

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

September 20, 2010

Board Members Present:

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

Also Present:

Kari Papelbon, Zoning & Planning Administrator

6:15 PM: Site Visit at 647 Poker Hill Road commenced. All Board Members with the exception of Charlie Van Winkle attended. ZA Papelbon, Consultant Peter Lazorchak, and two neighbors also attended.

7:07 PM: Chairperson Scott Tobin called the Shapiro preliminary subdivision hearing to order.

Consultant Present:

Peter Lazorchak
McCain Consulting, Inc.
93 South Main St., Ste. 1
Waterbury, VT 05676

| Identifier: | Contents: |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| ZA-1 | Elena Shapiro's Application for Subdivision: Preliminary (dated 9-3-10) |
| ZA-2 | A copy of the completed Subdivision Checklist: Preliminary Hearing |
| ZA-3 | A copy of the plans prepared by Peter Lazorchak of McCain Consulting, Inc. for Elena Shapiro (Sheets 1-3 dated 8-31-10) |
| ZA-4 | A copy of the preliminary survey prepared by Keith Van Iderstine of McCain Consulting, Inc. for Elena Shapiro (dated 9-2-10) |
| ZA-5 | A copy of the letter from Peter Lazorchak of McCain Consulting, Inc. to Mike Adams of the Army Corps of Engineers (dated 9-2-10) |
| ZA-6 | A copy of the letter from Nicole MacHarg to Randy Clark, Chief of the UJFD (dated 9-2-10) |
| ZA-7 | A copy of the letter from Nicole MacHarg to James Massingham, Co-Superintendent of Chittenden East Supervisory Union #12 (dated 9-2-10) |
| ZA-8 | A copy of the letter from Nicole MacHarg of McCain Consulting, Inc. requesting a waiver of the bonding requirement (dated 9-3-10) |
| ZA-9 | A copy of the USGS Map with local well yields |
| ZA-10 | A copy of the draft Findings of Fact |

- ZA-11 A copy of the tax map for PH647
- ZA-12 A copy of the minutes from the 7-19-10 Sketch Plan Meeting
- ZA-13 A copy of the confirmation email for the hearing notice to published in the Burlington Free Press (9-3-10)
- S-1 A copy of the School Impact Questionnaire completed by John Alberghini, Superintendent of Schools (dated 9-8-10)

- Chairperson Tobin began the meeting by explaining the procedure for the preliminary hearing. He then swore in all interested parties and entered the above items into record.
- Peter Lazorchak, consultant for Elena Shapiro, provided an overview of the proposed 2-lot subdivision of a ±10-acre lot into a 6.8-acre lot and a 4.1-acre lot. Mr. Lazorchak explained that the acreages changed slightly to include land to the centerlines of the rights-of-way and deed restrictions. The force main was moved at the DRB's request, which removed the need for a sewer easement, and the well was moved as far as possible to keep most of the well shield on Lot 2. The culvert was sized and the building envelope was defined from sketch plan.
- Board Member Charlie Van Winkle asked what waiver was being requested. Mr. Lazorchak stated that the request was for a 50-foot waiver of the wetland setback. He then explained the new State wetlands rules. Board Member Penny Miller asked if most Class III wetlands would turn into Class II wetlands. Mr. Lazorchak stated they would. Board Member Miller asked if the State's 50-foot buffer would stay the same, to which Mr. Lazorchak replied that it would but there was discretion for the State to increase the buffer. The process would be similar to application for a Conditional Use Determination. Should the State determine that the wetlands for this project were Class II wetlands, a permit would be sought. Mr. Lazorchak added that the State may require the well to be moved and the force main may have to be placed on Lot 1. All issues will be resolved for final.
- Board Member Miller asked ZA Papelbon if the DRB could approve of a variance to the wetland buffer if the State did not. ZA Papelbon explained that the Town's buffer is 100 feet and if the State did not approve of disturbance within their buffer, the DRB could not approve of such. A brief discussion ensued, where Mr. Lazorchak stated that the DRB could technically approve of the disturbance even if the State did not, but the project would not have all of its required permits. ZA Papelbon added that in such cases, there would be no point to the DRB approving of a variance for which the State did not grant approval.
- Chairperson Tobin explained that the request for a waiver would actually be a variance and explained the difference between the two. Essentially, the DRB can only grant waivers in a PRD.

