

**Town of Underhill**  
Development Review Board Minutes  
February 5, 2007  
Chairperson Scott Tobin

Board Members Present: Scott Tobin (Chair), Chuck Brooks, Stan Hamlet, Matt Chapek, Peter Seybolt

Also Present: Chris Murphy, Zoning Administrator; Laurel Williams, Town Assistant

**6:05 PM: Meeting called to order**

- **ZA Murphy** asked the board about interpretation of Underhill Zoning Regulations, § 4 (C) ("Division of Lots by District Boundaries"). Jim Bedell (TU035; 11.2 acres) is scheduled for a sketch plan hearing in May. His property is half 3-acre zoning, half 15-acre zoning. It was created in the 1970s, when no review of 2-lot subdivisions was required. The ZA asked the Board whether, under the regulations, subdivision is allowed of the 3-acre half of the land (into parcels of 3 acres or more) or whether subdivision of the entire parcel is limited to lots 15 acres or more (thus precluding subdivision of this lot). Alternatively, could subdivision be permitted under § III (R), Planned Residential Development, which encourages clustering of development concurrent with preservation of open land? The ZA would like the Board to come up with recommendations for the future, as this type of situation is common.

The Board asks where the use of the land would lie. The ZA replies it would be in the 3-acre district. She says the Board could condition that the 15-acre portion remain undeveloped, as part of a PRD. Seybolt remarks that if the use would be in the 3-acre portion he doesn't see a problem. The ZA says the Planning Commission (which formerly oversaw subdivisions) has typically interpreted the regulations as mandating that subdivision is constrained by the strictest zoning. Seybolt clarifies this was for frontage and setback requirements, but the ZA notes that the situation under discussion does not involve putting in structures. She also notes that if the subdivision were permitted, the Board would be enlarging a nonconformity.

**6:15 PM: Williamson sketch plan meeting opened**

*Williamson Sketch Plan Meeting*

Applicants Present: Dennis and Resa Williamson

Consultants Present: None

Meeting: Subdivision Sketch Plan Meeting

Other Participants: Steve Coddling, 34 Pine Ridge Road  
Dennis Grange, 301 Irish Settlement Road  
Susan Murray Grange, 301 Irish Settlement Road

- The DRB accepted the below listed written information from Christine Murphy:

Introduced Written Information:

Identifier #:	Contents:
ZA-1	A copy of a subdivision application submitted by Dennis and Resa Williamson on 1/16/07
ZA-2	A copy of a letter regarding hearing materials, sent by ZA Chris Murphy to Dennis and Resa Williamson on 1/18/07
ZA-3	A copy of a sketch plan submitted by consultant Justin Willis for Dennis and Resa Williamson on 1/17/07
ZA-4	A staff report prepared by the ZA before the meeting and mailed to Board members prior to the hearing.

- **ZA Murphy** says this property (SH006, 6 Sand Hill Road) was formerly owned by Betty Bashaw. Currently a one-bedroom house with an accessory apartment is located on the land. Justin Willis and Brad Holden have been acting as the Williamsons' consultants. The submitted sketch plan shows a fairly large building envelope, but the Williamsons plan to put the new house up on a hill and leave the rest of the land quite open. Willis is sick and unable to be present, so the ZA briefly discusses power pole placement with Dennis Williamson. The ZA also reviews the location of septic systems, replacement areas, and wells. Tobin confirms the existing lot is 12.9 acres and located within a 5-acre zoning district. The ZA says that the Selectboard will have to approve the curb cut and the DRB will need to do a site visit. She suggests combining the preliminary and final hearing. Unless many concerns are raised there is not much to discuss.
- **Stan Hamlet** asks about the right-of-way to the nearby cemetery and the ZA confirms that this was taken care of prior to the sale of the land from the Bashaw estate to Williamson.
- **Peter Seybolt** inquires about the Williamsons' plans for the property. They may or may not sell the land although they definitely will build a

barn. The ZA reminds the Williamsons to speak to Lister Pam Shover about tax ramifications of subdividing.

- **Steve Coddington** asks about the zoning district and why an accessory apartment is allowed in addition to the single-family home already present. The ZA and the Board explain the zoning regulations allow one accessory apartment per single-family house, that accessory apartments are allowed and exist throughout town, and that their permitting is state-mandated to help achieve affordable housing targets.
- **Chuck Brooks** notes that according to page 7 of the subdivision regulations, this sketch plan is more than sufficient. He makes a motion to accept the sketch plan. Stan Hamlet seconds the motion and the DRB votes to accept the sketch plan.
- **ZA Murphy** discusses the site visit with the Board. The preliminary/final hearing is scheduled for April 16 and the site visit is scheduled immediately beforehand. The DRB approves combining the preliminary and final hearings.

