

***APPLICATION OVERVIEW
APPEAL REQUEST (§ 10.5)***

DRB DOCKET #:	DRB-19-02
APPLICANT(S):	Jared & Dana LeBlanc
CONSULTANT(S):	N/A
PROPERTY ADDRESS (PARCEL ID CODE):	407 Poker Hill Road (PH407)
ZONING DISTRICT(S):	Rural Residential
INITIAL FILING DATE:	January 31, 2019
APPLICATION COMPLETION DATE:	February 20, 2019
SCHEDULED HEARING DATE:	March 18, 2019

PROJECT DESCRIPTION:	The applicants have appealed the Zoning Administrator’s decision to categorize the basement area as a separate dwelling unit – an accessory dwelling.
MOST RELEVANT ULUDR SECTIONS:	§ 10.5 (Appeals); Article XI – Dwelling Unit Definition
REASON FOR CONDITIONAL USE REVIEW:	Should a person disagree with a Zoning Administrator’s decision, he or she has the right to appeal that decision to the Development Review Board, who can either uphold the Zoning Administrator’s decision or overturn the Zoning Administrator’s decision.
APPLICABILITY OF ROAD ORDINANCE:	The 2015 Road Ordinance, as amended December 18, 2018 would not apply as a part of this review, as the hearing pertains to whether the basement area is a separate dwelling unit.
STATE PERMIT INFORMATION:	A wastewater permit is not required as part of this appeal request hearing.
COMMENTS/NOTABLE ISSUES:	<p>The Board is reviewing whether the basement area should be considered a separate dwelling unit. Dwelling Unit is defined in Article XI as:</p> <p>“A building, or portion thereof, designed, constructed, or used as separate living quarters for one (1) family, including any domestic employees employed on the premises, which includes food preparation, sleeping and sanitary facilities. This definition specifically excludes boarding or rooming houses, residential care facilities, inns and hotels.”</p>



TOWN OF UNDERHILL

APPEAL REQUEST APPLICATION

OFFICE USE ONLY	ZONING DISTRICT(S):	DRB Docket #: <u>DRB-19-02</u>
PROPERTY CODE: <u>PH407</u>	<input type="checkbox"/> Underhill Flats Village Center	Received Date: <u>01/31/2019</u>
PROPERTY ADDRESS: <u>407 Poker Hill Rd.</u>	<input checked="" type="checkbox"/> Underhill Center Village	Hearing Date: <u>03/18/2019</u>
	<input checked="" type="checkbox"/> Rural Residential	Application Completion Date: _____
	<input checked="" type="checkbox"/> Water Conservation	(See Requirements Below)
	<input type="checkbox"/> Mt. Mansfield Scenic Preservation	
	<input type="checkbox"/> Soil & Water Conservation	

SUBJECT PROPERTY ADDRESS: 407 Poker Hill Rd

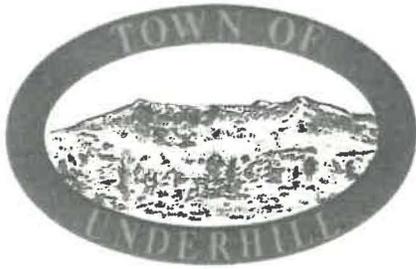
Appellant Information	Landowner Information (if Different)
NAME(S): Dana & Jared LeBlanc	NAME(S): Same
MAILING ADDRESS: 407 Poker Hill Rd, Underhill VT 05489	MAILING ADDRESS:
EMAIL ADDRESS: jared.b.leblanc@gmail.com	EMAIL ADDRESS:
PHONE NUMBER: 802-999-4275	PHONE NUMBER:

Description of the Decision Being Appeal & Grounds for Appeals (include References to Applicable State and Local Regulations)

The zoning administrator has determined that the renovations to the basement at 407 Poker Hill Rd, will require the basement to be zoned as an accessory dwelling unit. Because the basement is open to the upstairs with no locking door between the spaces and there is no bedroom in the basement we do not feel the space should be zoned as an accessory dwelling unit.

Requested Relief:	Appeal Request
Request that the basement at 407 Poker Hill Rd. be zoned as additional living space and NOT as an accessory dwelling unit.	<p>Required Materials</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Appeal Request Application <input checked="" type="checkbox"/> Application Fee (\$150.00) <input type="checkbox"/> Copies of a Site Plan (if Applicable) <input type="checkbox"/> State Project Review Sheet (if Applicable) <input type="checkbox"/> Other Necessary and Supporting Information/Documentation <input type="checkbox"/> Written Waivers/Modifications Requests <input type="checkbox"/> If applicable, Zoning Permit Application <input type="checkbox"/> If applicable, Development Review Application <p style="font-size: small;"><i>Please Checkoff All Submitted Materials</i></p>
By signing this form, the Appellant agrees to pay all required fees, including hearing fees, notices, publication fees, recording fees and postal fees	

APPELLANT-SIGNATURE DATE 31 Jan 19



Town of Underhill

P.O Box 120, Underhill, VT 05489

www.underhillvt.gov

E-mail: astrniste@underhillvt.gov

Phone: (802) 899-4434, x106

Fax: (802) 899-2137

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: Sherri 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,

