

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

June 2, 2008

Board Members Present:

Scott Tobin, Chair
Charlie Van Winkle
Penny Miller
Matt Chapek
Stan Hamlet
Peter Seybolt
Chuck Brooks

Also Present:

Kari Papelbon, Zoning Administrator
Chris Murphy, Town Planner

6:31 PM: Meeting called to order. Chairperson Scott Tobin began the meeting by explaining the procedure for the conditional use hearing.

6:37 PM: Philip Jacobs final subdivision hearing commenced.

Philip Jacobs
16 Harvest Run

Applicant Present:

Philip Jacobs
73 Upper English Settlement Road
Underhill, VT 05489

Consultant Present:

Paul O'Leary
O'Leary Burke Civil Associates, PLC
1 Corporate Drive, Suite 1
Essex Junction, VT 05452

Other Parties Present:

Bill McMains
United Church of Underhill
P.O. Box 265,
Underhill, VT 05489

Bob Covey
14 Harvest Run

Underhill, VT 05489

Identifier:	Contents:
ZA-1	Plans prepared by Howard Snider and Paul O'Leary of O'Leary-Burke Civil Associates, PLC for Philip Jacobs (Sheets 1-7 and Sheet 9 dated 1-28-08, Sheet 8 dated 2-27-08, and Sheets E2-E4 dated 2-6-08)
ZA-2	A copy of the survey prepared by Joseph R. Flynn of O'Leary-Burke for Philip Jacobs (revised 3-19-08)
ZA-3	A copy of the Application for Water Allocation from Philip Jacobs to the Jericho-Underhill Water District (dated 12-3-07)
ZA-4	A copy of the letter from Heather Mack of the State of Vermont Stormwater Management Program confirming receipt of the Notice of Intent for stormwater discharge (dated 3-21-08)
ZA-5	A copy of the letter from Eric Blatt of the State Water Supply Division confirming receipt of the application for a Construction General Permit (dated 2-13-08)
ZA-6	A copy of the letter from Mary Baril of the State Wastewater Management Division confirming receipt of the application for a Wastewater permit for the project (dated 2-14-08)
ZA-7	A copy of the letter from Ernest Christianson from the State Wastewater Management Division confirming the completion of his review of the application for a Wastewater permit (dated 4-23-08)
ZA-8	A copy of the letter from the Chittenden East Supervisory Union #12 (dated 11-27-07)
ZA-9	A copy of the Single-Family Detached Housing trip ends report by the Institute of Transportation Engineers (pages 263-265)
ZA-10	A copy of the letter from Eric Blatt of the State Water Supply Division confirming receipt of the application for a Construction General Permit (dated 2-13-08)
ZA-11	A copy of the letter from Mary Baril of the State Wastewater Management Division confirming receipt of the application for a wastewater permit for the project (dated 2-14-08)
ZA-12	A copy of the draft easements and right-of-way agreements
ZA-13	A copy of the draft Road Maintenance Agreement
ZA-14	A copy of the draft Declaration of Covenants, Conditions, and Restrictions
ZA-15	A copy of the Proposed Findings of Fact
ZA-16	A copy of the waiver requests for the project
ZA-17	A copy of the Underhill Selectboard Minutes dated 11-29-07 granting conditional approval of the driveway design and waiver of the 10% grade requirement
ZA-18	A copy of the Subdivision Checklist: Final Hearing

