

**Town of Underhill**  
Development Review Board Minutes  
Chairperson Scott Tobin

October 19, 2009

**Board Members Present:**

Scott Tobin, Chair  
Penny Miller  
Will Towle  
Stan Hamlet  
Chuck Brooks  
Deb Shannon  
Charlie Van Winkle

**Also Present:**

Kari Papelbon, Zoning Administrator  
Amanda Bosley, applicant for next meeting  
Michael Lunn, interested party for the Baslow hearing  
Mike and Deb Baslow, applicants for the Baslow hearing  
Gunner McCain, consultant for the Baslows  
Guest

**6:34 PM:** Chairperson Scott Tobin called the Netelkos sketch plan meeting to order.

**Applicants Present:**

Christopher and Beth Netelkos  
295 Poker Hill Rd.  
Underhill, VT

**Interested Parties:**

Georgia Cumming  
311 Poker Hill Rd.  
Underhill, VT

**Identifier:    Contents:**

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ZA-1	Beth Netelkos' Application for Subdivision: Sketch Plan (dated 8-29-09)
ZA-2	A copy of the completed Subdivision Checklist: Sketch Plan
ZA-3	A copy of the proposed plan
ZA-4	Staff report prepared by ZA Papelbon

- Chairperson Tobin began the meeting by explaining the procedure for the sketch plan meeting.
- Christopher and Beth Netelkos provided an overview of their plans. 31.5 acres at 295 Poker Hill Rd. Current residence approximately 800 feet back from road. Would like to create a parcel of 7-10 acres with the house and the remaining land would be another parcel. Keep building in line with current development pattern—staggered houses. Spoke with neighbor about unclear covenant regarding the meadow. Keep front pasture as open land.
- Board Member Charlie Van Winkle asked if the lots would have separate driveways or a shared driveway. The Netelkos stated that the lots would have separate driveways. Mr. Netelkos explained that the lot size may change, but that they would like to keep the minimum road frontage. Board Member Chuck Brooks asked which lot would have the minimum frontage, to which Mrs. Netelkos stated the lot with the current house would have the minimum.
- Chairperson Scott Tobin asked what the total current frontage is. It was stated that the deed description is “500 feet, more or less.”
- Chairperson Tobin stated that the front of the property is in Rural Residential and the rear portion is in Soil & Water Conservation. Mr. Netelkos stated that the lot without the existing house would be larger than the 15-acre district minimum.
- Chairperson Tobin asked if the sketch plan were accepted, would the Netelkos ask for a variance from the road frontage minimum. Mr. Netelkos responded that they would, but if that would not be approved then they would have another plan.
- Chairperson Tobin asked if the site had any wetlands. Mrs. Netelkos responded that there is a melt runoff that runs down Poker Hill Road and across the property, which is typically seasonal.
- Board Member Stan Hamlet asked if the land was flat. Mr. Netelkos replied that it was not, that Metcalf Hill is behind the house. Mrs. Netelkos added that there’s meadow at the front of the property by the road, then there are trees, and the property behind the house increases up the ridge.
- A short discussion of the location of the meadow ensued.
- Board Member Will Towle asked if the Francis’ driveway crosses the Netelkos lot as depicted on the tax map. The Netelkos replied that they were unsure.

- Chairperson Tobin asked ZA Papelbon if she had information to add, to which she replied that she did not. He then asked for public comment.
- Georgia Cumming, 311 Poker Hill Road, stated her concerns for the deed covenants that prohibit a house in the meadow, that limit the number of houses on the property to 2, and that states a septic system will not interfere with her well. She then stated that the Francis' driveway is on her property, with a right-of-way over her land.
- Board Member Charlie Van Winkle stated that the Board would expect a proposal from the Netelkos defining the meadow location.

**6:48 PM:** Chairperson Scott Tobin asked if the Board felt they had enough information to make a decision on whether the requirements for sketch plan had been met. The Board stated that they did.

**6:49 PM:** Board Member Charlie Van Winkle made a motion, seconded by Board Member Stan Hamlet, to accept the sketch plan application as presented. The motion was passed by all Board Members present.