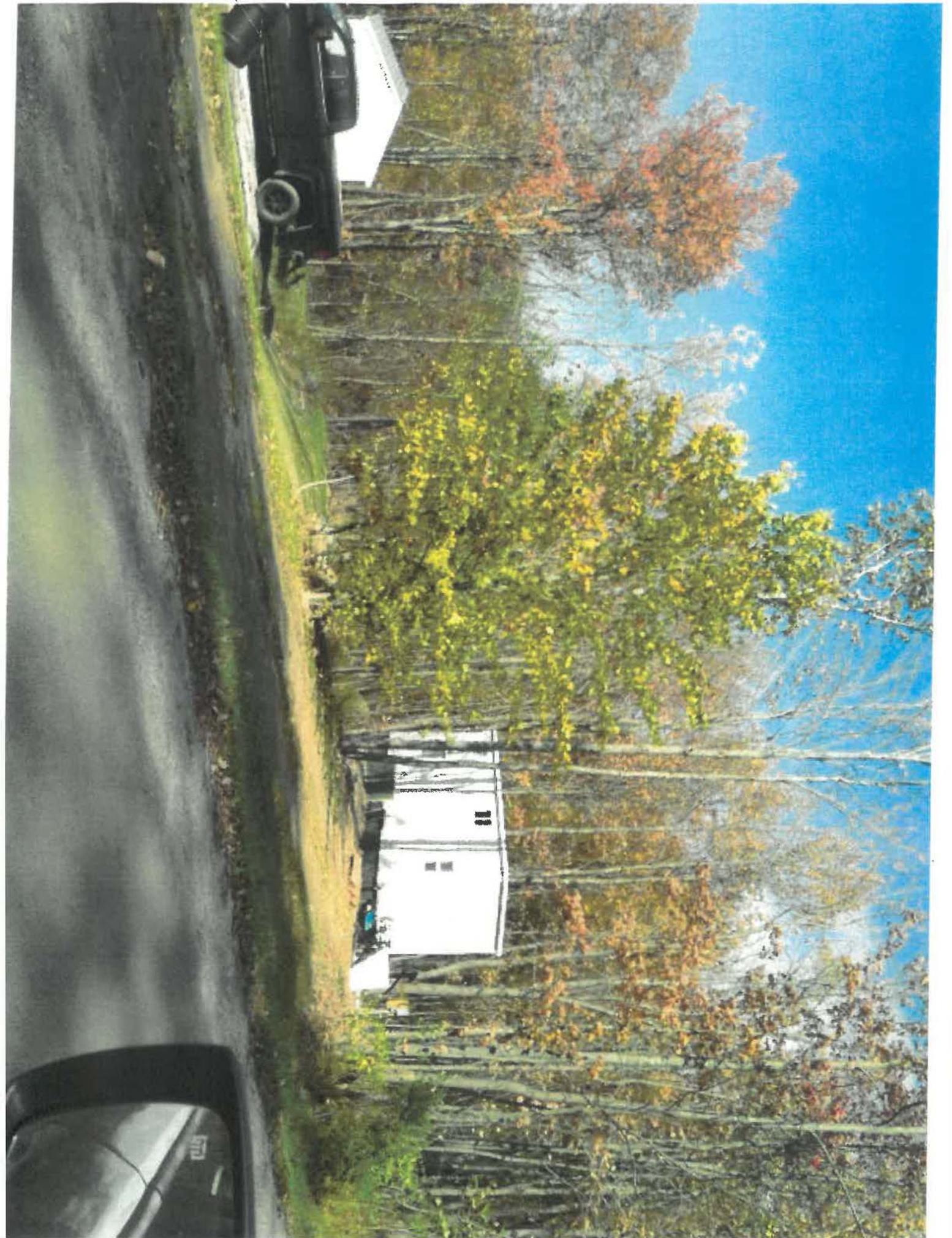


Andrew Strniste
Planning Director & Zoning Administrator

cc: File

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

Certified Mailing Tracking #: 7017 0660 0000 5816 4056





TOWN OF UNDERHILL

P.O. Box 120
Underhill, VT 05489

TOWN CLERK'S OFFICE
Received JAN 02 2019 10:39 AM
Recorded in VOL: 242 PG: 77 - 77
Of Underhill Land Records
ATTEST: Sherril Morin, Town Clerk

Phone: (802) 899-4434 x106

Fax: (802) 899-2137

CONVERSION/CHANGE OF USE PERMIT

THIS PERMIT IS VALID ONLY FOR THE PROJECT AND TIMEFRAME AS DETAILED BELOW.

Permit #: CL-18-12

Date Approved: 12-10-2018

Property Code: PH407

Date Effective: 12-26-2018

Zoning Districts: Rural Residential

Permit Expires: 12-26-2019

APPLICANT(S): Dana & Jared LeBlanc	PROPERTY LOCATION: 407 Poker Hill Road, Underhill, Vermont
CONSULTANT(S): Seth Gifford	CONTACT INFORMATION: See Application
SQUARE FOOTAGE OF DISTURBANCE: No New Square Footage Disturbed	PROPOSED CONSTRUCTION / USE: Conversion of Unfinished Basement Space (~192 sq. ft.) to a Finished Basement; Conversion of Finished Basement (~108 sq. ft.) Space to a Bathroom

DESCRIPTION OF PROJECT (Include Dimensions and Setbacks):

This permit is for the conversion of ~192 sq. ft. of unfinished basement floor area to finished floor area within the existing single-family dwelling, which is located towards the eastern portion of the lot. In addition, ~108 sq. ft. of the already existing finished basement floor area will be converted to a bathroom. As approximated using the ANR Atlas website, the setbacks were estimated to be as follows:

- The proposed single-family dwelling with attached decks in relation to the property's (PH407—407 Poker Hill Road) boundaries: ~64 ft. from the front yard property line (east); ~292 ft. from the first side yard property line (north); ~412 ft. from the second side property line (south); and ~476 ft. from the rear property line (west);
- The proposed single-family dwelling with attached decks in relation to an unnamed stream on the subject lot: ~331 ft. from the unnamed stream located to the south;
- The proposed single-family dwelling with attached decks in relation to a Class II Wetlands located on the lot: ~361 ft. from Class II Wetlands to the west as depicted on the ANR Atlas Website, and ~118 ft. from Class II Wetlands to the west as depicted on a site plan in the zoning file and approximated using the ANR Atlas Website.
- No floodplains, rivers or ponds were identified to be on the property (Source: ANR Atlas Website).

TOTAL BUILDING COVERAGE: ~0.51%;

TOTAL LOT COVERAGE: ~1.06%.

NUMBER OF BEDROOMS/BATHROOMS: 4 Bedrooms/4 Bathrooms

NOTE: A Certificate of Occupancy is required for the basement renovations per § 10.4.A of the Underhill Unified Land Use & Development Regulations.

NOTE: Upon completion, a total of four (4) bedrooms will be in existence (currently, three bedrooms exist).

CONDITIONS / RESTRICTIONS:

This permit is issued in conformance with the Unified Land Use and Development Regulations. No construction may commence prior to the end of the 15-day appeal period (effective date of permit). In addition, prior to construction, the applicant is responsible for contacting the State of Vermont, ANR/DEC (802-477-2241) to ensure that he or she has obtained any applicable State permits. Any changes to the plan (change in square footage, height, etc.) will require additional review and approval by the Zoning Administrator. Contact the Listers' office upon completion of your project.