- Chairperson Tobin read the final subdivision hearing checklist and swore in all interested parties. Chairperson Tobin then entered into record documents ZA-1 through ZA-16.
- Paul O’Leary, consultant for Philip Jacobs, began by explaining the 6-lot subdivision plan for a ±45 acre parcel of land on Harvest Run. Four lots would be building lots; Lot 1 was not approved as a building lot at the preliminary hearing, and Lot 6 will be retained by Phil Jacobs. The existing water main would be extended along the private road (to be called Jacobs Hill Road) to serve the new lots. Stormwater will be directed to three grassed swales to serve as infiltration basins and will discharge into the stream. Lots 2-4 will be served by on-site septic, and Lot 5 will have an easement to access the septic system between Lots 3 and 4. An application to the State for a wastewater permit has been reviewed and will be issued upon receipt of a permit to construct to extend the municipal water main, which was issued today. The State is currently waiting for information regarding the establishment of a Homeowners Association before issuing a stormwater permit. The construction general permit application has not yet been reviewed by the State, but is in the queue and expected to be reviewed in the next 3 to 4 weeks. Revisions to the plans and additional information required by the Board in the preliminary decision have been provided. An additional waiver for the bonding/engineer certification requirement for the infrastructure has been submitted. The applicant requests a 2-year waiver to submit a certification letter regarding the proper installation of the infrastructure. A proposed road maintenance agreement and covenants have also been included in the application. The proposed road maintenance agreement states that the existing neighbors and the new lots would share equally in the maintenance of Harvest Run, but only the new lots would share in the maintenance for Jacobs Hill Road and the stormwater system.
- Board Member Peter Seybolt asked Mr. O’Leary to explain why they have requested a 2-year waiver. Mr. O’Leary explained that it gives Mr. Jacobs the opportunity to sell some lots rather than having to construct the road and stormwater and utility infrastructure immediately. Board Member Seybolt asked if they were asking that building permits issue before the infrastructure is certified. Mr. O’Leary responded in the affirmative and added that the request is for at least two building permits issue prior to the road completion and certification. Chairperson Tobin asked about certification for segments. Mr. O’Leary stated that there is a buyer interested in Lot 5.
- Board Member Penny Miller asked if the road would be “roughed in” to Lots 4 and 5, should those lots sell first, for two years before the stormwater infrastructure would be installed. Mr. O’Leary replied that the stormwater infrastructure would have to be installed with the road per the State permit. Board Member Miller asked if it were possible that if no other lots after Lots 4 and 5 sold that the road would not be built. Mr. O’Leary stated that it would be possible that no other lots sold. Board

Member Seybolt stated that at the end of the 2-year waiver requested that the road would still have to be installed. Mr. O'Leary replied in the affirmative. Board Member Seybolt then asked what would happen if the building permits for the lots were issued and the road was never built to specifications. Mr. O'Leary responded that the building permits for the remaining two lots could not issue and could be used as collateral for the road being installed properly. Board Member Seybolt then asked if the only waiver requested was for the two lots to be able to obtain building permits before the road was built. The response was that the request also included a two-year waiver. Mr. O'Leary explained that without the waiver, Mr. Jacobs would have to construct the entire road with the stormwater infrastructure and have it certified prior to issuance of a building permit for any lot. Chairperson Tobin asked Mr. O'Leary to explain what would be completed within two years. Mr. O'Leary responded that only final touches on the road would need to be completed after two years. Board Member Seybolt asked Mr. O'Leary to clarify "final touches." Mr. O'Leary responded that it would include final coat of gravel, final grading, et cetera. Board Member Miller stated that at the end of the two-year mark that Mr. Jacobs would have to sell the remaining lots to complete the road because there is no money set aside currently. Mr. O'Leary responded in the affirmative. ZA Kari Papelbon asked what the guarantee would be for the road to be installed in two years. Mr. O'Leary responded that it would be the two remaining building permits.