**6:35 PM: Williamson meeting concluded**

- **ZA Murphy** reviews the upcoming hearing schedule and schedules a site visit for the upcoming March 5<sup>th</sup> meeting.

**6:45 PM: Beloin variance hearing opened**

### *Beloin Variance Hearing*

Applicants Present: Denis Beloin

Consultants Present: None

Hearing: Request for Variance for Carport and Ramp from Streambank Setback Requirements and Review under Flood Hazard Zoning Bylaw for a Non-Complying Structure

Other Participants: None

- The DRB accepted the below listed written information from Christine Murphy:

Introduced Written Information:

Identifier #:	Contents:
ZA-1	A copy of the Mountain Gazette warning for this hearing that was published on 1/18/07
ZA-2	A copy of a variance application submitted by Denis and Margaret Beloin
ZA-3	A copy of a letter regarding hearing materials, sent by ZA Chris Murphy to Denis and Margaret Beloin, dated 1/18/07
ZA-4	A copy of a site plan submitted by Denis Beloin on 1/24/07
ZA-5	A copy of a diagram submitted by Denis Beloin on 1/24/07
ZA-6	A sketch of a side elevation submitted by Denis Beloin on 1/25/07
ZA-7	A staff report prepared by the ZA before the meeting and mailed to Board members prior to the hearing.

- ZA Murphy says the Board measured at the site visit and found the proposed carport does meet streambank, side-lot, and rear setback requirements. However, it has only a 22-foot setback from the front property line. The zoning regulations require a 200-foot setback. This raises the question of how to interpret §III(N)(1) of the Zoning Regulations ("Non-Complying Structures"). This is a non-complying structure. The front plane of the home is in front of the front plane of the proposed carport. For an accessory structure, this would preclude the need for a hearing, but this is not an accessory structure because it is attached to the home. Therefore, she again seeks the Board's guidance. Does Denis require prior approval when he is expanding the house but not further encroaching on the front setback? In the past, the Board has interpreted the regulations as saying a hearing is required. Similar situations are seen throughout town, especially in Underhill Center.
- Seybolt suggests that the Board leave the decision up to the ZA unless she sees a problem. The ZA responds that she would prefer clear-cut guidance, for example saying that if there is no further encroachment then a hearing is not required. Tobin says he doesn't have a problem with that interpretation, but is the Board rewriting regulations? The ZA believes it is the Board's job to clarify unclear regulations.
- The Board digresses into discussion of streambank dumping regulations, which were discussed at the previous meeting. Brooks suggests that Board policies be indexed to sections and presented to the Zoning Administrator. For instance, in this case, the Board can give prior approval expansion of a non-complying structure if a structure's noncompliance is not increased by the proposed alteration. Brooks volunteers to write up policies and send them around via email.
- Brooks motions that the Board grant the front-yard variance of 178 feet for Beloin's proposed carport and ramp as depicted on his sketches submitted to the

DRB. The ZA says the caveat is that this permit will have to be conditioned upon approval from the State Floodplain Coordinator, due to Beloin's location within the floodway, and Brooks includes this in his motion. Seybolt seconds the motion and the Board approves the motion.

- ZA Murphy says the state will require more detailed information than what has been submitted by Beloin. Hamlet agrees to visit Beloin's property, make measurements, and provide drawings. The ZA says the state did not anticipate any problems with approving the construction.

**7:00 PM: Beloin hearing concluded**

- The Board further discusses the clarification of §III(N)(1) of the Zoning Regulations ("Non-Complying Structures"). It does not want to allow piggybacking of nonconformities. The Board agrees it can allow the ZA to kick a variance request back to the DRB in case of questions. The appeal process is another avenue for review.
- ZA Murphy reviews the streambank dumping discussion for Tobin and Seybolt, who were not at the previous meeting. The Board further discusses how to interpret the regulations. The ZA says the DRB's policy submission would be presented to the Planning Commission for eventual inclusion into the regulations.
- The Board discusses letters submitted by Tim and Jennifer Chamberlin regarding a prior DRB decision.

**7:15 PM: The Board adjourns.**

These minutes of the February 5, 2007 meeting of the Development Review Board are

{Accepted}                      {Amended as noted below and accepted}

This \_\_\_\_\_ day of \_\_\_\_\_, 2007

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Scott Tobin, Chairperson

These minutes are subject to correction by the Town of Underhill Development Review Board. Changes, if any, will be recorded in the minutes of the meeting of the DRB.