

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

September 17, 2007

Board Members Present:

Scott Tobin, Chairperson
Chuck Brooks
Stan Hamlet
Matt Chapek
Pete Seybolt
Charlie Van Winkle
Penny Miller
Deb Shannon

Also Present:

Chris Murphy, Zoning Administrator
Kari Papelbon, Zoning Assistant

6:15 PM: Site Visit to Phil Jacobs' property at 16 Harvest Run.

7:10 PM: The Board discussed their upcoming site visit schedule, and approved the August 6, 2007 minutes and the August 20, 2007 minutes as amended by ZA Chris Murphy.

7:30 PM: Meeting called to order by Chairperson Scott Tobin.

Jacobs
16 Harvest Run

Applicant Present:

Phil Jacobs

Consultant Present:

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

Other Participants:

Norman Rohrer
4 Harvest Run
Underhill, VT

Bob Covey
14 Harvest Run
Underhill, VT

Identifier:	Contents:
ZA-1	Copy of the plans prepared by Howard Snider, O'Leary Burke
ZA-2	Copy of the cover letter written by Howard Snider dated 9-12-07
ZA-3	Copy of the wetlands delineation map
ZA-4	Copy of the deed conveying property from Wesley Jacobs to Phil Jacobs, Book 107, Page 278 and the related covenants for Phil Jacobs' property, Book 60, Page 155
ZA-5	Copy of the Variance Requests
ZA-6	Copy of letter dated 9-17-07 from Jeffrey Severson of Oakledge Environmental Services, Inc. regarding the wetland evaluation
ZA-7	Copy of the letter dated 9-15-07 from Jeffrey Wallin of Multiple Resource Management, Inc. regarding the wildlife review
ZA-8	Copy of the revised preliminary plans, sheet 1-2

- Chairperson Tobin began by reading the Preliminary Hearing Checklist.
- Paul O'Leary, consultant for Phil Jacobs, provided copies of the letters from Jeffrey Severson and Jeffrey Wallin as well as revised copies of Sheets 1-2 of the preliminary plan for the 16 Harvest Run proposed subdivision. Mr. O'Leary provided an explanation of the proposed subdivision plans and his interpretation of the Underhill Subdivision regulations regarding wetlands. The property is in the Residential District.
- Chairperson Tobin asked the total square footage of wetlands on the property and the total square footage of impact. Mr. O'Leary responded that he was unaware of the total square footage of the wetlands present, but that they are planning to impact 1,900 square feet.
- Board Member Peter Seybolt asked what the State says about filling and grading of wetland areas. Mr. O'Leary responded that there are two governing bodies: the Army Corps of Engineers, who have jurisdiction over all wetlands, allow up to 3,000 square feet of impact without needing a permit. At the State level no permit, buffer, or Act 250 Permit is required. ZA Murphy stated that the Corps representative was concerned with having a storm pond in a wetland.
- Board Member Charlie Van Winkle asked Mr. O'Leary to address the plan's roadway access since the grade is in excess of design guidelines (maximum of 10% grade). A waiver for this requirement would be needed. ZA Murphy asked for specific details of the excess grade. The plans call for a 20-foot traveled way, a 250-ft stretch and another 350-ft stretch of which will be at 12% grade.
- ZA Murphy asked if the steep ravine is addressed in the erosion control plan. Mr. O'Leary responded that a formal erosion control plan has not yet been submitted. ZA Murphy stated that this, a stormwater permit, and a Corps letter regarding the stormwater retention pond would be required.

- Chairperson Tobin reiterated that a variance would be required for the house site on Lot 1. A discussion of the variance requests and the building envelopes on the plans ensued. An 89' variance is requested for the Lot 1 house site.
- Mr. O'Leary read the final paragraph of Mr. Jeffrey Wallin's letter regarding the wildlife on the property. ZA Murphy asked if there were any plans to have the rear of the house sites open for the wildlife. Mr. O'Leary replied that the wooded areas by the watercourses and ravine would remain.
- Mr. O'Leary asked the Board to allow the project to proceed to final hearing rather than continuing to another preliminary hearing. ZA Murphy explained that the variance request as worded would be denied because it does not meet the variance criteria. Chairperson Tobin agreed that the variance criteria would not be met and that he would be reluctant to move to final hearing. Board Member Peter Seybolt added that the Board has never been asked for an 89' variance before and that the letters regarding the wildlife had just been received that evening and thus he was unclear what the impact to the wetlands would be.
- Board Member Chuck Brooks read the list of requirements for preliminary plat approval.
- Chairperson Tobin opened the hearing to public comment.
- Mr. Norman Rohrer spoke, asking if the Town planned to take on the maintenance of the proposed extension to Harvest Run. The Board and ZA Murphy explained that the Town will not be taking on maintenance of new roads.
- Mr. Bob Covey spoke, stating that substantial additional costs would be borne by neighbors on Harvest Run for road maintenance with the additional grade. He then stated his concern with future development, mentioning that the original plan contained a Lot 6. ZA Murphy and the Board responded that Mr. Jacobs may come into the Town at a later date with another development plan, but that the Board cannot make comments or judgments on that lot because it is not contained in this plan. Also, public hearings will be held for the current Zoning and Planning regulations rewrite. He then asked why the plan called for drilled wells rather than municipal water. Mr. O'Leary stated that some of the land is too high for the correct water pressure, however some lots might be able to go on municipal water. ZA Murphy explained that the development could be comprised of 1-acre lots only if they were going to receive municipal water from the Water District; otherwise, the lots would need to be at least 2 acres according to the Underhill Zoning Regulations.
- ZA Murphy asked Mr. O'Leary to estimate the truck traffic and the necessary gravel to build the proposed road, and to include the underground power and phone lines on the plans.
- Chairperson Tobin asked if the Board had enough information to make a decision. Mr. O'Leary read the list of information requested by the Board and ZA Murphy prior to the next hearing (determination by the Army Corps of Engineers regarding the wetlands, an erosion control plan, a letter from

the Underhill-Jericho Fire Department regarding the proposed road grade, the determination on the municipal water, the information regarding the gravel pit, information on the underground utilities, and the rewritten variance request for Lot 1's house site).