- Board Member Charlie Van Winkle asked if Mr. Jacobs had looked into bonds. Mr. O'Leary responded that he had not. ZA Papelbon asked what the difficulty would be in obtaining a bond. Mr. O'Leary explained that it would be somewhat difficult for an individual to obtain a bond since there is no track record for an individual. ZA Papelbon then asked if Mr. O'Leary knew anything about subdivision bonds. Mr. O'Leary responded that bonds for construction typically cost around 2-3% of the cost on an annual basis. ZA Papelbon asked what an estimated cost would be for installing all of the shared infrastructure. Mr. O'Leary responded that an estimate would be about \$400,000 to \$500,000.
- Board Member Miller asked for clarification on the improvements that would be completed and remaining after two years. After two years the only reason that Mr. Jacobs would have for completing the road would be obtaining the building permits for the remaining lots, but that there is no guarantee that the lots would be sold to pay for the road. Mr. O'Leary responded that obtaining those remaining building lots would be the major motivation for Mr. Jacobs' finishing the road. Board Member Miller stated that if the market is bad and the lots do not sell, there is no money to complete the road. ZA Papelbon agreed, stating that there's no guarantee that the road would be finished in such a case. The road would be close to being completed, however.
- ZA Papelbon asked what "roughing in a road" entails. Mr. O'Leary responded that it includes putting in the road at the proper grade, putting

- the gravel subbase, constructing the stormwater system, running the water mains. Mr. O'Leary reiterated that they would like to start building a house on Lots 4 and 5 at the same time they construct the road. ZA Papelbon stated that a concern would be access for emergency vehicles should they need to access those lots during construction. Currently the lot is a logging road in good condition. Mr. O'Leary responded that construction vehicles could access the lots via the existing logging road to the top of the hill. ZA Papelbon added that she understood the reasons for wanting to install the road at the time of building the homes, but that an argument could be made for obtaining a bond for the infrastructure because the infrastructure would all be installed and could help with selling the lots since the infrastructure would be finished. Board Member Van Winkle stated that that was not what the applicant is requesting.
- Board Member Van Winkle stated that the concern that the Board is trying to express is that if someone buys a lot but the infrastructure isn't completed, that person cannot occupy the house until the infrastructure is installed. Mr. O'Leary asked if the Town has any occupancy requirements. The Board and ZA Papelbon replied no. Mr. O'Leary asked if the Board would be amenable to issuing a condition that would require the certification or a bond for the installation of the remaining road and infrastructure within 6 months of issuing the first building permit. ZA Papelbon stated that her only concern was whether Lot 5 had legal access with the existing logging road. Mr. O'Leary stated that Mr. Jacobs has legal access to Lot 1 from Harvest Run. ZA Papelbon stated that the concern is for access to Lot 5 and that the Board is kind of steering the applicant toward obtaining a bond to cover everything. Mr. O'Leary stated that posting a bond would not necessarily mean that he had access to Lot 5.
 - Board Member Van Winkle asked if a letter of credit would be easier to obtain. Mr. O'Leary responded in the affirmative. Board Member Miller asked if a bond letter of credit means that a certain amount of money is set aside as a guarantee to finish the work if the applicant cannot afford to do the work after a certain amount of time. Mr. O'Leary explained that both are essentially the same mechanism. A bond is issued by an insurance company whereas a letter of credit is issued by a bank. Board Member Miller asked ZA Papelbon if the house could not be built if the road was not complete. ZA Papelbon responded no, that her concern was that legal access to a lot is required for a building permit. If the road isn't built, her concern was that she was unsure as to whether Lot 5 had legal access. Mr. O'Leary responded that the access would be obtained through the easements.
 - Board Member Seybolt asked if the 34 acres would be open for others to use in perpetuity. Mr. O'Leary responded in the negative. If Mr. Jacobs wishes to develop the area the public access would cease. ZA Papelbon explained that the 34-acre lot is being retained by Mr. Jacobs.

