

**Town of Underhill
Development Review Board Minutes
February 3, 2014**

Board Members Present:

Charles Van Winkle, Chairperson
Mark Hamelin
Matt Chapek
Karen McKnight
Penny Miller
Will Towle
Shanie Bartlett (Alternate)

Others Present:

Cliff Peterson
Anne Jobin-Pickard
Jon Anderson (Esquire -Goplen/Developer)
Jerimiah Mahoney
Andy Rowe P.E. (Consultant-Allendorf/Appellant)
Gunner McCain (Consultant-Goplen/Developer)
Zack Tellstone
Charlie Spence
Doug Robie
Seth Friedman (Selectboard Member)
Peter Mutolo
Helen Wagner
Bella Goplen
Tim Eustis (Esquire --Allendorf/Appellant)
James Barickman
Larry Young (Consultant --A.Grab- 2nd Hearing)

Staff/ Municipal Representatives Present:

Brian Bigelow, Town Administrator
Sarah McShane, Zoning & Planning Administrator

Applicant(s) Present:

Grant Allendorf (Appellant)
Susan Allendorf (Appellant)
Brent Goplen (Developer)
Andrew Grab (Applicant for 2nd Hearing)

Allendorf Appeal (6:30 PM):

- DRB members reviewed appeal documents provided by the Zoning Administrator. These documents are available for public viewing at Town Hall.
- Chairperson Van Winkle began the meeting by explaining the procedure for the public hearing which comes under the 2012 Unified Land Use and Development Regulations. He explained the appeal process as defined in the Unified Land Use regulations. Chairperson Van Winkle reviewed the definition of interested party.
- Tim Eustis (Esquire for Appellant/Allendorf) and Andy Rowe P.E. (Consultant for Appellant/Allendorf) were present to represent the Allendorf's. T.Eustis Esq. began by explaining his client's position and that the Certificate of Compliance should not have been issued by the Town. He mentioned that his client purchased the property in March 2013 and has since seen significant damage from stormwater.
- Jon Anderson (Esquire for Developer/Goplen) spoke on behalf of his client Brent Goplen. J.Anderson Esq. told the DRB that the stormwater system was built according to the approved design.
- A.Rowe P.E. (Consultant for Appellant/Allendorf) told the Board that the primary issue is the construction of the stone lined ditch and grass swale on the Allendorf property. Neither were parts of the approved plans. The depth of the stone lined ditches along the shared driveway was also discussed. A.Rowe P.E. supplied the Board with a photograph dated January 2014 of the Allendorf property.
- Grant Allendorf (Appellant) showed several videos displaying stormwater damage on his property.
- Gunner McCain (Consultant for Developer/Goplen) spoke on behalf of Brent Goplen. G. McCain provided a chart displaying recent rainfall events in Underhill. The chart indicated that it was the wettest season in Underhill's history. He said that additional stormwater controls were built to address issues that arose and that it is standard practice to address issues as they arise.
- J.Anderson (Esquire for Developer/Goplen) stated that major storms during construction caused the erosion problem. Additional items were constructed to help solve the problem.