**6:50 PM:** Chairperson Scott Tobin called the Bosley sketch plan meeting to order.

**Applicant Present:**

Amanda Bosley  
73 Bill Cook Rd.  
Underhill, VT

**Others Present:**

Michael Lunn, interested party for the Baslow hearing  
Mike and Deb Baslow, applicants for the Baslow hearing  
Gunner McCain, consultant for the Baslows  
Guest

**Identifier:    Contents:**

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ZA-1	Amanda and Wade Bosley's Application for Subdivision: Sketch Plan (dated 10-1-09)
ZA-2	A copy of the completed Subdivision Checklist: Sketch Plan
ZA-3	A copy of the proposed plan
ZA-4	ZA-4 Staff report prepared by ZA Papelbon

- Chairperson Tobin began the meeting by explaining the procedure for the sketch plan meeting.
- Amanda Bosley provided an overview of the proposed plan. She and her husband would like to divide their 11.9 acres into two lots as depicted in the 1977 map. At that time it was not possible to divide the land in such a way as noted on the map. The Bosleys would keep the 6.4-acre lot for themselves and sell the 5.5-acre lot to friends.
- Chairperson Tobin stated that the land is in the 3-acre zoning district and both lots would exceed that requirement. He asked if Mrs. Bosley knew how much frontage she currently has. Although an exact number is not known, there is more than adequate frontage.
- Board Member Chuck Brooks asked Mrs. Bosley if the plan was to divide the lots the same as the map shows or if she was going to keep only 3 acres. Mrs. Bosley explained that the 6.4 acres with the house will be retained and the 5.5-acre lot would be sold.
- Board Member Charlie Van Winkle asked if the Town maintains the road along the entire parcel. Mrs. Bosley replied that they do.
- Chairperson Tobin asked if the house site on the proposed new lot would be sited without the need for a variance. Mrs. Bosley stated she did not think so, but there is a small corner of the proposed new lot that has a stream and small wetland on it. She also stated that she spoke to adjoining property owner Phil Cook about a right-of-way over their property to get to his.
- Board Member Van Winkle asked if Mrs. Bosley found out what the note on the map meant. She replied that she did not. ZA Papelbon stated that it might have been because the two lots proposed were less than 10 acres.
- Board Member Will Towle asked what the estimated area of the wetland was. Mrs. Bosley responded that it was not very big.
- Chairperson Tobin asked ZA Papelbon if she had any additional information. ZA Papelbon stated that there were 2 missing items from the checklist: the proposed driveway and utilities and natural features, but the natural features are located on the tax map. She asked Mrs. Bosley if she had an idea of where the new driveway would be. Mrs. Bosley pointed to the area on the map (closer to the common lot line with the retained lot).
- Board Member Towle asked what the lot was like, to which Mrs. Bosley replied it was flat.

- Chairperson Tobin asked for public comments. There were none.

**6:58 PM:** Chairperson Scott Tobin asked if the Board felt they had enough information to make a decision on whether the requirements for sketch plan had been met. The Board stated that they did.

**6:59 PM:** Board Member Charlie Van Winkle made a motion, seconded by Board Member Chuck Brooks, to accept the sketch plan application as presented. The motion was passed by all Board Members present. Board Member Chuck Brooks suggested thinking carefully about putting a right-of-way on the property. Chairperson Tobin explained that Mrs. Bosley had 6 months to provide an application for preliminary and that ZA Papelbon would assist with the requirements.

Board Member Will Towle left at this point.