- Board Member Van Winkle asked if the Town approval was the last remaining approval. Mr. O'Leary responded that an Act 250 permit was not required.
- ZA Papelbon asked Mr. O'Leary to explain the status of the State permits. Mr. O'Leary explained that the construction general permit is currently in a queue for review. The stormwater division was waiting for Mr. Jacobs' attorney to register a Homeowners Association, which was done the previous week. The stormwater permit must be issued to the Homeowners Association. Board Member Miller asked if the road maintenance responsibility for Harvest Run would be equally divided by 6 lots should only one lot be sold. That one lot would also be responsible for the maintenance of the new private road. Mr. O'Leary responded in the affirmative.
- ZA Papelbon asked if the existing landowners had been given the chance to read the road maintenance agreement for Harvest Run. Mr. O'Leary responded that he did not believe so, that Mr. Jacobs wanted to make sure the language was approved by the Board before going to the landowners. ZA Papelbon asked if the terms had been discussed. Mr. O'Leary responded that the current terms are that all lots will share equally in the maintenance of Harvest Run. Currently, the homeowners split the cost of maintenance equally, but no formal agreement exists. Mr. Jacobs explained that based on conversations with current homeowners, he wanted to keep the maintenance agreement for Harvest Run separate from the Homeowners Association.
- Chairperson Tobin asked what mechanism triggers Act 250 in the future. Mr. O'Leary responded that developing 10 or more lots in a 5-year period would trigger Act 250.
- Board Member Miller asked if it was true that should the majority of homeowners on Harvest Run vote on a road improvement that all of the lots would have to share in the cost of that improvement. Mr. O'Leary responded that that was correct.
- ZA Papelbon stated that building envelopes and driveways should be on the survey plat. She then asked if the utility easement shown on the plans extended down Harvest Run. Mr. O'Leary responded that he believed it did, but he would confirm that. ZA Papelbon stated that the easement should be shown on the plans and survey, and a turnaround easement to the Town does not need to be on the plans. She stated that the new property codes should be on the plans. She then explained that Howard Snider of O'Leary Burke provided a summary regarding how the stormwater would be handled with the new development and would not exacerbate previous runoff problems. She asked Mr. O'Leary to explain how the stormwater infrastructure works. Mr. O'Leary gave an explanation of how the grassed swales and ditches work. The rate of stormwater runoff will not exceed that which currently exists.
- ZA Papelbon asked how many culverts were proposed for the project. Mr. O'Leary explained that they are extending one existing culvert and

proposing 3 new culverts. Chairperson Tobin asked if all of those would be installed with the stormwater infrastructure, to which Mr. O'Leary responded they would.

- Chairperson Tobin asked if the Board would like to review the planning standards. He then asked if there were any other questions from the Board. Board Member Miller asked if there was a mechanism for the neighbors to see a copy of the road maintenance agreement and agree to it. ZA Papelbon stated that they do need to see a copy of the agreement but they are not obligated to sign it.
- Board Member Seybolt if Mr. O'Leary was proposing that should Mr. Jacobs obtain a bond 6 months after receiving the first building permit that it would be for the remainder of the cost to build the private road and infrastructure. Mr. O'Leary responded in the affirmative.
- Chairperson Tobin then asked for public comments.
- Bill McMains of the United Church of Underhill asked how long stormwater abatement lasts, what maintenance is required, and who is responsible for necessary repairs. Chairperson Tobin responded that stormwater systems require annual inspections and certification every 5 years. Mr. O'Leary added that an engineer needs to inspect the system every year and send a report to the State. After 5 years it needs to be re-certified by an engineer that it was installed per the plans and is functioning. If it is not re-certified, the permit expires and will show up in a title search if one of the lot owners wants to sell. Mr. McMains asked if there would be screening for the Church's view. Mr. O'Leary explained that the retained lot will be open with meadow, but the new road will follow the existing road. Some trees will stay. From the back of the Church's property, the nearest house would be approximately 800-900 feet.
- Bob Covey, 14 Harvest Run, asked if the caption by the retained lot shown on the plans as Harvest Lane was supposed to be Harvest Run. Mr. O'Leary responded that the retained lot included Harvest Run, but not the acreage for the individual lots on Harvest Run. Mr. Covey asked Mr. O'Leary to explain the 60-foot easement to the Homeowners Association. Mr. O'Leary explained that the easement runs the length of Jacobs Hill Road (the proposed private road). Mr. Covey asked if the 10-foot-wide utility easement was outside of the right-of-way. Mr. O'Leary stated that he wasn't sure, but that they are typically centered on utility lines. Mr. Covey asked if a utility easement would extend beyond where the utility stopped. Mr. O'Leary stated that it would not. Mr. Covey asked if the plans for regrading and re-graveling Harvest Run would include an elevation change, to which Mr. O'Leary responded that it would not. Mr. Covey asked if the proposed extension of gas lines were being considered for the development. Mr. O'Leary stated that they were and that they would be located in the utility easement. Mr. Covey asked about the timeframe for seeing the road maintenance agreement. Mr. Jacobs and Mr. O'Leary responded that drafts would be made available. Mr. Covey then thanked the Board for their thoughtfulness during the subdivision