ZONING ADMINISTRATOR SIGNATURE

TOWN CLERK RECORDING

This permit is for the approved construction project described above. Separate State permits including, but not limited to, water/wastewater, stormwater, Act 250, and Construction General Permits may be required. It is the obligation of the Applicant to contact the State Permit Specialist at 802-879-5676 prior to construction. The Zoning Administrator or her agent may access the above property for purposes of inspections before, during, and upon completion of the project. Interested parties may exercise their appeal rights pursuant to 24 VSA § 4465. A Permit Notice sign will be supplied to the Applicant with this permit to be posted within view of a Town Highway until the 15-day appeal period expires. Applicant and/or their consultant(s) should check with the Zoning Administrator for any posted road restrictions. Failure to complete this project by the permit expiration date will require a new permit from the Zoning Administrator.

TOWN OF UNDERHILL

P.O. Box 120
Underhill, VT 05489

Phone: (802) 899-4434 x106

Fax: (802) 899-2137

CONVERSION/CHANGE OF USE PERMIT APPLICATION

INSTRUCTIONS: Complete the application in full and submit to the Zoning Administrator with a scaled sketch plan (min. 8.5" x 11") that accurately depicts: 1. the dimensions of the lot, including existing & proposed property boundaries, 2. the location, footprint, & height of existing and proposed structures & additions, 3. the location and dimensions of existing & proposed accesses (curb cuts), driveways, and parking areas, 4. the location of existing and proposed easements, rights-of-way, and utilities, 5. setbacks from property boundaries, road rights-of-way, surface waters, & wetlands, 6. the location of existing and proposed water & wastewater systems. Payment of applicable fees is due at the time of submission. Incomplete applications will be returned. If new construction is proposed, complete the Building Permit Application and attach to this form.

ZONING DISTRICT(S):

- Underhill Flats Village Center Rural Residential Water Conservation
 Scenic Preservation Soil & Water Conservation

OFFICE USE ONLY

APPLICATION # CL-18-12

PROPERTY CODE: PH407

APPLICANT: <u>Dana + Jared LeBlanc</u>	MAILING ADDRESS: <u>407 POKER Hill Rd</u>
PHONE / ALTERNATE PHONE: <u>802 363 3208</u> <u>802 999 4275</u>	E-MAIL: <u>jared.b.leblanc@gmail.com</u>
PROPERTY LOCATION: <u>407 POKER Hill Rd</u>	ACREAGE / FRONTAGE: <u>10.6 acres</u>
LANDOWNER (IF DIFFERENT FROM APPLICANT):	LANDOWNER CONTACT INFO:
CONTRACTOR: <u>Seth Gifford</u>	CONTRACTOR CONTACT INFO: <u>seth.gifford.construction@gmail.com</u>
INDICATE WHETHER ANY OF THE FOLLOWING EXIST ON THE PROPERTY:	
<input checked="" type="checkbox"/> ^{Unnamed} Rivers / Streams <input checked="" type="checkbox"/> Wetlands: Class (II or III) <u>II</u> <input type="checkbox"/> Deer Wintering Areas ^{N/A} <input type="checkbox"/> Floodplain: Zone ^{N/A}	
EXISTING USE OF THE LAND AND STRUCTURES: <u>Residential - basement living space finished</u>	
PROPOSED CONVERSION/CHANGE OF USE: <u>Bathroom - no additional sq. footage added</u>	

TOWN OF UNDERHILL

P.O. Box 120
Underhill, VT 05489

Phone: (802) 899-4434 x106

Fax: (802) 899-2137

CONVERSION/CHANGE OF USE PERMIT APPLICATION

Dimensions: Complete for ALL structures.							
Structure (From Pg. 1)	Front	Side	Side	Rear	Stories	Height (Max. 35 ft)	Total Added SF
Bath	12'	9'	9'	12'	1		108 sq. ft.
Proposed Finished Basement space	12 ft.	16 ft.	16 ft.	12 ft.	1	7.5 ft.	192 sq. ft.

Setbacks: Measure the distance from the closest part of the structure to the lot lines and natural features.						
Structure	Front (Road ROW)	Side	Side	Rear	Rivers, Streams, Ponds	Wetlands
Same as site plan - no changes						
No changes to original floor plan.						
Existing Single- Family Dwelling	64 ft. (East)	292 ft. (North)	412 ft. (South)	476 ft. (West)	331 ft. (South) Unimproved Stream	361 ft. (West) ANR Atlas Class II
						118 ft. (West) ANR Atlas w/ Site Plan

Building and Lot Coverage Calculations: Required for ALL applications.				457,380
a. Total lot area (1 acre = 43,560 square feet)				461,736 ft ²
b. Square footage of all building/structure footprints (including porches, decks, sheds, garages, etc.)				2,055.3 ft ² 2,342 sq. ft.
c. Calculate percentage (line b / line a) * 100		TOTAL BUILDING COVERAGE	0.44 %	0.51%
d. Enter total lot area from line a				461,736 ft ² 457,380
e. Sum of area covered by buildings, structures, impervious surfaces (driveways, parking/loading/service areas, access roads, etc.)				3962.75 ft ² 4,842 sq. ft.
f. Calculate percentage (line e / line d) * 100		TOTAL LOT COVERAGE	0.86 %	1.06%