**7:03 PM:** Chairperson Scott Tobin called the Baslow final subdivision hearing to order.

**Applicants Present:**

Isabel Baslow  
c/o Mike and Deb Baslow  
13 Baslow Ln.  
Underhill, VT

**Consultant Present:**

Gunner McCain  
McCain Consulting  
93 S. Main St.  
Waterbury, VT

**Others Present:**

Michael Lunn  
13 Warner Creek  
Underhill, VT

Guest

**Identifier: Contents:**

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ZA-1	Isabel Baslow's Application for Subdivision: Final Hearing (8-9-09)
ZA-2	A copy of the completed Subdivision Checklist: Final Hearing
ZA-3	A copy of plans prepared by Gunner McCain of McCain Consulting for Isabel Baslow (Sheet 1 of 5 revised 7-29-09; Sheet 2 of 5, Sheet

	4 of 5, and Sheet 5 of 5 revised 4-21-09; Sheet 3 of 5 revised 11-10-05; Sheets SW-1 through SW-3 dated 6-1-09)
ZA-4	A copy of the Final Plat prepared by Lynn Ribolini for Isabel Baslow (revised 9-29-06)
ZA-5	A copy of the Access and Utilities Right-of-Way Survey prepared by Keith Van Iderstine of McCain Consulting for Isabel Baslow (dated 8-7-09)
ZA-6	A copy of the letter from Ernest Christianson regarding the boundary adjustment for Lots 2 and 5 (dated 6-3-09)
ZA-7	A copy of the Construction General Permit # 6154-9020 (dated 7-17-09)
ZA-8	A copy of the Stormwater Permit #6154-9015 (dated 8-10-09)
ZA-9	A copy of the letter from the Underhill-Jericho Fire Department (dated 7-1-09)
ZA-10	A copy of the Private Roadway Agreement
ZA-11	A waiver request for the bonding requirement and Lot 1 wetland setback (dated 8-12-09)
ZA-12	A copy of the minutes from the May 11, 2009 hearing
ZA-13	A copy of the Preliminary Decision (dated 6-1-09)
ZA-14	A copy of the hearing notice published in the Burlington Free Press (dated 10-1-09)
ZA-15	Staff report prepared by ZA Papelbon
S-1	Draft Declaration of the Warner Creek Planned Community
S-2	Proposed Conditions for Subdivision
S-3	Sheet 1 of 5 revised 10-1-09

- Chairperson Tobin began the meeting by explaining the procedure for the final subdivision hearing. Selectboard Chair Steve Walkerman arrived. Chairperson Tobin then swore in all interested parties and entered the above items into record. Board Member Penny Miller noted that the revised date for the Lynn Ribolini survey was actually 10-12-06.
- Gunner McCain, McCain Consulting, stated that nothing has changed in the plans from preliminary—there have just been minor revisions made. He welcomed questions from the Board.
- Board Member Miller stated that she recalled a neighbor question about pushing the proposed road extension further away and also screening. Mr. McCain stated that the road was pushed over as far as it could be and that he believed the Baslows had spoken to the neighbor about screening. Deb Baslow stated that she and Mike Baslow had spoken with the neighbors (the Glens) and that it was decided that they (the Baslows) would provide evergreens along the edge of the road for screening. Board Member Miller asked if there was any documentation for such screening,

- Board Member Stan Hamlet asked about the Selectboard driveway approval. ZA Papelbon stated that Selectboard Member Steve Walkerman is in attendance, but that a quorum was not present. Mr. Walkerman is welcome to provide his input and ZA Papelbon will provide a memo regarding approvals for the Baslow subdivision for the full Selectboard to consider at their next meeting.
- Chairperson Tobin asked what the outstanding items from preliminary were. He then read the outstanding items that had been received and/or revised.
- Chairperson Tobin asked ZA Papelbon to review her notes provided in the information packet, which she did. A brief discussion of the variances ensued. She then stated that the decision from 2006 required Sheet 2 of 5 to be recorded as well. Mr. McCain stated that he had no issue with such a requirement. ZA Papelbon asked if there were any updates to the orphan stormwater permit, to which Mr. McCain replied that there were not. ZA Papelbon then stated that she and Mr. McCain had spoken about the issue of the piece of land owned by the Baslows across VT Rte. 15. It was discussed that a small portion of land existed that was not included in the acreage for the plans as the Baslows and their consultant were not aware that the land was owned by Isabel. The issues are that there is no record of conveyance and no description of the land exists (no acreage, etc.). Mr. McCain stated that he would have his surveyor look into the issue.
- Chairperson Tobin stated that the issue before the Board is whether this additional land renders the survey incomplete. Board Member Hamlet stated that it is shown on the engineering plans. A discussion of the land ensued. Chairperson Tobin offered that some language requiring verification could be included in the conditions in order to proceed with the subdivision review. Mr. McCain agreed.
- ZA Papelbon asked if the Private Roadway Agreement was superseded by the Homeowners Association agreement. It was determined that the Agreement was in addition to the Homeowners Association agreement and ZA Papelbon stated that the dates for the Agreement would need to be updated. Copies of all State permits have been submitted. No new concerns were raised in the revised UJFD letter. A brief discussion of the UJFD letter ensued. A letter from Ernie Christianson stated that the boundary adjustment did not need a new wastewater permit. Finally, the Utilities and Right-of-Way survey is missing the zoning data.