process and thanked Mr. O'Leary and Mr. Jacobs for providing information during the process.

- Chris Murphy, Town Planner, explained requirement for certification of the proper installation of the shared infrastructure or a bond. The Planning Commission reviewed the requirement with the Board's concerns regarding driveways in mind and explained the Commission's suggested requirement. The Commission is concerned about piecemeal infrastructure build-out and wants to have the stormwater infrastructure installed as a whole. Ms. Murphy then explained the change in the new regulations. A guarantee that the infrastructure would be installed would be either a bond or irrevocable letter of credit. The road turns into a driveway past Lot 4 and would qualify for the roughing-in suggestion. A discussion of the approval procedure for a bond or letter of credit ensued. Selectboard approval of the curb cut and road and driveway design granted access for Lot 5. The Selectboard would have to approve the kind of surety.
- Board Member Chuck Brooks asked if there was a cost associated with a letter of credit. Mr. O'Leary responded that a letter of credit costs approximately 1%-2% of the construction costs.
- A discussion of the waiver ensued. The proposed condition language would include the provision that within 6 months of issuing the first building permit, an engineer's certification that the road and shared infrastructure have been installed per the approved plans with the driveway to the lot roughed-in per the approved plans or a surety bond/irrevocable letter of credit approved by the Selectboard would be required.
- Board Member Chuck Brooks asked ZA Papelbon whether the standard conditions for subdivision included in the information packet should be used or the information provided at the hearing. ZA Papelbon explained that the conditions provided to the Board at the hearing were updated proposed conditions and replaced the conditions in the information packet.
- Chairperson Tobin asked if there were further questions from the Board, public, applicant, or consultant. Board Member Chuck Brooks asked whether the memo from Mike Weisel would be available to the Board. ZA Papelbon explained that the memo was part of the preliminary hearing but that it would be made available to the Board.

7:40 PM: Chairperson Scott Tobin asked whether the Board felt they had enough information to make a decision on whether the hearing fulfills the requirements set forth in the regulations. Chairperson Tobin asked if the Board would like to deliberate in open or closed deliberative session. Board Member Stan Hamlet began to make a motion. ZA Papelbon stated that prior to closing the evidentiary portion of the hearing the Board needed to discuss the Proposed Findings of Fact on the evaluation criteria and the proposed conditions.

Chairperson Tobin read the Proposed Findings of Fact provided by the applicant's consultant. Board Member Seybolt asked if Lot 1, which is not an

approved building lot, would become an approved building lot in the future. ZA Papelbon explained that as of the final subdivision plans and for the purposes of the submitted subdivision plans, Lot 1 is not an approved building lot. Board Member Seybolt stated that the Findings should specify that the open land on Lot 6 will not be developed at this time.