TOWN OF UNDERHILL

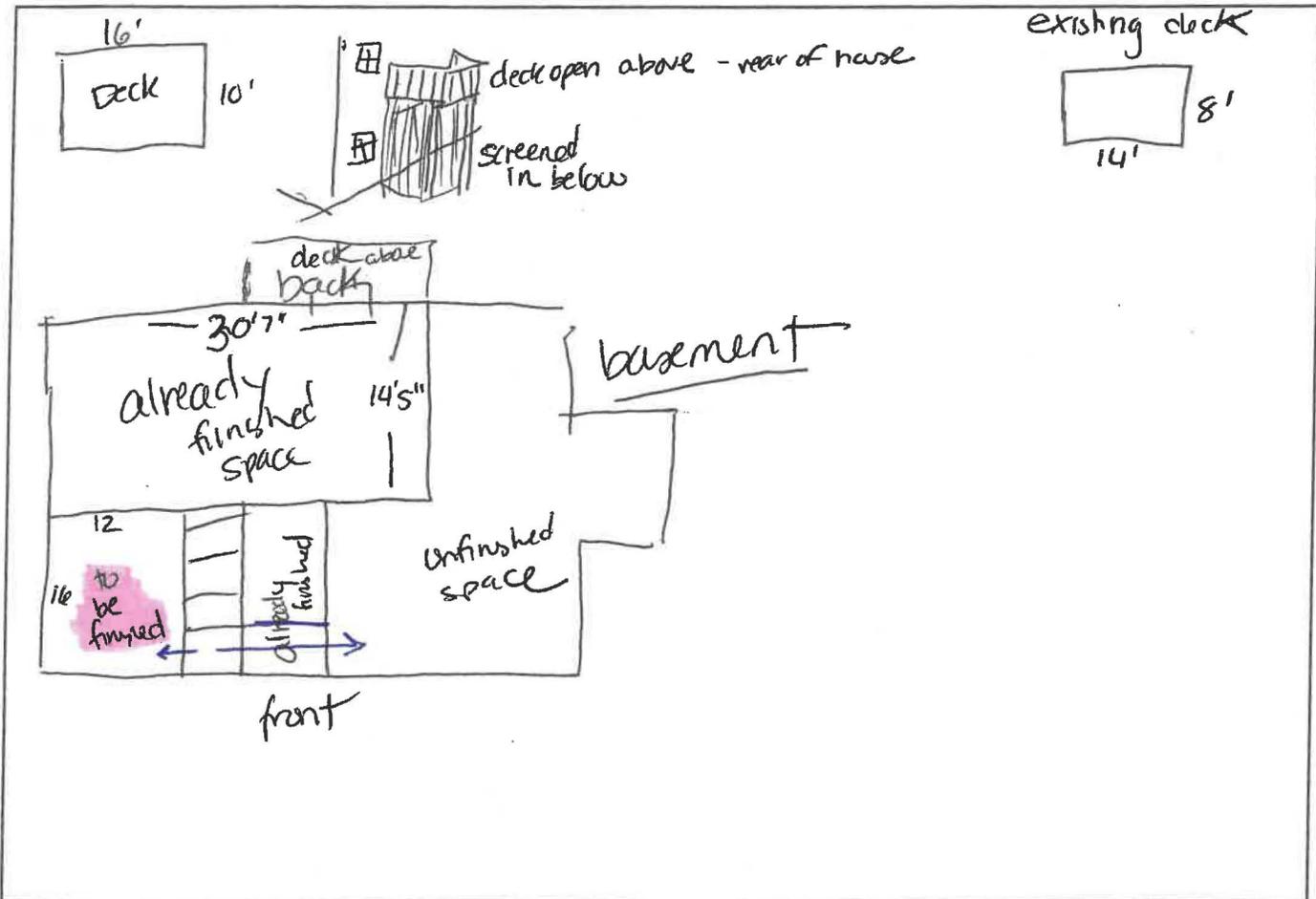
P.O. Box 120
Underhill, VT 05489

Phone: (802) 899-4434 x106

Fax: (802) 899-2137

DISPERSED

INSTRUCTIONS: Provide a sketch showing dimensions of the proposed construction. You may use another sheet, or the space below.



INSTRUCTIONS: On another sheet, provide a scaled sketch plan (min: 8.5" x 11") that accurately depicts: 1. the dimensions of the lot, including existing & proposed property boundaries, 2. the location, footprint, & height of existing and proposed structures & additions, 3. the location and dimensions of existing & proposed accesses (curb cuts), driveways, and parking areas, 4. the location of existing and proposed easements, rights-of-way, and utilities, 5. setbacks from property boundaries, road rights-of-way, surface waters, & wetlands, 6. the location of existing and proposed water & wastewater systems.

\$27

TOWN OF UNDERHILL

P.O. Box 120
Underhill, VT 05489

Phone: (802) 899-4434 x106

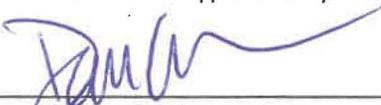
Fax: (802) 899-2137

CONVERSION/CHANGE OF USE PERMIT APPLICATION

The undersigned hereby requests a Zoning Permit for the project described in this application. By signing below, Applicant acknowledges that they will comply with the requirements of the permit, if granted, and all Town Regulations. Separate State permits including, but not limited to, water/wastewater, stormwater, Act 250, and Construction General Permits may be required. It is the obligation of the Applicant to contact the State Permit Specialist at 802-879-5676.

The Zoning Administrator (or representative) may access the subject property for purposes of inspections before, during, and upon completion of the project. A Permit Notice sign will be supplied to the Applicant with this application to be posted within view of a Town Highway until the 15-day appeal period expires. Interested parties may exercise their appeal rights pursuant to 24 VSA §4465.

Applicant and/or their consultant(s) should check with the Road Foreman for any posted road restrictions. Applicant must contact the Listers' office and the Zoning Administrator to obtain a Certificate of Occupancy. A Certificate of Occupancy shall not be issued until all required local, state, and/or federal approvals and permits are submitted.



Applicant Signature

10/18/18

Date

Landowner Signature (if different from Applicant)

Date

OFFICE USE ONLY

RECEIVED Date 10/24/2018
 APPROVED Date 12/10/2018
Effective Date 12/26/2018
Expiration Date 12/26/2018

Permit Fee	\$ 75.00
Posting Fee*	\$ Waived
Recording Fee	\$ 10.00
TOTAL FEE	\$ 85.00
<input type="checkbox"/> Check #	<input type="checkbox"/> Cash

* See B-18-50

REFERRED
To: _____
Date: _____
To: _____
Date: _____

REJECTED Date _____
Reason _____

Comments/Conditions:
A certificate of occupancy permit per §10.4.A of the Underhill Unified Land Use + Development Regulations is required for the Basement renovations.