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- Acting Administrative Officer Brian Bigelow stated that he agreed that the stormwater system is not identical to the approved plans; however the changes were not intended to cause damage. He stated that he did not feel the need to hire an outside engineer. The State issued the stormwater permit and an engineer certified that it was constructed in accordance to the approved permit.
- Susan Allendorf (Appellant) said that there are two large culverts aimed at her son's house and its Goplen's responsibility to take care of the water and have a plan for the water.
- Will Towle stated that the State is in charge of enforcing the performance of the stormwater system and the DRB needs to determine whether the permit issued by the DRB is in compliance.
- Charles Spense (241 Spense Road, Huntington) stated that the original plans had no ditch; there were no problems until the ditch.
- T.Eustis (Esquire for Appellant/Allendorf) stated that they did not have authorization to install the stone lined ditch because the easement references the old plans. The ditch was not on the original plans and is not part of the common infrastructure.
- Peter Mutolo (184 VT Rt. 15, Jericho) said that he owns Lot 5 next to Allendorf. P. Mutolo asked, what is the process of reviewing material and making a decision?
- Chairperson Van Winkle told attendees that the hearing is an appeal of the Acting Administrative Officer's decision to issue the Certificate of Compliance. The Board is required to make a decision within 45 days after hearing all of the evidence.
- Anne Jobin Pickard (13 Lower English Settlement Road) told the Board that she has increased groundwater issues with her property and drainage issues. It has decreased her property value and she is worried about opening up the culvert and diverting water towards her property.
- Zack Tellstone (2 Piney Grove) told the Board that he was happy to hear the culvert may be opened up. He has 2 acres of land under water. He would like the culvert opened so the water can drain. The water is overflowing out of the retention pond.
- Seth Friedman (Selectboard Member) told the Board that he had visited the site five times in all weather conditions. The rainfall events this past spring were not normal. Plans are only as good as plans. The engineer may not have foreseen the problem and tried to fix the issue. He sympathizes for both parties.
- Doug Robie (11 Lower English Settlement Road) told the Board that it is crazy to direct water towards a house. He does not want the culvert unplugged.
- Penny Miller stated that the design was approved, the question is was it built to design?
- W.Towle stated that there needs to be some latitude to vary from the plans because nothing is ever built 100% according to plan. The DRB does not have jurisdiction on septic or stormwater permits.
- G. McCain (Consultant for Developer/Goplen) told the Board that Lower English Settlement Road had existing drainage issues and water has been ponding there for years. G. McCain provided an email dated Jan. 31, 2014 from Helen Carr for the record.
- S.McShane (PZA) read written comments submitted by Lisa Dame (2 Piney Grove Lane).
- Chairperson Van Winkle asked Board members if they needed to schedule a site visit. Board members determined that a site visit was necessary. A site visit was scheduled for Saturday February 8, 2014 at 9:00 a.m. Those interested in attending were encouraged to meet at Town Hall at 9:00 a.m. and depart Town Hall at 9:15 a.m. to visit the site. Testimony will not be accepted at the site visit. The Allendorf Appeal hearing will continue on Monday February 24th at 6:40 pm at Town Hall.
- Jeremiah Mahamy (35 Sand Hill Rd) told the Board that he is experiencing the opposite problem on the other side of the hill and their well dried up after the project.
- Chairperson Van Winkle stated that they will close the evidentiary hearing on February 24th and start deliberation. The Board has 45 days from February 24th to make a decision.

Grab Final Subdivision Application

- Chairperson Van Winkle began the meeting by explaining the procedure for the public hearing, which comes under the 2012 Unified Land Use and Development Regulations. He explained the Final Subdivision Application process as defined in the Unified Land Use regulations.
- DRB members reviewed the Grab Final Subdivision documents provided by the Zoning Administrator. These documents are available for public viewing at Town Hall.
- W.Towle was not part of the Grab preliminary hearing decision and excused himself from the hearing.
- Andrew Grab and Larry Young (Consultant) provided an overview of the proposal which includes creating a 2 Lot subdivision of property he owns at 449 Irish Settlement Road in Underhill, VT.
- The subdivided lot is for a single dwelling with a maximum of four bedrooms and a drilled well.
- S.McShane (PZA) told the Board that the applicant has received an approved access permit from the Selectboard and reconfigured the rear/side setback to meet the requirements.
- Chairperson Van Winkle closed the evidentiary portion of the hearing.
- P.Miller recommended the Board discuss the application in open session. Members concurred.
- P.Miller made a motion to approve the Grab Final Subdivision application. Matt Chapek seconded the motion. The Board unanimously approved the Grab Final Subdivision application.
- Chairperson Van Winkle stated that the DRB will issue a written notice of decision. The decision has a 30 day appeal period. The decision will be signed at the next DRB hearing on February 24th. The 30 day appeal period will begin at that time.

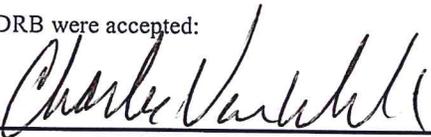
Other DRB Issues:

- DRB members scheduled the next DRB Hearing for Feb 24th at 6:00 pm.
- S.McShane (PZA) stated that the next DRB meeting agenda includes a sketch plan application, final subdivision application, as well as continuation of the Allendorf appeal at 6:40 pm.
- Adjournment: Motion to adjourn was made by Matt Chapek. Board member Marc Hamelin seconded. All board members present voted to adjourn.
- Meeting adjourned at 9:35 pm.

Respectfully submitted by:
Sarah McShane, PZA

These minutes of the 02-03-14 meeting of the DRB were accepted:

This 17 day of April, 2014.



Charles Van Winkle, Chairperson, DRB