Chairperson Tobin then read the proposed conditions for subdivision. Mr. O'Leary asked if the Town allowed administrative approval for minor changes to the plan. Town Planner Murphy asked for clarification of a minor change. Board Member Van Winkle proposed to strike the last sentence of condition #2. Town Planner Murphy and ZA Papelbon suggested using the phrase "significant change." A discussion of the phraseology and the condition ensued. Condition #3's language was amended to reflect that the applicant will be required to obtain a performance bond or certify the completion of the shared infrastructure within 6 months of issuance of the first building permit. A discussion of this condition ensued. Mr. O'Leary raised a concern with reaching an agreement with the existing homeowners on Harvest Run. Board Member Chuck Brooks explained that the language has to be submitted to the Zoning Administrator. Town Planner Murphy further explained that homeowners cannot be required to sign it. ZA Papelbon added that the agreement language would be submitted to her and if the agreement for Harvest Run is signed, that signed agreement will be recorded. Board Member Van Winkle expressed his opinion on the driveway condition. A short discussion of the condition ensued. ZA Papelbon asked to include a condition that the reports sent to the State for the stormwater infrastructure be copied to her.

Board Member Seybolt clarified that the conditions discussed may not be the only conditions imposed on the subdivision.

8:08 PM: Board Member Charlie Van Winkle made a motion, seconded by Board Member Chuck Brooks, to move into deliberative session for the Jacobs subdivision. The motion was passed by all Board Members present.

Hearing adjourned.

8:10 PM: Meeting called to order. Chairperson Scott Tobin began the meeting by explaining the procedure for the conditional use hearing.

8:14 PM: Kim Cook final Conditional Use hearing commenced.

Kim Cook
16 Paul Cook Road

Applicant Present:

Kim Cook
16 Paul Cook Road

Underhill, VT 05489

Other Parties Present:

French
515 Pleasant Valley Road
Underhill, VT 05489

Identifier: Contents:

ZA-1	Kim Cook's Conditional Use Hearing Request (dated 4-28-08)
ZA-2	A copy of the parcel map for PC016

- Chairperson Tobin read the conditional use hearing checklist and swore in all interested parties. Chairperson Tobin then entered into record documents ZA-1 through ZA-2.
- ZA Papelbon explained that the Home Occupation Hearing Checklist was unnecessary.
- Kim Cook explained that she came in to register her dogs and ZA Papelbon overheard that she was applying for a kennel license and was told that she needed a hearing. She explained that she has 12 dogs and will not have lights, buildings, or business.
- Board Member Peter Seybolt asked Ms. Cook if she boarded other people's animals, to which she replied that she did not. She has done some puppy-sitting and boarded puppies that she has sold. It is not a business.
- Board Member Seybolt asked if a hearing was necessary if it was not a business. ZA Papelbon explained that a kennel is listed as a conditional use in the zoning regulations. A discussion of what constitutes a kennel ensued. Ms. Cook explained that she only registered her dogs as a kennel to save money rather than applying for individual licenses.
- ZA Papelbon asked if Ms. Cook would be breeding dogs. Ms. Cook replied that she would occasionally breed dogs.
- Board Member Charlie Van Winkle asked whose criteria the 10-dog requirement for a kennel license was. It was unclear where the criteria came from.
- Board Member Chuck Brooks asked if there was a definition for a kennel. No definition for a kennel in the regulations. ZA Papelbon added that a kennel is considered a conditional use in the zoning regulations. A discussion of a definition for a kennel ensued. Ms. Cook explained that she plans to have a litter this year or next year. Some of the dogs are pets and some are for show. Litters will be sold, but she stated that she was not breeding for a business or monetary reasons.
- Board Member Seybolt asked if there was a State stipulation for a kennel. Ms. Cook stated that she could withdraw her application and pay the extra fee to not be considered a kennel. She added that there will be no hours of operation and that her understanding was that you need to have at least