Zoning Administrator

12/10/2018

Date

SKETCH/AREA TABLE ADDENDUM

Address _____ State _____ Zip _____

Owner _____

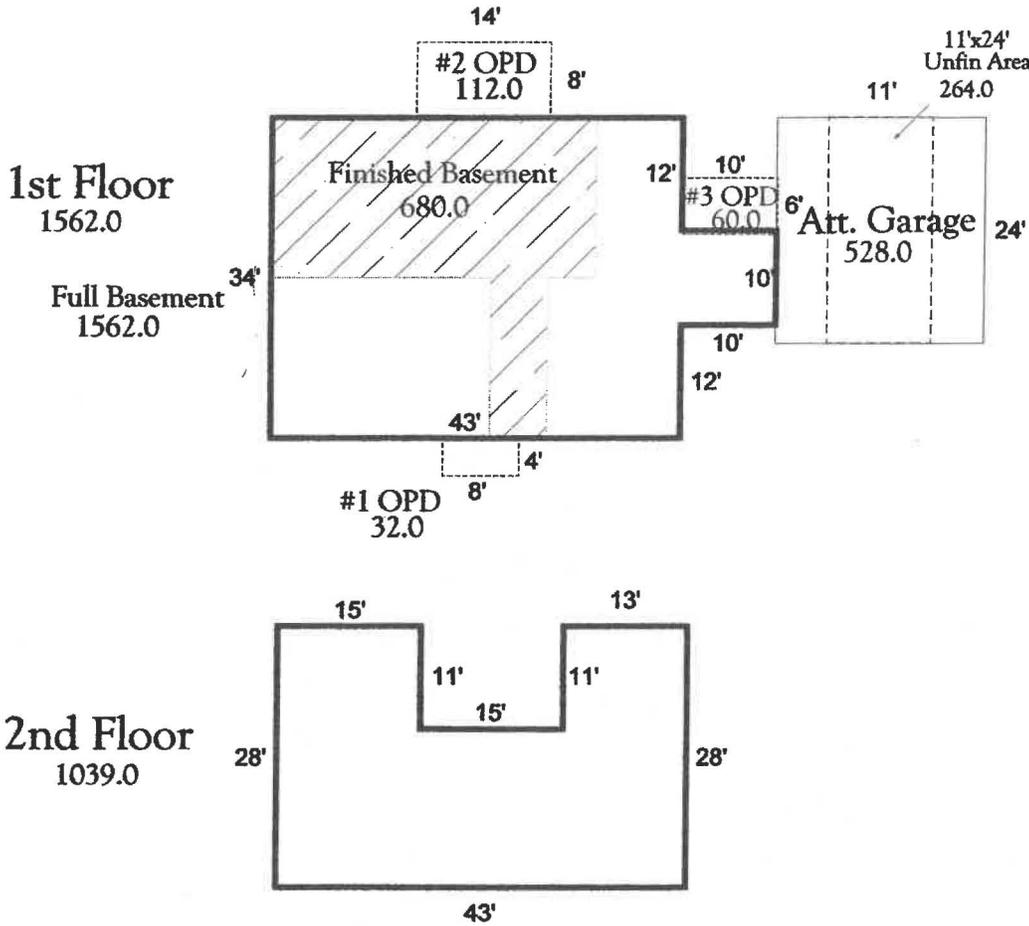
Client _____

Appraiser Name _____

PH407

03/13/2006

Slope
Moderately



Scale: 1 = 20

AREA CALCULATIONS SUMMARY

Code	Description	Factor	Net Size	Perimeter	Net Totals
1FL1	1st Floor	1.00	1562.00	174.0	1562.00
1FL2	2nd Floor	1.00	1039.00	164.0	1039.00
1BS	Full Basement	1.00	1562.00	174.0	1562.00
1BF	Finished Basement	1.00	680.00	136.0	680.00
P/P11	#1 OPD	1.00	32.00	24.0	32.00
P/P12	#2 OPD	1.00	112.00	44.0	112.00
P/P13	#3 OPD	1.00	60.00	32.0	60.00
GAR11	Att. Garage	1.00	528.00	92.0	528.00
TOTAL BUILDING (rounded)					2601

Comment Table 1

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Comment Table 2

Comment Table 3

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SKETCH/AREA TABLE ADDENDUM

Address

State

Zip

Owner

Client

Appraiser Name

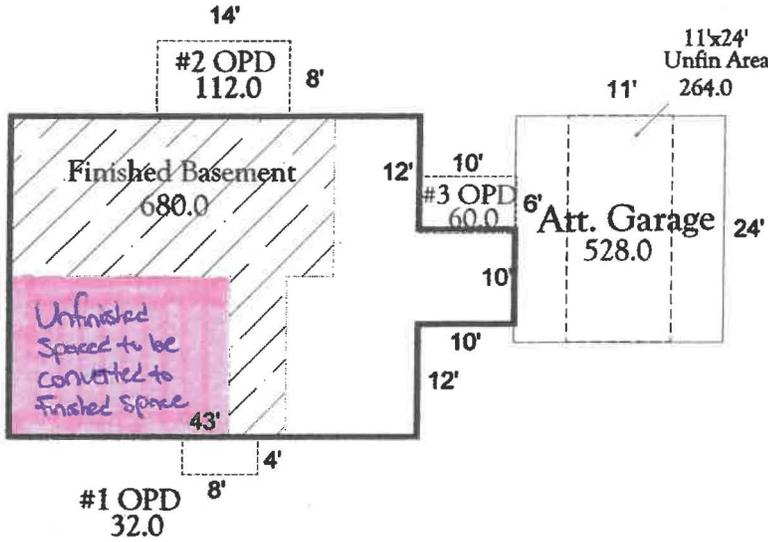
PH407

03/13/2006

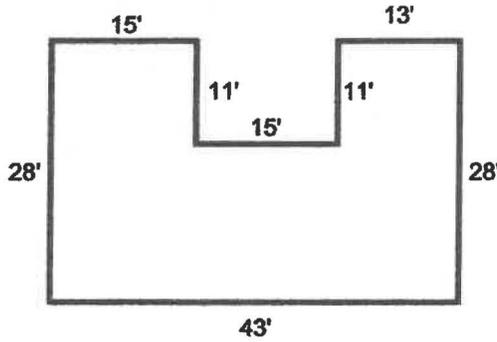
Slope
Moderately

1st Floor
1562.0

Full Basement
1562.0



2nd Floor
1039.0



Scale: 1 = 20

AREA CALCULATIONS SUMMARY

Code	Description	Factor	Net Size	Perimeter	Net Totals
1FL1	1st Floor	1.00	1562.00	174.0	1562.00
1FL2	2nd Floor	1.00	1039.00	164.0	1039.00
1BS	Full Basement	1.00	1562.00	174.0	1562.00
1BF	Finished Basement	1.00	680.00	136.0	680.00
P/P11	#1 OPD	1.00	32.00	24.0	32.00
P/P12	#2 OPD	1.00	112.00	44.0	112.00
P/P13	#3 OPD	1.00	60.00	32.0	60.00
GAR11	Att. Garage	1.00	528.00	92.0	528.00
TOTAL BUILDING (rounded)					2601

