papelbon and the DRB stated that the restrictions would be in the deeds, the Homeowners Association documents, and the permit.

- Ms. Barickman asked what she should do if something happens to her shallow well. Discussion ensued. Mr. McCain suggested that she conduct a test and establish a base line prior to construction.
- Ms. Jobin-Picard asked for further clarification on the culverts. Discussion ensued. It was recommended that Ms. Jobin-Picard contact the Selectboard to discuss current drainage concerns.
- Sara and Brian Riley, Applicants for the final hearing arrive. Discussion continues.
- Mr. Mahaney asked whether, post-construction, there would be any negative impact to restricting cutting to the building envelopes. Mr. McCain stated there was significant concern and problematic in terms of land management for purchasers.
- Mr. McCain stated his concern for the fact that there was a bare quorum of DRB Members. Discussion ensued.

**8:34 PM:** Chairperson Van Winkle asked if the Board felt they had enough information to make a decision. The Board indicated that they did. Board Member Chuck Brooks 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.

Board Member Chuck Brooks made a motion, seconded by Board Member Matt Chapek, to enter a deliberative session after the final hearing of the evening. The motion was passed by all Board Members present.

**8:40 PM:** Chairperson Charles Van Winkle called the Brian and Sara Riley (HA101) Appeal/Variance Hearing to order at the Underhill Town Hall.

**Appellant(s) Present:**

Brian and Sara Riley  
101 Harvey Rd.  
Underhill, VT 05489

**Staff/Municipal Representatives Present:**

Kari Papelbon, Zoning & Planning Administrator

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	Brian and Sara Riley's Building Permit Application
ZA-2	A copy of the appeal letter from Brian and Sara Riley (dated 5-16-12)
ZA-3	A copy of the tax map for HA101

ZA-4 A copy of the hearing notice published in *The Burlington Free Press* on 5-19-12

- Chairperson Van Winkle began the meeting by explaining the procedure for the hearing, which comes under the 2012 Unified Land Use and Development Regulations. He then swore in interested parties present and entered the above items into evidence.
- Sara Riley explained that the 2000 decision by the Zoning Board allowed for the future construction of a 15'x20' carport addition to their house. The house is above the 1500' elevation and requires board approval to change the size now needed to 16'x30'. Brian Riley is a disabled military veteran and uses a specially modified vehicle. The larger foot print is to accommodate the higher ceiling required to meet the height of the lift mechanism of Brian's accessible vehicle.
- Kari Papelbon asked Sara and Brian if the garage size variance request is big enough to assure that the vehicle will fit the space.
- Sara replied that the contractor will measure and confirm the size of the vehicle.
- All present agreed that 20'x40' would be acceptable for the footprint of the carport to allow for any additional requirements of the specifications of the vehicle and for accessibility.

**8:52 PM:** Chairperson Van Winkle asked if the Board would like to deliberate in open or closed session. The Board indicated that they wished to deliberate in open session.

**8:55 PM:** Board Member Chuck Brooks made a motion, seconded by Board Member Will Towle, to approve of the applicants appeal for the 20'x40' variance. The motion was passed by all Board Members present. Board member Will Towle suggested the variance should say "grandfathered and granted".

The Board continued closed deliberations on the Maheux and Goplen applications, signed minutes and a decision, and discussed their upcoming schedule.

**9:40 PM:** End of meeting.

These minutes of the 6-4-12 meeting of the DRB were accepted

This 21<sup>st</sup> day of June, 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.*