

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

August 17, 2009

Board Members Present:

Scott Tobin, Chair
Charles Van Winkle
Matt Chapek
Stan Hamlet
Chuck Brooks

Also Present:

Kari Papelbon, Zoning Administrator

6:30 PM: Chairperson Scott Tobin called the Guay combined conditional use/home occupation and final PRD hearing to order.

Applicant(s) Present:

Steve and Wendy Guay
63 River Road
Underhill, VT

Identifier:	Contents:
ZA-1	Steven and Wendy Guay's Application for Subdivision: Final (dated 7-10-09)
ZA-2	A copy of the completed Subdivision Checklist: Final Hearing
ZA-3	Plans prepared by David Fuqua of Ridge Consulting Engineers for Steven and Wendy Guay (Sheets 1-3 of 3, revised 7-9-09)
ZA-4	A copy of the survey by Mark Ward of Vermont Land Surveyors for Steven and Wendy Guay (revised 7-9-09)
ZA-5	A copy of the Wastewater System and Potable Water Supply permit application
ZA-6	A copy of the letter from Ernestine Chevrier (dated 8-12-09)
ZA-7	A copy of the easement deed for Lot 2
ZA-8	A copy of the site plan showing the proposed location of the pergola
ZA-9	A copy of the Home Occupation Permit Application and site plan (dated 8-14-09)
ZA-10	A copy of the Proposed Findings of Fact for the Home Occupation
ZA-11	A copy of the hearing notice published in Seven Days (dated 7-29-09)
ZA-12	Staff report prepared by ZA Papelbon

S-1 A copy of the Signs section of the zoning regulations

- Chair Tobin began the meeting by explaining the procedure for the conditional use/home occupation and final PRD hearing. He then swore in all interested parties and entered the above items into record.
- Chair Tobin asked Steve Guay to provide an overview of his Planned Residential Development. Mr. Guay explained the revisions that had been made per the DRB's and ZA's requests. The proposed location for the pergola is in the current location of the temporary canopy. The size of the pergola is 12' x 20'.
- Chair Tobin asked what the distance from the right-of-way the pergola would be. Mr. Guay responded that it will be 27 feet from the centerline of River Road, about 2 feet off of the right-of-way.
- ZA Papelbon explained that the Selectboard would be meeting on Thursday to approve of the access for the lots.
- Mr. Guay then stated that the easement for the shared right-of-way with the Jericho-Underhill Water District had been drafted and the language agreed to between both parties. The deed will be signed after final approval is given by the Town. A quit claim deed for the boundary line adjustment has also been drafted. He also applied to the State for a wastewater permit for Lot 2. A letter from Ernestine Chevrier stating that the application was received has been submitted.
- Chair Tobin asked to review the waivers approved at the preliminary hearing. ZA Papelbon read the waivers from the preliminary decision. Board Member Charlie Van Winkle asked about the waiver for the pergola. ZA Papelbon explained that in the preliminary decision the Board required a site plan and setbacks before being able to approve the waiver. It will be added to the waivers in the final decision.
- A discussion of the small wetland identified by Section Chief and State Wetlands Coordinator Alan Quackenbush ensued.
- Mr. Guay explained the added note on the engineering site plan that the duplex language was for State septic permitting only.
- Board Member Stan Hamlet asked what the issue was with the previously-submitted driveway cross-sections. ZA Papelbon explained that the plans did not contain details for the driveway materials.
- Chair Tobin asked if the Board had further questions prior to ZA Papelbon providing additional information. Board Member Stan Hamlet asked if Mr.

Guay was going to remove the existing barn. Mr. Guay stated that he wasn't sure, but that he'd like to have a place to keep his furniture for sale.

- Board Member Chuck Brooks asked if the signs regulations handed out were for the current hearing. ZA Papelbon stated that it was for the conditional use/home occupation portion of the hearing.
- Mr. Guay discussed the right-of-way language for driveways in the Road Policy.
- ZA Papelbon stated that culverts are now shown on the engineering drawing. The draft easement deed needs to have the revised date for the survey corrected. She then stated that she was requesting on behalf of the Guays that the DRB recommend waiver of the bonding requirement to the Selectboard. She asked if the Guays' attorney had provided a draft easement deed for Lot 2's septic system on Lot 1. Mr. Guay stated that he hadn't, but that whatever is required to be included in the deeds will be. He also stated that the State permit included a statement that the deeds will include easements. ZA Papelbon stated that she thought the note regarding the wetlands on the survey was misleading. The Board did not agree that it was misleading.
- A short discussion of the easements ensued.
- ZA Papelbon asked if there were bearings on the engineering drawing. It was determined that there were, but a disclaimer is included that states it should not be used as a survey. ZA Papelbon explained that local surveyor Brad Holden had stated that bearings should not be included on engineering drawings. The Board disagreed and did not see a problem with the bearings being included on the engineering drawing. ZA Papelbon then stated that a note on the survey was included because a deed for the Hudson property could not be found in the Underhill Land Records.
- Chair Tobin asked to review the Final Plat for Subdivisions requirements in the Subdivision Regulations. The Evaluation Considerations had been addressed in the preliminary decision. Board Member Brooks stated that a signed easement deed with the Jericho Underhill Water District would be a condition of approval. Mr. Guay asked if the building envelope created the open space and whether the deed needed to say that that land is open space. ZA Papelbon stated that it was another line for added protection to make sure that everything outside the building envelope is dedicated not to be developed. Mr. Guay asked that a list be provided for all the necessary items for the deeds. A short discussion of the monuments ensued.

