Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

December 6, 2010

Board Members Present:
Will Towle
Matt Chapek
Penny Miller
Chuck Brooks
Peter Seybolt
Charles Van Winkle, Vice Chair

Also Present:
Kari Papelbon, Zoning & Planning Administrator; Peter Lazorchak, consultant; Regis Parent, adjoining neighbor for the Shapiro hearing; Brad Holden, consultant for the Kusserow/Lewis hearing; Suzanne Kusserow and William Lewis, Applicants.

6:39 PM: Vice Chairperson Charles Van Winkle called the Netelkos Final Subdivision hearing to order.

Applicant Present:
Christopher Netelkos
295 Poker Hill Rd.
Underhill, VT 05489

Consultant Present:
Peter Lazorchak
McCain Consulting, Inc.
93 South Main St., Ste. 1
Waterbury, VT 05676

Others Present:
Georgia Cumming
311 Poker Hill Rd.
Underhill, VT 05489

Gary and Elizabeth Francis
305 Poker Hill Rd.
Underhill, VT 05489

(Applicants, neighbors, and consultant for subsequent hearings listed above)

Identifier:	Contents:
ZA-1	Christopher and Beth Netelkos' Application for Subdivision: Final (dated 9-12-10)

ZA-2	A copy of the completed Subdivision Checklist: Final Hearing
ZA-3	A copy of the plans prepared by Gunner McCain of McCain Consulting, Inc. for Christopher and Beth Netelkos (Sheets 1-2 revised 10-5-10)
ZA-4	A copy of the preliminary survey prepared by Keith Van Iderstine of McCain Consulting, Inc. for Christopher Netelkos and Beth Ann Boquel (dated 10-7-10)
ZA-5	A copy of the letter from Harry Schoppmann of the Underhill-Jericho Fire Department (dated 5-7-10)
ZA-6	A copy of the Wastewater System and Potable Water Supply Permit #WW-4-3482 (dated 5-24-10)
ZA-7	Copies of the draft warranty deeds (2) for the lots
ZA-8	A copy of the Proposed Findings of Fact (dated 10-22-10)
ZA-9	A copy of the preliminary decision (dated 5-28-10);
ZA-10	A copy of the minutes from the 5-17-10 preliminary hearing (approved 5-28-10)
ZA-11	A copy of the tax map for PH295
ZA-12	A copy of the hearing notice published in the *Mountain Gazette* (11-18-10)

- Vice Chairperson Van Winkle began the meeting by explaining the procedure for the hearing. He then swore in all interested parties and entered the above items into record.

- Peter Lazorchak, acting consultant for the Applicant, provided an overview of the final subdivision plans. Mr. Lazorchak explained that the wetland delineated on the proposed Lot 2 was reclassified by the State to a Class II wetland from a Class III wetland. The driveway was moved to stay out of the wetland buffers. The location of the proposed well changed slightly from the preliminary plans to minimize impacts to the wetlands.

- Vice Chair Van Winkle asked whether the State environmental permit was received prior to the new rules. Mr. Lazorchak stated that it was, but that an amendment is required due to the change in the well location. Vice Chair Van Winkle asked if the neighbor notification requirement was still applicable in this case, to which Mr. Lazorchak stated it was.

- Board Member Will Towle asked whether there was anything on the Baslow property to the west that would be affected by the well shield encroachment. Mr. Lazorchak stated that the Baslow property was too far away to be affected by the well shield and that there was nothing on the adjoining Francis property that would be affected.

- Vice Chair Van Winkle asked how many bedrooms were in the existing house and how many bedrooms the proposed system was designed to handle. Mr. Lazorchak and Mr. Netelkos replied that the existing house had 3 bedrooms and the proposed system was designed for 4 bedrooms.

- Mr. Lazorchak addressed the drainage issues that had been raised by the Francis' at the preliminary hearing. He stated that the proposed culvert on the Lot 2 driveway was added to eliminate runoff from sheeting onto the Francis' property and was angled toward the wet area on Lot 2.

- ZA Papelbon spoke, stating that the proposed culvert is 15" rather than 18" as required in the Road Policy. She stated that Road Foreman Rod Fuller had conducted a site visit and determined the smaller size to be acceptable. ZA Papelbon mentioned that the survey incorrectly labeled the last name for 298 Poker Hill and it should be "Pilo." She then stated that a neighbor concern was raised with the survey, but as the neighbor was present she would defer to her.

- Board Member Will Towle asked whether it was acceptable to have the well shield intersect with the leachfield isolation shield. Mr. Lazorchak stated that as long as the well shield did not extend into the septic system's required basal area the shields could intersect, and provided an explanation of design. In this case, the basal area is outside of the well shield.

- Vice Chairperson Van Winkle asked for public comments.