- Board Member Van Winkle asked how large the wetland impact was. Mr. Lazorchak stated that the total combined impact to the wetland and stream is 1140 square feet. He then explained the Army Corps of Engineers requirements for permitting, and stated that a written determination from the Corps on the stream crossing culvert.
- Chairperson Tobin asked if the culvert was a natural bottom, Quansot hut-shaped structure, to which Mr. Lazorchak replied it was.
- Board Member Chuck Brooks asked about the note on the site plan that states “The 25-foot leachfield to property line setback to be forgiven.” Mr. Lazorchak explained that Lot 1 would be forgiving the setback, which would be closer than 25 feet. ZA Papelbon asked if that was per the State’s rules. Mr. Lazorchak replied that it was.
- Board Member Brooks asked about another note regarding an access easement, but asked if was going to be delineated on the map. Mr. Lazorchak explained that it was noted on the plans because it would be easier for construction vehicles to access Lot 2 over Lot 1 to construct the septic system. Board Member Brooks requested it to be included on the map and in the deeds.
- Board Member Van Winkle asked how much water the culvert could carry. Mr. Lazorchak stated it could carry water from a 500-year storm. The Army Corps of Engineers’ rules for natural-bottom culverts could result in an oversized culvert. Mr. Lazorchak added that for this stream, overdesign might not be a detriment. Board Member Van Winkle asked how much water would back up in a 10-year storm. Mr. Lazorchak stated that there would not be any water backed up, even in a major storm. Board Member Van Winkle asked what the amount of rainfall constitutes a 500-year storm. Mr. Lazorchak did not have the exact numbers.
- Board member Miller asked if a replacement system was required. Mr. Lazorchak stated that there are two options under the State’s rules for not needing to identify a replacement area: design a mound system, which can be rebuilt, or overdesign a leachfield system to 150% of what is needed. Lot 2 is designed with a mound system.
- Board Member Charlie Van Winkle asked what the benefit was for using a Bio Filter. Mr. Lazorchak responded that it was a reduction in size and reduction in separation from the bottom of the system to the groundwater table. Board Member Miller asked why a Bio Filter was not included with every septic system, to which it was stated that they are expensive.
- ZA Papelbon asked if the 1988 basis used for the survey was also used for the site plan. Mr. Lazorchak stated that they are both magnetic north, but that the 1988 was the difference between true and magnetic north. The 1988 was the survey used as a base for the new survey.

- Board Member Van Winkle asked if the lot was originally created through a PRD, to which Mr. Lazorchak replied it was not.
- Board Member Will Towle asked if there was a rationale for the restrictive covenant. Mr. Lazorchak stated that as far as he knew it was arbitrary.
- ZA Papelbon stated that the wetland buffer was difficult to distinguish from the wetland boundary on the survey. She requested a more distinctive line. Mr. Lazorchak agreed and suggested adding a wetland symbol.
- ZA Papelbon asked if the proposal included a drainage ditch or swale around all areas of disturbance. Mr. Lazorchak stated that the line type is actually supposed to be limits of disturbance, but the legend referred to it as a ditch/drainage swale.
- ZA Papelbon asked if there was another existing overhead power supply. Mr. Lazorchak stated did not have an answer yet and would have to talk to the power company to determine whether overhead or underground power would be best for the site.
- ZA Papelbon stated that the plans show a 50-foot stream buffer. While this is not an issue since the proposed house site is located more than 100 feet from the stream, but ZA Papelbon asked if it could be clarified that this is not the Town's buffer. Mr. Lazorchak asked how the DRB would like that to be clarified. ZA Papelbon recommended a note. She then stated that there were two stone walls seen at the site visit on the proposed Lot 2, and asked if they were historic and if there were any issues with disturbing them. A brief discussion of whether historic stone walls were protected ensued. Mr. Lazorchak stated that they try not to disturb them, but for a crossing they will.
- ZA Papelbon asked for the notes at the bottom of the site plan to clarify that they are State setbacks. She then asked if Mr. Lazorchak could explain how it was determined that the property extended to the centerlines of the rights-of-way. Mr. Lazorchak stated that Keith Van Iderstine, the surveyor, conducted research that led him to conclude that the Town did not own the land but rather had a right-of-way over that part of Poker Hill Road.
- ZA Papelbon stated that the last thing she needed was a formal variance request with justification, and that she could speak to Nicole McHaarg.
- Board Member Brooks asked what variances were requested in addition to the waiver of the bonding requirement. It was explained that 50-foot variances for the wetland setback on the north, west, and east sides of the building envelope were required. Board Member Towle asked if there was any other buildable area on the land, to which Mr. Lazorchak replied that there was not due to the presence of wetlands on the property.
- Chairperson Tobin asked Mr. Lazorchak to review with the DRB the proposed Findings of Fact. Where waivers are mentioned, they should be changed to

variances. Number 2 should be reworded for clarity. Number 4 should include references to the wetlands and Army Corps of Engineers permit guidelines.

7:57 PM: Chairperson Scott Tobin asked if the Board felt they had enough information to make a decision on the application. The Board stated that they did. Chairperson Tobin stated that the evidentiary portion of the hearing was closed. Board Member Charlie Van Winkle made a motion, seconded by Board Member Chuck Brooks, to enter a closed deliberative session. The motion was passed by all Board Members present.

8:27 PM: Board Member Charlie Van Winkle made a motion, seconded by Board Member Will Towle, to move into open session. The motion was passed by all Board Members present. Board Member Charlie Van Winkle made a motion, seconded by Board Member Chuck Brooks, to approve the preliminary application with conditions. The motion was passed by all Board Members present.

Conditions:

1. Provide a written variance request with justification.
2. Submit a determination from the State on the class of the wetlands.
3. Submit letters from the UJFD and Army Corps of Engineers.
4. Provide evidence of submission of applications to the State for all required permits.
5. Revise the survey to clarify the wetland boundary and buffer lines.
6. Change the legend on the site plan to reflect the limits of disturbance.
7. Provide information on proposed utility locations and easements.
8. Include a note on the site plan to clarify that the 50-foot stream buffer depicted is for State permitting purposes. Also clarify that the setbacks listed on the bottom of the site plan are for State septic permitting.
9. Revise the Findings of Fact: reword #2 for clarity, change "waiver" to "variance," and include information about wetlands and Army Corps of Engineers permitting requirements in #4. Also revise #5 to include a statement acknowledging the variance request.
10. Provide draft easement and shared maintenance agreements.

The DRB signed minutes and discussed the proposed unified bylaw.

9:14 PM: Meeting adjourned.

These minutes of the 9-20-10 meeting of the DRB were accepted

This _____ day of _____, 2010.

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.