

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

September 15, 2008

Board Members Present:

Scott Tobin, Chair
Chuck Brooks
Matt Chapek
Deb Shannon
Charlie Van Winkle

Also Present:

Kari Papelbon, Zoning Administrator
Chris Murphy, Town Planner/Administrator
Guest

6:30 PM: Chairman Scott Tobin called this hearing to order

- Kari Papelbon recused herself as Zoning Administrator as this was an appeal of her decision
- Chris Murphy assumed position of acting Zoning Administrator

Applicants Present:

Anthony Cipri
PO Box 68
Westford, Vt 05494

Location:

99 Mullen Road, Lot # MU099

Other Participants Present:

None

Submitted Documents:

Identifier:	Contents:
ZA-1	Notice of violation dated 03-14-2008
ZA-2	ZBA decision re: Anthony Cipri
ZA-3	Appeal of the decision of the ZA to issue violation from Anthony Cipri dated 03-26-2008

- ZA-4 Copy of Appeal of Zoning Administrator Decision form from Anthony Cipri dated 04-03-2008
- ZA-5 Copy of Anthony Cipri's deed to lot #MU099
- ZA-6 Copy of letter sent by Chris Murphy to Anthony Cipri dated 08-29-2008
- ZA-7 Procedure checklist dated 09-12-2008, prepared by Chris Murphy, pertaining to this hearing
- ZA-8 Staff report prepared by Chris Murphy

- Chair Tobin began meeting by explaining the procedure as outlined on page 2 of above referenced ZA-7. He advised that this was an appeal of the ZA's decision to issue a Notice of Violation to Anthony Cipri for failure to secure a legal access to his property located at 99 Mullen Road.
- It was noted that no interested parties were present
- Chair Tobin administered the oath to all persons testifying
- The DRB was asked and no ex parte communication has occurred
- The above listed documents were submitted into the record
- Anthony Cipri began his presentation by advising he has spoken with neighboring property owner Philip Cook (Lot # DW094) and was told he could have a Right Of Way. Cipri advised that Cook told him to put it in writing and he would sign it. Cipri further advised that he had a common border with Cook and needs access over this lot to get to his. He also advised that he needs access over the Kent Burgess lot (Lot # DW042) but that he wanted a monetary amount for the ROW equal to what he paid for his lot, and has so far been unable arrive at a conclusion in these talks. Cipri then showed the DRB an unsigned, typed ROW agreement for the Cook lot.

DRB member Charles Van Winkle then discussed the need for an access to the Cipri lot with a less than 10% grade. Chris Murphy then advised that the lot could be updated from a camp to a house if lot access is granted and therefore access needed to conform to all zoning regulations

- Cipri then advised he needed more time to resolve all issues with obtaining a ROW
- DRB Member Peter Seybolt asked open question to all if building could be taken down and the material stored on site, and consensus was yes
- Member Van Winkle asked open question to all if the framework could be left standing and consensus was no

- Anthony Cipri then asked if there was anything else he could do to delay implementation of the zoning violation and was advised no
- Chair Tobin then asked ZA Papelbon if there was anything else she would like to add and she advised no
- Board member matt Chapek then asked about what appeared to be a ROW depicted on the map and was advised it was actually stream buffer zone
- Anthony Cipri then advised he initially accessed the lot through the Mullen Road and over the Michael Tatro lot (Lot # MU038) but this was no longer available to him
- Chair Tobin then asked the board if they had enough information to arrive at a decision and was advised by all that they did
- Chair Tobin then made a motion to uphold the 03-14-2008 Notice of Violation for failure to disassemble the existing structure due to Anthony Cipri's failure to obtain legal access to his lot. Furthermore, Anthony Cipri was instructed he had 30 days to disassemble the structure. This motion was seconded by Charles Van Winkle and the motion was unanimously passed by the DRB

7:00 PM: Chair Tobin closed this hearing

7:03 PM: Guay Sketch Plan Meeting called to order. Chairperson Scott Tobin began the meeting by explaining the procedure for the sketch plan meeting.

7:06 PM: Steven and Wendy Guay sketch plan meeting commenced.

**Guay
63 River Road**

Identifier:	Contents:
ZA-1	Steven and Wendy Guay's sketch plan application (dated 8-27-08)
ZA-2	A copy of the sketch plan (dated 8-29-08) and completed checklist
ZA-3	A copy of the parcel map with abutters

- Board Member Peter Seybolt recused himself from the Guay sketch plan meeting. He was not present.
- Chairperson Tobin read the sketch plan meeting checklist.
- Steve Guay provided information regarding his proposed Planned Residential Development. During the process of obtaining a wastewater permit for a new home on the lot across from his existing home, Mr. Guay

became aware that he had more land than previously thought. A State permit for a house and 2-bedroom accessory apartment has been obtained. He did not want to cut the lot in half and render the farmland unusable. Mr. Guay would like to build his parents a house and provide an accessory apartment for their friends on a $\frac{1}{2}$ to $\frac{3}{4}$ -acre lot close to the center. He would build a house and accessory apartment on the retained lot.