- Georgia Cumming, 311 Poker Hill Road, stated her concern with the common (northern) boundary line. On the survey there is an area where the Francis driveway, which has been in existence for 23 years, is located and is depicted as being on the Netelkos property rather than the Cumming property. Ms. Cumming stated that both her deed and the Francis' deed reflect the Francis right-of-way on her property. The concern is the loss of property as well as access in terms of right-of-way to the Francis property from Netelkos. Mr. Lazorchak provided a brief explanation of surveying process. A lengthy discussion of this issue ensued. Board Member Towle asked what the width was for the area in dispute. It was determined to be between 15 and 20 feet wide. Mr. Lazorchak stated that the building envelope could be sited to ensure that local setbacks would be met regardless of the end result of the property line dispute. The discussion continued.

- Gary and Elizabeth Francis, 305 Poker Hill Road, spoke. Their concerns were for the property line, which they stated is based on their right-of-way (60 feet wide); the potential loss of their land; the location of the proposed well and the potential impact to their yield (500 feet deep, producing 1 gpm after dynamite and hydro-fracturing, ledge); the location of the proposed septic system at the same level as their existing well; potential contamination of their well from runoff and a failed septic system; and drainage resulting from Lot 2. Mr. Netelkos stated that he has no problem with the Francis' right-of-way on his property. The Francis' stated that they do not believe the proposed driveway splash pad will prevent runoff to their property. A final concern was raised for the number of houses in a row. Discussion of the above ensued.

- Mr. Lazorchak, upon request of the Board, explained McCain Consulting's typical protocol for survey work conducted as part of a subdivision.

- Board Member Towle stated that the 1980 Cumming deed mentions an iron pin, but the surveyor for the project could not locate the southern corner and "re-set" that pin on the stone wall. Based on the submitted survey, Board Member Towle expressed his concern that the building envelope would be sited right at the setback distance to the property line should it move south. Mr. Netelkos and Mr. Lazorchak expressed willingness to move or resize the building envelope to comply with such a scenario.

- Board Member Peter Seybolt expressed his concern for the water issues raised by the Francis'. He asked if there is another place farther away from the Francis' well that it could be sited to alleviate their concerns. Mr. Lazorchak explained that the proposed well was sited in the location on the plans due to the presence of a Class II wetland on the property, the rear topography of the land, and the locations of the septic systems. Additionally, there is a deed restriction that prevents development of the property in the meadow. A brief discussion of the wetland and well ensued.

- Vice Chairperson Van Winkle asked Mr. Lazorchak about the deed restriction with regard to development in the meadow. Mr. Lazorchak stated that he did not have a full history of the deed restriction, and Mr. Netelkos stated that regardless of the restriction that portion of the land does not perc. He added that he did not want to disturb the meadow.

- Board Member Seybolt continued the discussion of the well and water supply. He asked if there was any way to know whether the proposed well would affect the existing Francis well. Mr. Lazorchak confirmed that the only way to know is to drill the well. Typically, interference between wells does not occur, but Mr. Lazorchak stated he could not say it would not happen. He then explained the criteria from the state and a discussion of well dynamics ensued.

- Mr. Lazorchak discussed the topography and wetlands with regard to the general water flow on the Netelkos property. The location of the proposed mound, 3 feet above grade, will act as a natural diversion for surface runoff. Runoff from the additional impervious surfaces from the new house and driveway will make it to the proposed culvert, with impacts further down toward the wetland.

7:57 PM: Vice Chairperson Van Winkle asked if there were further questions. A lengthy discussion of the survey issue and process ensued. Regis Parent, neighbor for the next hearing, provided his experience with surveys and boundary disputes. It was discussed and agreed upon that the building envelope would meet the 50-foot setback requirement to the property line regardless of the final location of the disputed boundary line.

8:08 PM: Vice Chairperson Van Winkle asked if the Board wished to continue the hearing. A discussion ensued.

8:13 PM: Board Member Will Towle made a motion, seconded by Board Member Matt Chapek, to close the evidentiary portion of the hearing. The motion was passed by 5 Board Members. Board Member Chuck Brooks did not cast a vote.

Board Member Peter Seybolt made a motion, seconded by Board Member Matt Chapek, to enter a closed deliberative session on the application after the final hearing for the evening. The motion was passed by 5 Board Members. Board Member Chuck Brooks did not cast a vote. Vice Chairperson Charles Van Winkle explained the process for decisions and appeals.

Chris Netelkos, Georgia Cumming, and Gary and Elizabeth Francis left at this point. The Board requested a short break.

8:26 PM: Vice Chairperson Charles Van Winkle called the Shapiro Final Subdivision hearing to order.

