

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

July 18, 2011

**Board Members Present:**

Will Towle  
Matt Chapek  
Penny Miller  
Peter Seybolt  
Charles Van Winkle, Chair

**Also Present:**

Kari Papelbon, Zoning & Planning Administrator; Marcy Gibson, Applicant

**6:10 PM:** Site Visit at 50 New Road commenced.

**6:20 PM:** Site Visit ended. Returned to Town Hall.

**6:31 PM:** Chairperson Charles Van Winkle called the James and Jennifer Bedell 2-lot subdivision sketch plan meeting to order at the Underhill Town Hall. All Board Members who attended the site visit and Zoning & Planning Administrator Papelbon attended the hearing.

**Applicant Present:**

James Bedell  
35 Tupper Rd.  
Underhill, VT 05489

**Other(s) Present:**

John and Rita Finlay  
33 Tupper Rd. and 18 Tupper Rd.  
Underhill, VT 05489

Tom Thomas  
29 Tupper Rd.  
Underhill, VT 05489

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	James and Jenny Bedell's Application for Subdivision: Sketch Plan (dated 4-27-11);
ZA-2	A copy of the completed Subdivision Checklist: Sketch Plan;
ZA-3	A copy of the site plan

- Chairperson Van Winkle began the meeting by explaining the procedure for the sketch plan review.
- James Bedell, Applicant, provided an overview of his plans to create a 3-acre parcel in the Rural Residential zoning district.
- Chairperson Van Winkle asked if access will be provided to the new lot via the existing driveway, to which Mr. Bedell replied that it would if that is what the DRB would like.
- ZA/PA Papelbon explained that there is a waiver request per Section 3.7(E)(3) regarding the acreage as the land is in two districts. In order to qualify, the lot must be accessed by a shared driveway. A discussion of the waiver ensued.
- Chairperson Van Winkle asked how the prime ag soils related to the application and the regulations. ZA/PA Papelbon stated that while she wasn't clear about the Statewide classification of prime ag soils, ag soils are located throughout town and the parcel under review is not used for agriculture. She stated that the regs say to avoid them whenever viable and preserve agricultural land and soil.
- Chairperson Van Winkle asked why the septic system would not meet riparian setbacks. ZA/PA Papelbon stated that a location had not yet been identified, but the setback from a seasonal stream is 25 feet.
- Discussion of the existing conditions on the lot and the shared access ensued. As three lots would be utilizing the access, it would not need to be brought up to road standards. It would have to comply with driveway standards.
- Chairperson Van Winkle asked for public comment.
- John and Rita Finlay, 33 Tupper Road and 18 Tupper Road, own property on two sides of the Bedell property. Mr. Finlay stated that they support the proposed subdivision. Board Member Will Towle asked if there was a road agreement. The Finlays stated that the access is written in the deeds and mentioned that 33 Tupper Road is a rental property. Board Member Towle asked if they would be amenable to signing a shared access maintenance agreement. The Finlays stated they would.
- Tom Thomas, 29 Tupper Road, stated that he was opposed to the project and expressed concerns about the traffic on Tupper Road, Upper English Settlement Road, and the existing shared driveway. He expressed disappointment with the Town for allowing the McClellan Farm development to occur without upgrades to Upper English Settlement Rd. Mr. Thomas wondered how much traffic the road could sustain and stated that there are 2 blind curves and driveways on Tupper Road with cars going excessively fast. He stated that the curb cut for the shared driveway would be better located on the Class IV portion of Tupper Road.

- Board Member Penny Miller asked if the shared driveway was the last driveway before the Class IV portion of the road. It was stated that it was and that the Town plows turn around at the Bedell driveway.
- Board Member Will Towle asked what made the existing traffic on the shared driveway excessive. Mr. Thomas stated that it was his opinion and that there are up to 4 cars per house using the driveway. Ms. Finlay added that the house at 33 Tupper Road used to be empty and is now a rental property.
- Chairperson Van Winkle stated that traffic is usually expressed in trip ends per household. Mr. Thomas questioned whether Tupper Road was built to handle the traffic. Board Member Towle asked how many driveways were on the Class IV section. It was stated that there was only one. Chairperson Van Winkle reviewed Mr. Thomas' concerns.
- ZA/PA Papelbon stated that the Road Foreman and Selectboard would be consulted with regard to traffic for the project.
- Mr. Thomas asked when the preliminary hearing would be held. Chairperson Van Winkle explained the hearing process.