- Chairperson Tobin explained that the zoning regulations allow for an accessory apartment. Mr. Guay asked if that would change with a PRD, to which Chairperson Tobin replied that it would not.
- Mr. Guay stated that he had spoken to the Jericho Underhill Water District regarding a boundary line adjustment to give them a small piece of land in exchange for utilizing their existing curb cut for right-of-way access to the proposed new lot. Open space would be preserved as agricultural land. Soils are suitable for septic and a hydrologist has produced a report stating that there are two layers of clay that would prevent contamination to the water table.
- Board Member Deb Shannon stated that the plans looked like they contained three houses on the two lots. Chairperson Tobin and Mr. Guay explained that there are two primary dwellings proposed with one accessory structure for each primary dwelling.
- Chairperson Tobin asked if each lot would be served by a separate septic system. Mr. Guay explained that the septic system for his proposed new home has been designed; however the septic system for the proposed new lot has not yet been designed. Test pits have been done.
- Board Member Chuck Brooks asked why the latitude and longitude coordinates were contained in the plans. Mr. Guay explained that it was a State requirement for septic permit applications.
- Chairperson Tobin asked if the road that the Water District uses is on Mr. Guay's property. Mr. Guay stated that it wasn't, and that the Water District owns that land. A discussion of the parcels of land that Mr. Guay owns ensued. The lot with Mr. Guay's existing home was purchased separately from the lot proposed to be subdivided.
- Chairperson Tobin asked if the two new houses and accessory apartments would be served by the Water District. Mr. Guay replied that he has allocation for his proposed home and accessory apartment, but that he needs to secure additional allocation for the new lot.
- Chairperson Tobin asked how close the primary dwelling on the new lot would be to the road. Mr. Guay stated it was approximately 100 feet. The required setback is 75 feet.
- Mr. Guay asked if the other zoning requirements still apply in a PRD. Chairperson Tobin explained that a PRD allows for certain waivers of dimensional requirements and that Mr. Guay would have to submit a waiver request.
- Board Member Chuck Brooks stated that the boundary line adjustment could occur during the PRD process.

- Zoning Administrator Kari Papelbon explained that a PRD on this lot is possible because the lot with the existing home was conveyed separately from the lot to be subdivided. Additionally, it was conveyed with the house, functioning septic system, and water supply and therefore did not merge with the lot to be subdivided. She then explained that according to the current regulations the density requirement cannot be waived and that the 2-lot PRD plans include “house 1” as the primary dwelling and “house 2” as a 1000-square foot or less accessory apartment. She also reiterated that accessory apartments are allowed under the Statute and such permission to build an accessory apartment will not be rescinded.
- Chairperson Tobin stated that our regulations require preliminary plans to be submitted within six months from the sketch plan meeting and asked Mr. Guay if he felt that was sufficient time to get his engineering and survey work completed. Mr. Guay stated that if he did not get the work done this fall that would put him into next spring. ZA Papelbon stated that a site visit is also necessary and if there is snow on the ground that a site visit may not be possible. Chairperson Tobin added that a site visit might then be scheduled for April. A discussion of the site visit and application submission requirements ensued.
- Chairperson Tobin asked if there were any other comments or questions. Board Member Matt Chapek asked if one of the houses on the proposed lot had to be designated a primary residence. ZA Papelbon stated that one would be the primary and the other would be the accessory. Board Member Chapek then asked if a primary had a minimum size requirement. ZA Papelbon stated that there was not, that the only limit was the height of the building, and as long as the primary dwelling meets setbacks it could be as big as the applicant wants. The accessory apartment cannot be larger than 1000 square feet.
- Chairperson Tobin asked if the garage was included in the square footage for the accessory apartment included the garage. Mr. Guay stated that it did and that he would like to join the garage. He then stated that he thought it was multifamily housing. ZA Papelbon explained that if someone built a duplex it would be considered multifamily housing. The plan for building a house with an accessory apartment is not multifamily housing and accessory apartments are allowed under the Statute.

7:38 PM: Chairperson Tobin asked if the Board had enough information to make a decision on whether the meeting fulfills the requirements of the Underhill regulations for sketch plan. All Board Members present agreed that they had enough information to move forward. Chairperson Tobin asked if the Board would like to move into deliberative session. All Board Members present agreed that moving into deliberative session was unnecessary.

Board Member Charlie Van Winkle made a motion, seconded by Board Member Deb Shannon, to accept the 2-lot PRD sketch plan as clarified during the hearing, with the proposed boundary line adjustment between the Guay property

and the adjacent Jericho Underhill Water District property. The motion was passed by all Board Members present.

7:39 PM: Meeting adjourned.

These minutes of the 9-15-08 meeting of the DRB were

Accepted

This _____ day of _____, 2008.

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.