- Board Member Brooks asked what the Board needed to do about the boundary line adjustment. It was agreed that the boundary line adjustment was part of the PRD.
- Chair Tobin began reviewing the application for the home occupation. The sale of agricultural products is exempt per the Vermont Agency of Agriculture's Accepted Agricultural Practice Regulations. Therefore, the Board does not need to review that portion of the home occupation. ZA Papelbon explained that she had to ask the Guays if they sold the necessary \$1000 worth of agricultural products in a year to qualify for the exemption. They do.
- Mr. Guay explained that he asks his neighbors if any noise produced in his barn was audible to them and no one has been able to hear the activities or music. He then stated that he spoke to Jeff Sprout and Carolyn Gregson about his home occupation previously. There is no record of the meeting and there has been confusion as to what was decided. Thus, the home occupation is being reviewed at this hearing.
- Chair Tobin asked if there were future plans for a sign. Mr. Guay stated that he has no current plans for a sign other than the "For Sale" signs he has been using. He has always had a sign for his eggs and raspberries. ZA Papelbon stated that those signs were exempt. If a sign for the home occupation were needed, a building permit would be required.
- Chair Tobin asked if the volume of business was a couple of cars per day. Mr. Guay responded that it was. He said more people stop by in the spring to see his lambs than to buy goods. He said there has never been a problem with parking.
- Chair Tobin stated that one of the submissions depicted an additional display area. Mr. Guay stated that he would like to be able to display small garden sheds, doghouses, and similar structures in an area where the animals could interact with customers. Chair Tobin asked if they would be set on the ground or in a structure. Mr. Guay stated that they would not be on a foundation.
- Chair Tobin stated that the concern was for increased parking areas needed as the business expands. Mr. Guay stated that there was a lot of room for parking. Chair Tobin asked where the parking would be. Mr. Guay stated that customers park in the driveway next to the barn. He would like to have display models in the proposed area when he builds his new house on Lot 1 and he may abandon the current display area. He also stated that he may come back to the Board to ask for the proposed pergola to be moved.

- Mr. Guay asked if he decided to display in the proposed area if there was any reason why he couldn't come in to ask to put the parking on the other side of the barn. Chair Tobin stated that he would be asking to amend his home occupation permit. The Board reassured him that he would be able to do so. Board Member Matt Chapek asked if he would be asking for a different curb cut. Mr. Guay stated that he didn't know because they were future plans. ZA Papelbon stated that whenever he was ready to do such that he should call her and she will schedule a new hearing.
- Chair Tobin asked to review the Proposed Findings of Fact.
- ZA Papelbon asked what kind of equipment Mr. Guay used to make his goods. Mr. Guay provided examples (table saws, a router, etc.) and stated that when he spoke to his neighbors they could not hear the tools. The tools used are standard shop/woodworking tools. There were no other questions or comments on the Proposed Findings of Fact.
- ZA Papelbon stated that she found language in the zoning regulations that said accessory uses should not be closer to the front lot line than 75 feet. The Board stated that the use is existing and they did not see a problem with the continuation of the home occupation in its current location.

7:40 PM: Chair Scott Tobin asked if the Board felt they had enough information to make a decision on conditional use/home occupation and final PRD application. The Board stated that they did. Chair Tobin stated that the evidentiary portion of the hearing was closed. Chair Tobin asked if the Board would like to deliberate in open or closed session. ZA Papelbon recommended going into a closed deliberative session as there was another applicant waiting for his hearing. Board Member Chuck Brooks made a motion, seconded by Board Member Charlie Van Winkle, to enter a closed deliberative session. The motion was passed by all Board Members present.

7:43 PM: Chair Scott Tobin called the Ely boundary line adjustment hearing to order.