**7:04 PM:** Chairperson Van Winkle asked if there were further questions or comments. There were none. Chairperson Van Winkle asked if the Board had enough information to make a decision on the application. The Board indicated that they did. Board Member Peter Seybolt made a motion, seconded by Board Member Will Towle, to enter a deliberative session on the proposal. The motion was passed by all Board Members present.

Chairperson Van Winkle provided another overview of the process. James Bedell, John and Rita Finlay, and Tom Thomas left at this point.

**7:06 PM:** Chairperson Charles Van Winkle called the Marcy Gibson subdivision revision combined sketch plan meeting and preliminary hearing to order.

**Applicant Present:**

Marcy Gibson  
50 New Rd.  
Underhill, VT 05489

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	Marcy Gibson's Application for Subdivision: Preliminary (dated 7-4-11)
ZA-2	A copy of the completed Subdivision Checklist: Preliminary;
ZA-3	A copy of relevant sections of the Subdivision Standards Findings Checklist;
ZA-4	A copy of the driveway design prepared by Larry Young of Summit Engineering, Inc. (Drawing No. S1 and P1 dated 6-27-11);
ZA-5	A copy of the 2008-approved site plan prepared by Peter Lazorchak of McCain Consulting, Inc. (Sheet 1 of 2 revised 12-6-07);
ZA-6	A copy of the 2008-approved survey prepared by Carroll A. Peters (revised 12-3-07);

ZA-7            A copy of the Subdivision Permit (effective date 3-1-08);  
ZA-8            A copy of the tax map for NR050;  
ZA-9            A copy of the hearing notice (published in the Burlington Free Press on 7-1-11)

- Chairperson Van Winkle began the meeting by explaining the procedure for the hearing. He then swore in interested parties.
- Chairperson Van Winkle disclosed that he spoke to Jim Bedell, contractor for the Applicant, regarding the project and stated that there would be a hearing. He explained that the Town Attorney had given an opinion which required a hearing. Chairperson Van Winkle then entered the above items into record.
- Marcy Gibson, Applicant, provided an overview of her plans to move the driveway and curb cut for better sight distance and improved access.
- ZA/PA Papelbon stated that the Road Foreman recommended 5"-7" stone for the check dams. She added that the Selectboard was invited to the site visit and hearing, but they will review the application at their next meeting on Thursday. ZA/PA Papelbon recommended that the Board consider this their final review based on her conversation with the Town Attorney.
- Chairperson Van Winkle stated that stone size should be selected by the contractor.
- Board Member Will Towle asked if there were legal documents on file for the shared driveway. Ms. Gibson explained that a shared agreement is on file as part of the subdivision.
- Chairperson Van Winkle stated that ZA/PA Papelbon noted the abutters were missing on the site plan, but he was ok with that as they are shown on the plat.
- A brief discussion of the culvert and the required size ensued.
- Chairperson Van Winkle asked if the Board felt that they had enough information to make a decision.
- Board Member Towle asked if the proposed location for the new driveway was on the property line. Ms. Gibson explained that the right-of-way extends to the edge of the property. Board Member Towle asked how far the centerline of the proposed driveway was from the property line, to which Ms. Gibson stated that it was approximately 25 feet.
- Discussion of process began.

**7:22 PM:** Board Member Will Towle made a motion, seconded by Board Member Peter Seybolt, to close evidence. The motion was passed by all Board Members present. A discussion of process continued.

**7:23 PM:** Board Member Will Towle made a motion to enter a deliberative session. There was no second. The motion failed. The discussion of process continued. Chairperson Charles Van Winkle made a motion, seconded by Board Member Peter Seybolt, to approve the application. The motion was passed by all Board Members present with the exception of Board Member Will Towle (who voted nay).

Marcy Gibson left at this point. The DRB took a break.

**8:04 PM:** Chairperson Charles Van Winkle called the Brent Goplen 5-lot subdivision sketch plan meeting to order.

**Consultant Present:**

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

<b>Identifier:</b>	<b>Contents:</b>
ZA-1	Brent Goplen's Application for Subdivision: Sketch Plan (dated 6-27-11);
ZA-2	A copy of the completed Subdivision Checklist: Sketch Plan;
ZA-3	A copy of the sketch plan prepared by Gunner McCain of McCain Consulting, Inc. (Sheet S-1 dated 6-15-11);
ZA-4	A copy of the ANR Well Locator Map (printed 10-27-10) with the Nearby Drilled Wells list;
ZA-5	A copy of the ANR Environmental Interest Locator Map (printed 7-7-10);
ZA-6	A copy of the Brent Goplen Response to Article VIII for Sketch Plan Application
S-1	A copy of the revised sketch plan (dated 7-18-11)