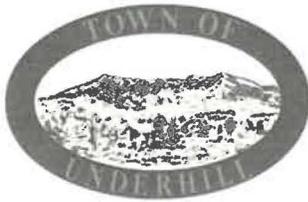
Comment Table 1

Comment Table 2

Comment Table 3

IMPROVEMENTS SKETCH

DATE: 03/13/2006



TOWN OF UNDERHILL

Development Review Board

P.O. Box 120, Underhill, VT 05489
www.underhillvt.gov

Phone: (802) 899-4434, x106
Fax: (802) 899-2137

Certificate of Service

I hereby certify that on this ___ day of _____, ____, a copy of the following documents were delivered to the below recipients and corresponding addresses by United certified mail, return receipt requested.

Documents:

Notice to abutting neighbors regarding an appeal by landowners, Jared & Dana LeBlanc, pertaining to the Zoning Administrator's decision to characterize their basement area as an accessory dwelling related to their single-family dwelling at 407 Poker Hill Road (PH407) in Underhill, Vermont.

Recipients and Corresponding Address: \$6.67

✓ **407 POKER HILL ROAD (PH407)**

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

✓ **77 NORTH UNDERHILL STATION ROAD (NU077)**

Gerard Deforge
77 North Underhill Station Road
Underhill, VT 05489

✓ **90 NORTH UNDERHILL STATION ROAD (NU090)**

Sherman F. Sr. & Reba S. Paig
90 North Underhill Station Road
Underhill, VT 05489

✓ **17 PAGE ROAD (PG017)**

Richard L. & Elizabeth A. Page
17 Page Road
Underhill, VT 05489

✓ **394 POKER HILL ROAD (PH394)**

Andrew & Elizabeth Patterson
394 Poker Hill Road
Underhill, VT 05489

✓ **410 POKER HILL ROAD (PH410)**

Robert Bolio
410 Poker Hill Road
Underhill, VT 05489

✓ **416 POKER HILL ROAD (PH416)**

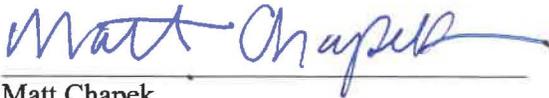
Grover B. & Marcia E. Prescott
416 Poker Hill Road
Underhill, VT 05489

✓ **420 POKER HILL ROAD (PH420)**

Charles E. Drake
P.O. Box 21
Underhill, VT 05489

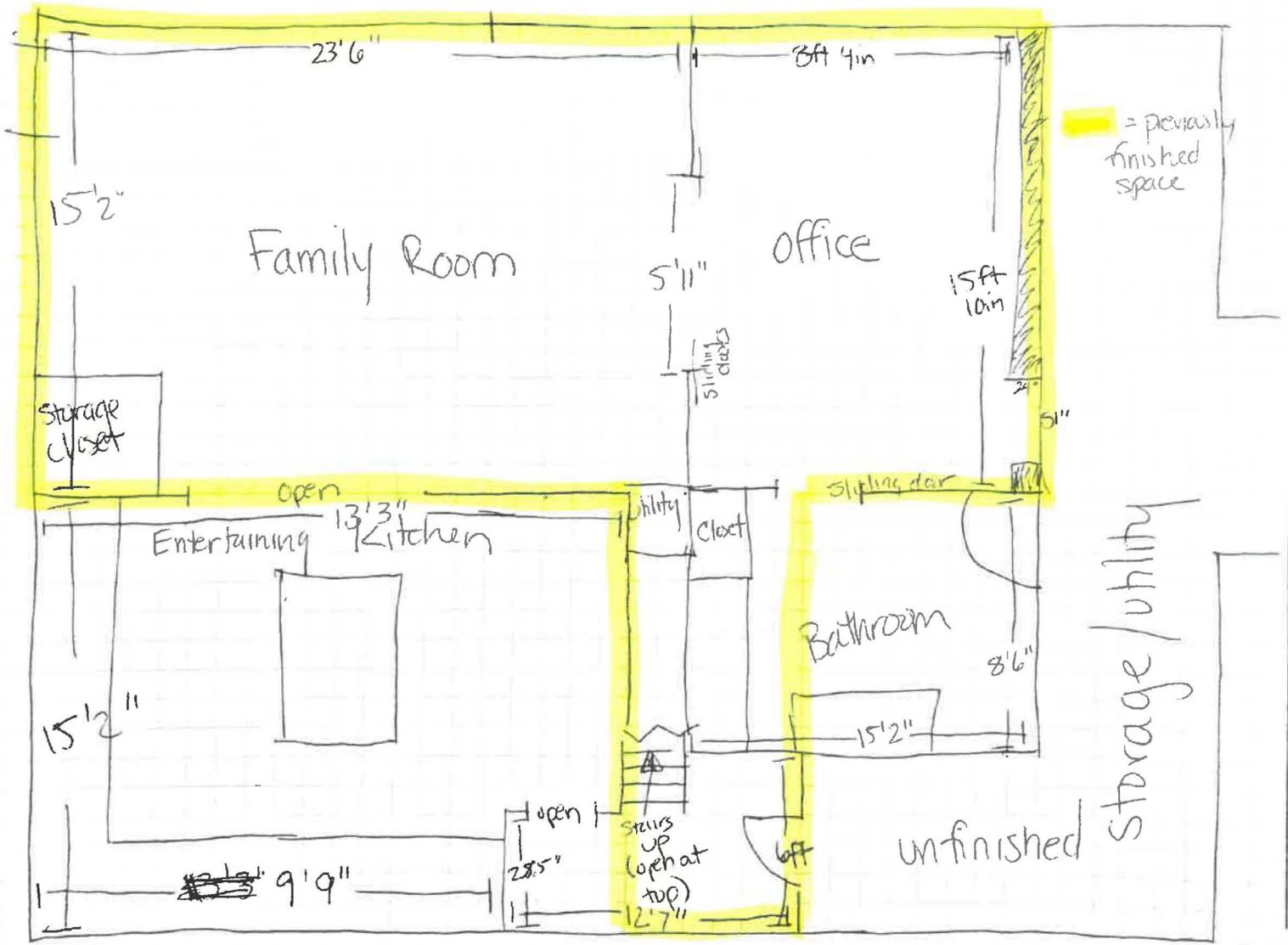
✓
425 POKER HILL ROAD (PH425)
Michael S. & Kathleen A. Simanskas
425 Poker Hill Road
Underhill, VT 05489