- The variances were discussed. The 50-foot wetland setback variance on Lot 2 is for the north side of the building envelope, the 50-foot wetland setback variance on Lot 3 is for the north and south sides of the building envelope, and the 50-foot wetland setback variance on Lot 1 is for the east-southeast side of the building envelope.
- Board Member Deb Shannon stated that she had a concern about the flooding issues raised in the UJFD letter and asked whether the area floods. Mr. McCain stated he was never aware that Warner Creek floods. Mr. Lunn said that it has gotten close. Mrs. Baslow stated that the Town did a lot of work this year on the beaver baffles.
- Board Member Miller asked Mr. McCain for clarification on the wetland buffer depicted on the map.
- Chairperson Tobin asked for public comment.
- Mike Lunn, 13 Warner Creek, asked how the road was changed. Mr. McCain explained that the road changed with regard to Marie Trull's property a while back, but no further changes to the road had been made. Mr. Lunn then asked about whether the road crossing his property and the agreement for such would have to be changed since the road was being extended. Mr. McCain explained that the agreement would not change and the road would not be further extended onto Mr. Lunn's property. ZA Papelbon stated that she believed the only change would be to add the new lots to the agreement.
- Chairperson Tobin asked if Mr. McCain and the Baslows had reviewed the Proposed Conditions for Subdivision, to which Mr. McCain replied that they had. There were no concerns.
- Board Member Chuck Brooks raised the concern of the missing Selectboard approval. It was discussed and determined that the Board would make recommendations to the Selectboard for the driveway/road extension, bonding requirement, underground utilities, waiver of 10% grade and that ZA Papelbon would prepare a memo.
- Chairperson Tobin asked Selectboard Chair Walkerman if he had any requests for additional information from the DRB with regard to their recommendations. Mr. Walkerman stated that he was familiar with the site and was comfortable with what the DRB was proposing.
- ZA Papelbon stated that an additional proposed condition would be verification of the land across VT Rte. 15.

- Chairperson Tobin provided a brief summary of the variances, Selectboard approvals required, and final determination of the remaining land that would be added to the conditions. Board Member Van Winkle asked how the land would be treated if it was discovered that the Baslows own it—Lot 6 or part of Lot 5? Mrs. Baslow and Mr. McCain stated it would become part of Lot 5.

**7:47 PM:** Chairperson Tobin asked if the Board felt they had enough information to make a decision on whether the application fulfills the final hearing requirements for subdivision. The Board stated that they did. Mr. McCain asked whether a survey of the remaining land would be required if it was found to belong to the Baslows. Chairperson Tobin stated that the final plat would have to show that the acreage would be included with the remaining parcel. Chairperson Tobin stated that the evidentiary portion of the hearing was closed.

**7:48 PM:** Chairperson Tobin asked if the Board would like to deliberate in open or closed session. Board Member Stan Hamlet made a motion, seconded by Board Member Chuck Brooks, to deliberate in closed session. The motion was passed by all Board Members present (Board Member Charlie Van Winkle did not cast a vote as he remembered that he did not participate in the preliminary hearing).

End of hearing.

The Board discussed the Baslow variances and conditions.