8:42 PM: Board Member Peter Seybolt made a motion, seconded by Stan Hamlet, to continue the preliminary hearing to October 15 at 6:15 PM. The motion was approved by all Board Members present.

8:47 PM: Peter Geise final hearing called to order by Chairperson Tobin.

**Geise
431 VT Rte. 15 and 1 Brook Bend**

Applicant Present:

Peter Geise

Consultant Present:

Gunner McCain, McCain Consulting
93 South Main Street
Waterbury, VT 05676

Other Participants:

Joseph Allaire
11 Brook Bend
Underhill, VT

Chuck Brooks (recused)
12 Brook Bend
Underhill, VT

Tom Nugent
73 Stevensville Rd.
Underhill, VT

Roger Miller
449 VT Rte. 15
Underhill, VT

Identifier: Contents:

ZA-1	Copy of the plans prepared by Nick Nowlan (edited by Peter Lazorchak), Sheets S-1 through S-7
ZA-2	Copy of the Letter of Intent from VTrans dated 6-18-07 referencing the Geise permit application to widen access off of VT Rte. 15
ZA-3	Copy of the letter from Nick Nowlan dated 7-25-07 regarding impervious surface

ZA-4	Copy of the State Wastewater Permit WW-4-0322-2 dated 8-7-07
ZA-5	Copy of the letter from the Underhill-Jericho Fire Department
ZA-6	Copy of the letter from Chittenden East School District
ZA-7	Copy of the letter dated 8-6-07 from Brooks and Allaire objecting to the subdivision
ZA-8	Copy of the proposed Shared Road Maintenance Agreement and Covenants
ZA-9	Copy of the proposed Warranty Deed
ZA-10	Copy of the proposed Easement Deed
ZA-11	Copy of the Agency of Natural Resources Notice of Conditional Use Determination 2007-372 dated 8-29-07
ZA-12	Copy of the Department of Environmental Conservation Wetlands Fact Sheet 14
ZA-13	Copy of the revised plans Sheets S-1 through S-3
ZA-14	Copy of the letter from Peter Lazorchak dated 9-13-07
ZA-15	Copy of the List of Requested Variances and Analyses
ZA-16	Copy of the Proposed Findings of Fact
ZA-17	Copy of the Email from Julie Foley regarding the Conditional Use Permit Application

- Board Members Matt Chapek and Chuck Brooks recused themselves from this hearing.
- Chairperson Tobin began by reading the Final Hearing Checklist.
- Mr. Peter Geise began by stating that the most contentious issue has been the entrance to Brook Bend from VT Rte. 15. He stated that he has received the easement from Anthony Cardinal, removed cedar trees that were hindering visibility, and that VTTrans has approved the project.
- Mr. Gunner McCain, consultant for Peter Geise, provided further explanation of the project including the Conditional Use Determination pending from the State and the variance requests.
- ZA Murphy explained that the variance request for the water and sewer line setbacks was not a variance, but rather a waiver. She and the Board also suggested moving the building envelope on Lot 2 to the State wetland buffer line and request a variance of 50' rather than 30'. ZA Murphy also recommended moving the building envelope on Lot 4 closer to Brook Bend to keep the encroachment out of the wetlands. This would require a variance from the front lot line setback requirements rather than the wetland.
- ZA Murphy brought Wetlands Fact Sheet 14 to the attention of the Board and Mr. McCain. This sheet suggests limiting construction to between July 1 and September 30. ZA Murphy suggested making the requirements for winter construction in the Low-Risk Site Handbook a condition for the subdivision.
- Chairperson Tobin opened the hearing to public comment.
- Mr. Joseph Allaire spoke, stating his objections to the house on Brook Bend, and asking what the road improvements will be. He stated that he

will not sign a Shared Road Maintenance Agreement and that he felt it was unsafe to add more traffic to Brook Bend.

- Mr. Chuck Brooks spoke, stating that he has no objections to the easement. He asked whether the VTrans letter applied to both Brook Bend and Vermont Farmhouse Road. He stated that he opposes the proposed duplex on Brook Bend, refuses to sign the Shared Road Maintenance Agreement, asked about the leach field placement, and urged the Board to consider the 5 variance criteria when considering the variance for Lot 4.
- Tom Nugent spoke, stating his opinion that he was hearing the argument of “not in my backyard” as the main opposition to the project.
- Roger Miller spoke, asking when the grade sticks lining the property boundary would be removed.
- Chairperson Tobin asked if the Board had enough information to make a decision.

10:02 PM: Board Member Charlie Van Winkle made a motion, seconded by Stan Hamlet, to close the evidentiary portion of the hearing and to move to deliberative session. The motion was passed by all Board Members present.

10:03 PM: Meeting adjourned.

These minutes of the 9-17-07 meeting of the DRB were

Amended as noted below and accepted

This _____ day of _____, 2007

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.