- 10 dogs in order to qualify for a kennel license, but there is no language for operation as a business.
- Board Member Seybolt asked ZA Papelbon where the kennel language came from. ZA Papelbon replied that kennels are listed as conditional uses in the zoning regulations in most of the zoning districts. She stated that there is no definition of a kennel in the regulations. Board Member Penny Miller stated that if someone registers their dogs as a kennel then a person has to be a kennel. Ms. Cook asked for a definition of kennel. Board Member Miller stated that one of the definitions is that a kennel is a conditional use in Ms. Cook's zoning district.
 - Board Member Seybolt asked how much money is saved by registering as a kennel. Ms. Cook replied that it was \$50. Board Miller asked if Ms. Cook registers as a kennel what impact does that have and what can be a kennel. Board Member Stan Hamlet responded that they did not know because it is not defined in the current zoning regulations. Chairperson Tobin stated that Ms. Cook is not asking for hours of operation. Ms. Cook stated that she would like a definition in writing for future licensing. She reiterated that she will not have lights, hours of operation, buildings, signs, boarding, et cetera.
 - Board Member Seybolt stated that the Board needed to define a kennel before proceeding. Chairperson Tobin stated that the Board could continue the hearing to obtain more information on what defines a kennel. Town Planner Murphy stated that a kennel license has criteria defined by the State. There is no definition in the zoning regulations.
 - Board Member Seybolt asked if Ms. Cook had paid a fee for the hearing. ZA Papelbon responded that she had not yet. Ms. Cook replied that she was unaware of the fee and would not pay. She added that there are other kennels that have been operating in the same manner that have not had hearings. Board Member Seybolt asked if it was written in the Town regulations or the State regulations that 10 dogs constitutes a kennel. ZA Papelbon explained that the licensure for dogs is not in the regulations. Town regulations state only that a kennel is a conditional use. The 10-dog criterion is per the State for licensure. A discussion of the State definition ensued.
 - Board Member Miller asked if the kennel was a conditional use only in Ms. Cook's zoning district. ZA Papelbon explained that the only zoning district that does not state that a kennel is a conditional use is the Residential zoning district. Town Planner Murphy stated that the purpose of the conditional use is to determine whether the proposed use is in keeping with the character of the area and the criteria for a conditional use. There is no breeding and it will not be a business. Board Member Matt Chapek asked if the dogs were in a separate building. Ms. Cook replied that she has a dog house, wire kennels outside, and a radio fence. The dogs are also pets and in the house.
 - ZA Papelbon asked how the waste was disposed of. Ms. Cook replied that it is composted.

- Chairperson Tobin invited the French's to provide their input. They have no objections to the kennel.
- Town Planner Murphy stated that with the information provided the Board could go through the conditional use criteria. Board Member Miller asked ZA Papelbon about the fee for the hearing. ZA Papelbon apologized for not making it clear that there is a fee associated with the hearing and stated that she would request that the Selectboard waive the hearing fee.
- Board Member Chuck Brooks stated that he would like to continue the hearing to obtain more information. Ms. Cook stated that she would like to have a clear definition for a kennel so that other kennels in the area would have a definition as well. Chairperson Tobin stated that in considering the conditional use the Board could impose such conditions as no lighting, no business, et cetera. Town Planner Murphy explained that the new regulations clarify the definition of a kennel, however she recommended that the Board go over the criteria for a conditional use since there is no definition in the regulations.
- Ms. Cook further explained that she is not a commercial business and does not advertise. She will only have 1 or 2 litters per year. A discussion of other kennels in the area and the definition of a kennel ensued.
- Board Member Van Winkle asked if someone who boards dogs checks for licenses. Ms. Cook replied that doggie daycare checks for dog licenses.
- A discussion of the conditions for the permit ensued. Town Planner Murphy suggested going through the conditional use criteria or throwing out the application. Ms. Cook indicated her preference for obtaining the conditional use permit to prevent future issues with the kennel licensure.
- The conditions for the permit were discussed. The Board then discussed the conditional use criteria and determined that the kennel would not be injurious, noxious, or offensive to the neighborhood, and will not affect the character of the area, traffic, or by-laws.

8:54 PM: Board Member Charlie Van Winkle made a motion, seconded by Board Member Chuck Brooks with the condition that noise be within reasonable limits, to approve the conditional use with the discussed conditions. The motion was passed by all Board Members present.

9:03 PM: Hearing adjourned.

These minutes of the 5-5-08 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.