**8:18 PM:** Chairperson Tobin moved the Board into open session upon majority agreement. Chairperson Scott Tobin made a motion, seconded by Board Member Stan Hamlet, to approve of the 50-foot wetland setback variance request for the east-southeast side of the building envelope on Lot 1. The motion was passed by all Board Members present.

**8:20 PM:** Chairperson Scott Tobin made a motion, seconded by Board Member Chuck Brooks, that the previously-approved variances for Lot 2 (50-foot wetland setback for the north side of the building envelope) and Lot 3 (50-foot wetland setback for the north and south sides of the building envelope) remain valid. The motion was passed by all Board Members present.

**8:21 PM:** Chairperson Scott Tobin made a motion, seconded by Board Member Chuck Brooks, to approve the 5-lot subdivision subject to the following conditions:

1. Per the Underhill Subdivision Regulations, final approval of the subdivision is granted upon filing of the final subdivision plat in the Underhill Land Records. No transfer or sale of property may occur prior to recording the final plat and all applicable permits in the Town of Underhill Land Records.

2. All State permits shall be recorded in the Land Records.
3. Prior to issuance of a building permit to any lot out of this subdivision, an engineer shall provide a letter to the Zoning Administrator certifying
  - a. that the shared infrastructure has been installed to the lot per the phasing schedule in the approved plans;
  - b. that the approved curb cut has been installed per the plan; and
  - c. that the driveway has been "roughed in" per the approved plan.

Driveway top treatment may be installed at the end of the construction period. All erosion prevention, sediment control, and stormwater measures shall be installed per the phasing schedule in the approved plans. Approved driveways shall be the only points of ingress and egress during the construction period so as to minimize:

- a. compaction of site soils; and
- b. the effect on the submitted stormwater plans.

Upon completion of construction, the designer/engineer must certify by letter to the Zoning Administrator that the shared infrastructure and driveways have been constructed as designed.

4. The Private Roadway Agreement shall include the correct revised dates. This agreement may appear in the Homeowners Association agreement.
5. Reference to the Homeowners Association agreement shall appear in any deed in this subdivision. Failure to maintain a Homeowners Association and required agreements shall be considered a violation of the subdivision permit
6. All building envelopes and septic areas shall be staked out by the surveyor/engineer prior to any construction, and off-set stakes shall be held in place until completion of construction.
7. A copy of the engineer's letter to the State certifying that the septic system for any lot out of this subdivision has been installed per the approved plans shall be filed with the Zoning Administrator.
8. A copy of all inspection reports and certification reports sent to the State for the stormwater infrastructure shall be copied to the Zoning Administrator.

9. Prior to recording the final Mylars, the applicant shall submit a copy of the final plats and site plan Sheet S-1 in digital format to the Zoning Administrator.
10. All lots shall have their 911 codes posted prior to issuance of any building permit (Lot 1: WC023, Lot 2: WC021, Lot 3: WC022, Lot 4: WC024).
11. All subdivision fees shall be paid in full to the Zoning Administrator prior to filing the final plat with the Town Clerk.
12. Applicant shall obtain approval of the curb cut, driveways, and waiver requests from the Selectboard prior to filing the final plat.
13. Applicant shall provide a determination to the Zoning Administrator on the remaining lands across VT Rte. 15 prior to filing the final plat. The determination shall either
  - a. confirm that the land is owned by Isabel Baslow and will be a part of Lot 5 or
  - b. provide evidence of conveyance of the land.
14. Applicant shall obtain Selectboard approval of the driveway and road design, waiver request for the bonding requirement, the underground utilities, and the waiver request for the 10% grade requirement.
15. Mylars of Sheet 1 of 5 and Sheet 2 of 5 shall be recorded in the Underhill Land Records.

ZA Papelbon suggested amending Condition #9 to include Condition #15 and to combine Condition #12 with Condition #14. Upon agreement to include ZA Papelbon's suggestions, the motion was passed by all Board Members present.

The Board discussed their upcoming schedules and miscellaneous items.

**8:30 PM:** Meeting adjourned.

These minutes of the 10-19-09 meeting of the DRB were accepted

This \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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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.***