Town of Underhill - *[Hand Delivered]*
Planning & Zoning
P.O. Box 120
Underhill, VT 05489



Matt Chapek
Development Review Board Clerk
12 Pleasant Valley Road
Underhill, VT 05489

Date: 2/20/2019



**To: Burlington Free Press
Classifieds/Legals
legals@bfp.burlingtonfreepress.com
860-5329**

**From: Town of Underhill
Zoning & Planning
P.O. Box 120
Underhill, VT 05489**

LEGAL AD

****Please e-mail to confirm receipt of this ad.****

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Release Date: NO LATER THAN 03/02/2019

NOTICE OF PUBLIC MEETING

Town of Underhill Development Review Board (DRB)

Monday, March 18, 2019

At the Underhill Town Hall, 12 Pleasant Valley Road, Underhill, VT

The DRB will hold a hearing on the appeal by Jared & Dana LeBlanc of the Zoning Administrator's decision to characterize basement area as an accessory dwelling pertaining to the single-family dwelling & land at 407 Poker Hill Road (PH407) in Underhill, Vermont. The property is owned by Jared & Dana LeBlanc and is located in the Rural Residential zoning district. A site visit at the property will commence at 6:00 PM on Monday, March 18, 2019, and the hearing will begin at 7:25 PM on Monday, March 18, 2019 at Underhill Town Hall.

Additional information may be obtained at the Underhill Town Hall. The hearing(s) are open to the public. Pursuant to 24 VSA §§4464(a)(1)(C) and 4471(a), participation in this local proceeding is a prerequisite to the right to take any subsequent appeal. If you cannot attend the hearing(s), comments may be made in writing prior to the meeting and mailed to: Andrew Strniste, Planning Director & Zoning Administrator, P.O. Box 120 Underhill, VT 05489 or to astrniste@underhillvt.gov.

Please call Andrew Strniste at the Planning & Zoning Administrator's office at 899-4434 x106 with any questions concerning this ad and to confirm receipt. Please remit bill to: Town of Underhill, RE: 03-18-19 DRB Hearing, P.O. Box 120, Underhill, VT 05489. Thank you.



Town of Underhill

P.O Box 120, Underhill, VT 05489

www.underhillvt.gov

Phone: (802) 899-4434

Fax: (802) 899-2137

Memorandum

To: Underhill Development Review Board
From: Andrew Strniste, Planning Director & Zoning Administrator
Date: March 8, 2019
Re: 407 Poker Hill Road (PH407)

Please find a timeline of events pertaining to the 407 Poker Hill Road, LeBlanc, appeal hearing directly below:

- **Thursday, October 11, 2018:** Planning & Zoning Staff issued a zoning violation (see Exhibit _) to the landowners of 407 Poker Hill Road, Jared & Dana LeBlanc (the Appellants), 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.

In addition, Planning & Zoning Staff advised that the placement of the tiny house, shed and driveway, could potentially be within various wetlands and associated buffers; however, a new delineation would be required since the previous wetlands delineation took place in 2005. Staff also advised that the Tiny House could potentially be in the front setback. The last issue that Planning & Zoning Staff advised of was the requirement of obtaining an updated Wastewater System & Potable Water Supply Permit for the Tiny House.

- **Monday, October 15, 2018:** The Appellants visited Planning & Zoning Staff at Underhill Town Hall to review the zoning violation that was issued. Staff informed the Appellants of their potential options going forward. In addition, the Appellants asked about other potential projects they were contemplating, including basement renovations, and Staff advised them accordingly.
- **Wednesday, October 24, 2018:** The Appellants submitted a building permit application (Permit#: B-18-50) to enlarge the rear deck, as well as screening in the area under the deck. The Appellants also submitted a conversion/change of use permit application (Permit # CL-18-12) to convert unfinished basement space to finished basement area, as well as converting finished basement space to a bathroom. As typically required, a condition of approval regarding the conversion of use permit involved obtaining a Certificate of Occupancy Permit prior to utilizing the space. *Note:* subsequently, when reviewing the conversion/change of use permit application materials, no references to the installation of a kitchen were made.

- **Monday, December 10, 2018:** Planning & Zoning Staff approved both the Building Permit (Permit #: B-18-50) and the Conversion/Change of Use Permit (Permit #: CL-18-12).
- **Monday, January 14, 2019:** The Appellants scheduled a Certificate of Occupancy Permit site visit with Planning & Zoning Staff.
- **Wednesday, January 16, 2019:** Staff performed a site visit and discovered that a kitchen had been installed as part of the basement renovation, thereby creating a *separate* area containing “food preparation, sleeping and sanitary facilities” – i.e. a dwelling unit. After further discussion, the Appellants were informed that with the basement qualifying as an accessory dwelling unit, they would have two accessory dwelling units on their lot – the basement unit and the tiny house, which would qualify as a detached accessory dwelling – noting that two accessory dwelling units is prohibited per the *Underhill Unified Land Use & Development Regulations*. Staff further discussed options on how to exclude the basement dwelling unit from being considered a dwelling unit. Staff opined that they, the Appellants, would have to create a situation where the basement dwelling unit and single-family dwelling (principal dwelling unit) were not separate, which could potentially be done by removing the doors from the principal dwelling unit to the basement accessory dwelling unit. By doing so, Staff opined that the two areas could conceivably be considered one unit; however, he advised that he wanted to obtain direction from the Underhill Planning Commission, who is the governing body in interpreting the Regulations.
- **Thursday, January 17, 2019:** The Planning Commission DID NOT agree with Staff’s opinion that removing the doors between the principal dwelling unit and the basement accessory dwelling unit maintained the designation as one unit. The Planning Commission advised that the basement area was described as still being a separate area, thereby qualifying as a separate dwelling unit.
- **Friday, January 18, 2019:** Staff advised the Appellants by email of the Planning Commission’s interpretation of the Regulations as it related to their described situation. Staff also informed the Appellants that he reviewed the permit applications with no success to see if a kitchen component was overlooked when processing the application. As a result, the Appellants were informed that their options were limited, which included appealing the decision to call the renovated basement area an accessory dwelling unit to the Development Review Board, as the Board has the ability to assess a real-life situation as it relates to the *Underhill Unified Land Use & Development Regulations*. The deadline to submit an appeal request hearing application and payment by was set for Saturday, February 2, 2019. The Appellants advised that they would take the weekend to consider their options.
- **Monday, January 21, 2019:** The appellants inquired with Staff about whether the removal of certain aspects of the kitchen, or the toilet from the bathroom, would alleviate the issue of the two areas being considered separate.
- **Friday, January 25, 2019:** Staff informed the Appellants that after further research, and given the guidance from the Planning Commission, that his decisions remained unchanged.
- **Monday, January 28, 2019:** After a couple of follow-up questions pertaining to the potential of needing an updated Wastewater System & Potable Water Supply Permit should the basement area be considered an accessory dwelling, the Appellants advised that they

