



Town of Underhill

P.O. Box 120, Underhill, VT 05489

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Notice of Zoning Violation
Various Tasks Performed without Zoning Permits
Sent via Certified Mail, Return Receipt Requested

October 11, 2018

Jared & Dana LeBlanc
 407 Poker Hill Road
 Underhill, VT 05489

To Whom It May Concern:

Pursuant to the 2018 *Underhill Unified Land Use & Development Regulations*, this zoning violation letter is being issued under § 10.6 and 24 V.S.A. § 4451 for the placement of a tiny house without the proper permitting, the construction of a shed without the proper permitting, as well as the extension of a driveway without the proper permitting.

Section 10.1.A, Permit Requirements, of the 2018 *Underhill Unified Land Use & Development Regulations* (ULUDR) states the following:

“No land development . . . as defined under Section 11.2, may commence in the Town of Underhill until all applicable municipal land use permits and approvals have been issued.”

“Land development” is defined in Article XI as:

“The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure”

Furthermore, Section 3.22 of the ULUDR outlines the standards pertaining to tiny houses, which have been transcribed directly below:

Section 3.22 Tiny Houses

- A. For Purposes of these regulations, tiny houses, whether mobile or non-mobile, shall meet the same standards as either a single-family dwelling or accessory dwelling meant for permanent occupation, and not as a temporary structure or use unless specifically permitted as such under Section 4.19.

- B. (Omitted)

TOWN CLERK'S OFFICE
 Received OCT 11, 2018 10:30 AM
 Recorded in VOL: 240 PG: 288 - 291
 Of Underhill Land Records
 ATTEST: Sherril Morin, Town Clerk

In regards to the circumstances relating to your property, since a single-family dwelling already exists, the tiny houses that was placed is considered “land development,” and is to be treated as an accessory dwelling, thus requiring conditional use review by the Development Review Board per Section 4.15.A.2, which states:

- C. **Detached Accessory Dwellings.** A detached accessory dwelling may be allowed in any zoning district in which a single-family dwelling is allowed as a permitted use in an existing accessory structure so long as the accessory structure is not enlarged or expanded, or subject by conditional use review by the Development Review Board under Section 5.4 if the detached accessory dwelling requires the construction of a new accessory structure or the expansion of an existing structure. All detached accessory dwellings are subject to the following requirements: (subsequent standards have been deliberately omitted). *[Emphasis Added]*

Moreover, when reviewing your zoning file, as well as the Lister’s Card pertaining to your property, the shed depicted in the attached photograph appears to have been recently constructed without the proper permitting as well.

Also be aware that the extension/modification of the driveway to access the tiny house is in violation of the Town’s Road, Driveway and Trail Ordinance, specifically Section 3.B.iii, which states:

“This ordinance applies to: (iii) a change of use of a development road or driveway. A change of use includes, without limitation, any increase in the length or alignment of a traveled way . . .” *[Emphasis Added]*

As a result, the extension of the driveway undertaken to access the tiny house requires an access permit from the Selectboard.

You should also be aware that a previous site plan in the zoning file for your property illustrates that there are wetlands in the vicinity of the various project areas. Due to the presence of wetlands, and the lack of a definitive plan illustrating the recently placed tiny house, shed and driveway relative to these features, you will have the burden of proving that the tiny house is not located within the wetlands and their associated buffers. Since the plans are from 2005, there is a possibility that the wetlands have shifted, and therefore, a new delineation is likely to be required.

In addition to wetland and wetland buffer setbacks, there is also a possibility that the tiny house was placed within the front yard setback (30 ft.), which would also require approval from the Development Review Board. As required under Section 2.3.C of *Underhill Unified Land Use & Development Regulations*:

- D. All uses and structures, unless specifically exempt from these regulations under Section 10.2, must meet applicable standards for the zoning district(s) in which they are located under Tables 2.2 through 2.8.

Lastly, while the Town does not have jurisdiction over wastewater systems, please be advised that you are likely in violation of the State’s Wastewater and Potable Water Supply Rules, as the Town does not have any documentation that a Wastewater System and Potable Water Supply Permit was obtained and recorded in the Town’s land records. Even though the Town does not have any

jurisdiction over wastewater systems, in order to obtain a certificate of occupancy, which is required for accessory dwellings (the tiny house), acquiring a Wastewater System and Potable Water Supply Permit from the Vermont Department of Environmental Conservation is required (in the alternative, correspondence from the Vermont Department of Environmental Conservation advising that a permit is not required can be submitted in place of a permit).

Therefore, in conformance with 24 V.S.A § 4451, you have seven days from the receipt of this notice to take corrective actions pertaining to the abovementioned violations. Corrective action includes, but may not be limited to:

- Removing the tiny house from the property; removing the shed from the property; restoring the driveway to its original layout; as well as restoring the wastewater system to its original state;
- Working towards obtaining the proper Town/State permits and approvals, which include:
 - Obtaining an After-the-Fact Building Permit for the shed;
 - Obtaining Conditional Use Review Approval from the Development Review Board for the construction/placement of the tiny house (which is accompanied by an after-the-fact building permit)
 - Obtaining an After-the-Fact Access Permit for the driveway modification; and
 - Obtaining the proper permit(s) (or correspondence) from the State of Vermont regarding the wastewater system and potable water supply.

Please understand that if you fail to take corrective action towards these violations within seven days, a fine of up to \$100 may be assessed each day the violation continues. Each day the violation continues constitutes a separate offense. You will not be entitled to an additional warning notice for a violation occurring after the seventh day. You should also be aware that further action may be taken without the seven-day notice and opportunity to correct the violation if the violation of the bylaw or ordinance is repeated after the seven-day notice period and within the next succeeding 12 months.

In accordance with 24 V.S.A. § 4465, should you disagree with this Notice of Violation, you may appeal to the Development Review Board within 15 days of the date of this letter. A copy of the appeal must be provided to the Board's clerk, as well as the Zoning & Planning Administrator. The appeal must include the appellant's name and address, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested, and the alleged grounds for the requested relief.

The appeal must also be accompanied with an appeal request application and application fee. Subsequently, a hearing will be scheduled and a notice posting will be provided. Certified Mail to the abutting neighbors will be distributed advising them of the appeal hearing. Additional fees include the cost of notice in the newspaper as required per 24 V.S.A. § 4464(1)(A), \$10/page for recording of the decision, the cost of mailing via Certified Mail the final decision to you and all interested parties, and any other applicable permitting costs.

As policy to inform you, should the Town find it necessary, this matter may also be turned over to the Town Attorney to institute in the name of the municipality any action deemed appropriate by the municipality, such as an injunction or other proceeding to prevent, restrain, correct, or abate the use, or to prevent, in or about those premises, any act, conduct, business, or use constituting a violation. Such court action may be initiated in the environmental court as provided in 24 V.S.A. § 1974a.

Should you have any questions, please do not hesitate to contact at either: (802) 899-4434, ext. 106
or at astrniste@underhillvt.gov.

Sincerely,



Andrew Strniste
Planning Director & Zoning Administrator

cc: File

encl: Attachment 1: Photograph of Tiny House
Attachment 2: Photograph of Shed

Certified Mailing Tracking #: 7017 0660 0000 5816 4056