Applicant(s) Present:

David Ely
 14 Moose Run
 Underhill, VT

Identifier: Contents:

ZA-1	A copy of the Final Plat: Subdivision Modification – Boundary Adjustment for David and Janet Ely prepared by Stuart J. Morrow (dated December 2007)
------	---

- ZA-2 A copy of the email to David Ely from ZA Papelbon regarding the hearing requirements (dated 7-22-09)
- ZA-3 A copy of the hearing notice published in Seven Days (dated 7-29-09)
- ZA-4 A copy of the parcel map for MO012 and MO014
- ZA-5 Staff report prepared by ZA Papelbon

- Chair Tobin began the meeting by explaining the procedure for the boundary line adjustment hearing. He then swore in all interested parties. Chair Tobin explained that Board Member Charlie Van Winkle had recused himself from the hearing and entered the above items into record.
- Mr. Ely stated that the subdivided lots were drawn two ways and that the proposed boundary line changes were what he should have presented during his subdivision last year. The proposed lines now follow current fence lines and will not bisect the pastures.
- Chair Tobin asked if the lots were in a 10-acre district. It was stated that they were. Chair Tobin stated that both lots will retain at least 10 acres. Mr. Ely stated that the numbers on the proposed plan were without the surveyor setting pins, but that he will make sure that both of the lots will retain the minimum acreage. Chair Tobin stated that no changes to the right-of-way are proposed.
- Mr. Ely stated that ZA Papelbon recommended that he speak to Justin Willis, the site tech who prepared the engineering drawings for his subdivision, to make the changes to the site plan. He spoke to Justin who stated that he would make the changes once the Board approved the boundary line adjustment.
- Chair Tobin asked if Mr. Ely still owned both lots, to which Mr. Ely replied that he did.
- Board Member Chuck Brooks asked where in the regulations were the procedures for a boundary line adjustment. ZA Papelbon stated that boundary line adjustments were not specifically covered in the regulations, but that the way they have been handled is to ensure that no new building lots are created, that the lots conform to the regulations, that septic systems are in place, and that necessary permits are mentioned.
- Chair Tobin asked if the setbacks for the building envelopes were the same. Mr. Ely replied that they were.
- ZA Papelbon stated that whenever the lots are sold that each deed must contain language related to the boundary line adjustment. Also, Justin should try to obtain a letter from the State regarding the exemption from

the septic regulations for the boundary line adjustment. Mylars for the survey and site plan will also be required to be filed.

- Board Member Brooks asked for the revised date on the survey to be updated.

7:50 PM: Chair Scott Tobin asked if the Board felt they had enough information to make a decision on boundary line adjustment application. The Board stated that they did. Board Member Chuck Brooks made a motion, seconded by Board Member Matt Chapek, to accept the boundary line adjustment as depicted on the survey contingent upon the corrected revised date. After a brief discussion of the motion, Board Member Chuck Brooks made a revised motion, seconded by Board Member Matt Chapek, to accept the boundary line adjustment application contingent upon a revised date for the plat and that both lots meet the 10-acre zoning requirement. The motion was passed by all Board Members present.

7:53 PM: Board entered a closed deliberative session on the Guay application.

8:27 PM: Chair Scott Tobin made a motion, seconded by Board Member Charlie Van Winkle, to move out of closed deliberative session. The motion was passed by all Board Members present.

Chair Scott Tobin made a motion, seconded by Board Member Chuck Brooks, to approve the 2-lot Planned Residential Development and conditional use application for a home occupation with the following conditions and approved waivers:

1. That the Applicants submit and record a signed Easement Deed with Jericho Underhill Water District for access to Lot 2 and that the correct revised date for the survey be included in the document.
2. That the deeds to the lots in the subdivision include septic easement language and the statement that they cannot be further subdivided.
3. That the deeds for Lot 1 and the Jericho Underhill Water District lot be recorded to reflect the boundary line adjustment. The land will merge with the existing Jericho Underhill Water District land and is not a new building lot.
4. A 48-foot waiver for the pergola is approved. The pergola will be constructed in the current location of the temporary canopy 2 feet from the edge of the right-of-way (27 feet from the centerline of River Road).
5. The Board recommends approval to the Selectboard of the waiver request for the bonding requirement.
6. The proposed 60' x 70' display area within the proposed building envelope as depicted on the submitted site plan is approved. The existing display area is also approved.
7. The existing parking area is approved. No more than 4 non-resident vehicles shall be parked in the area at one time.

8. The hours of operation shall be between 8:00 AM and 10:00 PM as stated in the application.
9. All goods for sale shall be produced on the premises.

The motion was passed by all Board Members present.

The Board signed minutes and a decision, discussed upcoming hearings, a training opportunity, information from VLCT regarding new regulations, a summary of the soils data from Betty Moore, and miscellaneous items.

9:10 PM: Meeting adjourned.

These minutes of the 8-17-09 meeting of the DRB were accepted

This _____ day of _____, 2009.

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.