were going to appeal Staff's decision to call the basement area an accessory dwelling. Staff opined that the main issue that will be reviewed pertains to the two areas being "separate," and that they (the appellants) should consider what actions have been taken to illustrate that the downstairs area is not a separate accessory dwelling unit to the principal dwelling unit.

- **Tuesday, January 29, 2019:** Staff advised the Appellants of the actions required to secure an appeal request hearing with the Development Review Board.
- **Thursday, January 31, 2019:** The Appellants submitted their application and payment to Town Staff.

** Note, the aforementioned shed has not been properly permitted, as Staff was previously anticipating a site plan accurately depicting the structure. Regardless of the outcome, the shed will still need to be permitted after-the-fact.*



UNDERHILL DEVELOPMENT REVIEW BOARD

**APPEAL REQUEST
HEARING PROCEDURES
Monday, March 18, 2019**

Applicant(s): Jared & Dana LeBlanc
Docket #: DRB-19-02

State the following:

- 1. This is the hearing regarding the appeal by Jared & Dana LeBlanc pertaining to the Zoning Administrator’s decision to categorize the basement area as a separate dwelling unit. The subject property is located at 407 Poker Hill Road (PH407) in Underhill, Vermont.

This appeal request is subject to review under the 2011 *Unified Land Use & Development Regulations*, as amended March 6, 2018 and the 2015 *Road, Driveway and Trail Ordinance*, as amended December 18, 2018. The purpose of this hearing is to review the appeal and supporting documentation to determine whether or not the Zoning Administrator made an appropriation decision; to review the regulations and other municipal ordinances pertinent to the appeal application; and to determine whether alternative relief is appropriate by approving a variance.

- 2. Copies of the Rules of Procedure that the Board follows are available for review at the front counter, and can be obtained from the Planning & Zoning Administrator.
- 3. The order of speakers tonight will be:
 - a. We will hear and ask questions of the Planning & Zoning Administrator;
 - b. We will then hear from, and ask questions of, the Appellant(s) and/or their representatives;
 - c. Then we will give other persons in the room a chance to speak. Under our Rules of Procedure, each speaker is limited to five minutes; however, that time can be extended upon request to the Board and majority consent of the Board;
 - d. Then the Appellant(s) and/or their representatives will have an opportunity to respond;
 - e. Then final comments will be solicited from all parties.

All speakers should address their comments to the Board, not to other parties present at the hearing. Board Members may feel free to ask questions of any speaker.

- 4. Are any state or municipal representatives present, and acting in their representative capacities?
- 5. An Interested Parties Info Sheet is available to all attendees at the front counter or from the Planning & Zoning Administrator. Please review it for further information.

Then state:

Only those interested persons who have participated, either orally or through written statements in a DRB proceeding may appeal a decision rendered in that proceeding to the Environmental Division of Superior Court.

6. If you are the appellant, appellant representative, or an interested party who wants to participate in the hearing, we will have you come up to the witness chair and clearly state your name, residential address, and mailing address if it differs.
7. I am now going to swear in all those present who wish to speak tonight. All individuals who plan to testify must take the following oath by responding "I do" at the end: ***"Do you hereby swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth under pains and penalties of perjury?"***
8. Are there any conflicts of interest or have there been any ex parte communications on the part of the Board Members?
9. At this point I am going to enter into the record the information package that was sent by the Planning & Zoning Administrator prior to the hearing. The information included in this package relevant to this hearing is:

- Exhibit A - Appeal Request Application
- Exhibit B - Zoning Violation
- Exhibit C - CL-18-12 Conversion of Use Application
- Exhibit D - Certificate of Service
- Exhibit E - Existing Floor Plan
- Exhibit F - BFP Notice
- Exhibit G - Zoning Administrator's Timeline
- Exhibit H - Appeal Request Hearing Procedures

These exhibits are available in the Jared & Dana LeBlanc appeal request file (DRB-19-02) at the Underhill Zoning & Planning Office and on the Town's website.

10. First, we'll begin testimony by hearing from the Planning & Zoning Administrator.
11. Next, we will hear from the appellant(s) and/or their representative(s).
12. Are there members of the public who would like to speak?
13. Any final comments from the Board, the Planning & Zoning Administrator, or the appellant(s) and/or their representative(s)?
14. Does the Board feel that they have enough information at this time to make a decision on the application?
 - a. *If more information is needed to make a decision on the application, continue the hearing to a date and time certain, and outline for the Applicant(s) what is required at that continued hearing; or*
 - b. *If, by consensus, enough information has been presented to make a decision on the application, ask for a motion to close the evidentiary portion of the hearing.*

15. Ask for a motion to approve or deny the application, as well as asking the Board if they wish to discuss the application in open deliberative or closed deliberative session? (After the ruling, continue with the info below.)

“Within 45 days from this hearing, the Planning & Zoning Administrator, on behalf of the Board, will send a copy of the decision to the Appellant(s), their representative(s), and those who have participated in tonight’s hearing. A 30-day appeal period will begin on the date the decision is signed. The letter will outline the next steps in the process. If there are no other comments or questions we will close this portion of the meeting.”