- Chairperson Van Winkle began the meeting by explaining the procedure for the sketch plan review.
- Gunner McCain, Consultant for Brent Goplen, provided an overview of the project. The proposal is for a 5-lot conventional subdivision, which was revised to remove the corner lots. Setback lines were also revised. Lot 1 now has all of the frontage along Lower English Settlement Rd. The proposed road was straightened and is now at 12%. Mr. McCain stated that the current layout could have been addressed with the previous application. Discussion of the previous application ensued.
- Board Member Peter Seybolt asked Mr. McCain to explain the changes to the road from the previous application. Mr. McCain stated that the old road had 5 "s" curves, while the new road has 2 gentle curves. Mr. McCain asked for input on the width of the road, which he stated is only for the first section of 30' as the remaining lots were served by a shared driveway.

- Chairperson Van Winkle asked if the proposal was for a conventional subdivision. Mr. McCain replied that it was, with a dead-end lot at Lot 5. Lot 5 would require a waiver of the frontage requirement.
- Board Member Penny Miller asked why the proposal removed the corner lots. Mr. McCain stated that 300 feet of frontage on both corners would be required, and the desire was to avoid waiver requests.
- Board Member Will Towle stated that he did not read the frontage requirements the same way and that he would be in favor of approval for infill development. Discussion of alternate lot line layout, frontage, and shared driveways ensued.
- Board Member Seybolt asked what changed with the grade of the road. Mr. McCain stated that the grade is at 12%.
- Board Member Miller asked about the contours. Mr. McCain explained the contours.
- Mr. McCain explained that stump dumps are shown on the plan as there will be a large number of stumps from the development and will cost less to keep them onsite. Mr. McCain stated that they will not be used for or affect the proposed road.
- Discussion of the road as it relates to contours, cuts, and fills ensued.
- Chairperson Van Winkle explained his concerns from the previous application, which were mainly for the road.
- Board Member Towle requested that the road and driveways be clearly flagged for the site visit. Discussion of frontage and road vs. driveway standards ensued.
- Discussion of the project compared to the previously-submitted (and denied) project ensued.
- Chairperson Van Winkle stated that the lot lines are awkward. Mr. McCain stated that he would present revised lot lines for the preliminary hearing.
- Board Member Miller asked for clarification on where the wastewater disposal isolation area for Lot 2 was located. Mr. McCain explained that the septic shield is not shown and how shields are determined.
- Chairperson Van Winkle suggested that Board Members express their concerns to be addressed in preliminary plans. He stated his concern is for the road. Board Member Miller stated her concerns are for the disturbance, especially along the road, and erosion due to tree clearing. Board Member Chapek stated that his concern is for aesthetics. Board Member Seybolt stated he did not have a problem with the proposal, but he would like to walk the property. Specific items to be addressed on preliminary plans include the aesthetic impact of the proposal, the road design, and clearing limits.

- Chairperson Van Winkle asked if Lot 1 is necessary. Mr. McCain explained that it is a nice lot and that the Applicant wishes to keep it as a separate lot.
- Board Member Towle asked for lots to be flagged with numbers, driveways, and the access road for the site visit.

**9:02 PM:** Chairperson Van Winkle asked for a motion. ZA/PA Papelbon asked whether DRB would consider the proposal to be a major or minor subdivision. The Board indicated that it would be a major subdivision and agreed that it generally conforms to the regulations with the understanding that the Board will provide additional comments. Chairperson Van Winkle stated that the specific areas of concern thus far are the aesthetic impact on surrounding areas, roadway design, erosion control, and the definition of clearing limits. Board Member Towle added his request for flagging the aforementioned areas for the site visit. A discussion of waivers and frontage ensued.

**9:09 PM:** Board Member Will Towle made a motion, seconded by Board Member Matt Chapek, to approve the proposal as discussed with recommendations. The motion was passed by all Board Members present.

Gunner McCain left at this point and the Board continued their closed deliberations on the Bedell sketch plan.

**9:41 PM:** Board Member Peter Seybolt made a motion, seconded by Board Member Matt Chapek, to move into open session. The motion was passed by all Board Members present. Board Member Matt Chapek made a motion, seconded by Board Member Peter Seybolt, to accept the Bedell sketch plan with the following:

1. The project will be reviewed as a minor subdivision.
2. The waiver request under Section 3.7(E)(3) is approved with the requirement for a shared driveway.
3. No waiver request of the preliminary hearing was submitted; therefore, there will be a preliminary hearing and a final hearing.

The Board signed minutes and a decision.

**9:43 PM:** Adjourn.

These minutes of the 7-18-11 meeting of the DRB were accepted

This \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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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.*