Consultant Present:

Peter Lazorchak
(information above)

Others Present:

Regis Parent
83 Bill Cook Rd.
Underhill, VT 05489

(Applicants and consultant for subsequent hearing listed above)

Identifier:	**Contents:**
ZA-1	Elena Shapiro's Application for Subdivision: Final (dated 11-7-10)
ZA-2	A copy of the Subdivision Checklist: Final Hearing
ZA-3	A copy of the plans prepared by Peter Lazorchak of McCain Consulting, Inc. for Elena Shapiro (Sheet S-1 revised 12-2-10, Sheets 2-3 revised 10-28-10)
ZA-4	A copy of the preliminary survey prepared by Keith Van Iderstine of McCain Consulting, Inc. for Elena Shapiro (revised 12-2-10)
ZA-5	A copy of the letter from Harry Schoppmann of the Underhill-Jericho Fire Department (dated 9-20-10)
ZA-6	A copy of the letter from Frank DelGiudice of the Army Corps of Engineers (dated 10-1-10)
ZA-7	A copy of the letter from Nicole MacHarg of McCain Consulting, Inc. to Ernie Christianson of the Agency of Natural Resources (dated 11-11-10)
ZA-8	A copy of the letter from Nicole MacHarg of McCain Consulting, Inc. to Julie Foley of the Vermont Wetlands Office (dated 11-11-10)
ZA-9	A copy of the VELCO Easement Deed (dated 11-16-10)

ZA-10	A copy of the proposed easement for access and easement for septic (undated)
ZA-11	A copy of the Variance request and justification
ZA-12	A copy of the Proposed Findings of Fact (dated 10-29-10)
ZA-13	A copy of the preliminary decision (dated 10-5-10)
ZA-14	A copy of the minutes from the 9-20-10 preliminary hearing (approved 10-5-10)
ZA-15	A copy of the tax map for PH647
ZA-16	A copy of the hearing notice published in the *Mountain Gazette* (11-18-10)

- Vice Chairperson Van Winkle began the meeting by explaining the procedure for the final subdivision hearing. He then swore in all interested parties and entered the above items into record.

- Peter Lazorchak, Consultant, provided an overview of the plans. The identified wetland on the property was determined to be Class II by the State, which required revisions to the plans. The force main that was moved to be located entirely on Lot 2 per the DRB's request had to be located on Lot 1 with a septic easement due to State requirements for wetland setbacks. The utility easement across Lot 1 is shown as the current best solution (underground from the existing pole). Power is also located in the northwestern corner of the property; however a complete delineation of the wetland on that portion of the property prohibits siting in the area. The only other solution for power would be to come off of the existing pole on neighbor Regis Parent's property, which would require an easement. A 50-foot-wide construction easement across Lot 1 for the construction of the Lot 2 septic system is now shown on the plans.

- Board Member Peter Seybolt stated that the easements prohibit building opportunities for Lot 1. He stated that burdening Lot 1 with 3 major easements could have a negative effect on the future salability of the lot. Mr. Lazorchak conceded that the lot was difficult to design, but there is sufficient land outside of the easements to construct accessory structures.

- ZA Papelbon stated that all of her comments were included in the information packet. All requested DRB changes have been incorporated into the plans.

- Vice Chairperson Van Winkle asked for public comment.

- Regis Parent, 83 Bill Cook Road, stated that he was present at the site visit and asked what the note on the plans regarding the driveway location meant. Mr. Lazorchak explained that he had spoken to Rod Fuller, Road Foreman, at the property regarding clearing for sight distances for the proposed curb cut. A brief discussion of the clearing ensued. Mr. Fuller had indicated that he wanted to sign off on the sight distances prior to any construction on Lot 2. Mr. Parent requested relocating the curb cut closer to Poker Hill Road if at all possible. He then asked what the wastewater isolation shield that extended

onto his property meant for use of his property. Mr. Lazorchak explained that a well could not be sited in that area, which is ~50 feet from the edge of Bill Cook Road at the widest point. Board Member Will Towle asked if the isolation shield could cross the road, to which Mr. Lazorchak replied that it could.

- Board Member Penny Miller stated that the isolation distance for the septic system was not something the Board had seen on previous plans. Mr. Lazorchak explained that the legislation changed over the late spring early summer, which triggered the need to show isolation distances. The well shield and septic isolation distance shield can intersect. The septic isolation distance shield acts like a reverse well shield.

- Mr. Lazorchak stated that he would contact the Army Corps of Engineers regarding Mr. Parent's request to move the curb cut since the driveway requires a stream crossing.

- Board Member Miller asked why the plans called for boulders around the building envelope. Mr. Lazorchak explained that the boulders were a requirement for the State Wetlands Permit to keep encroachment into the wetland.

- Board Member Towle stated his hesitation with the variance requested as the plans seemed to indicate that the proposed Lot 2 was not developable. His concern was also for the variance criterion that states that authorization of said variance will not "substantially or permanently impair the appropriate use or development of the adjacent property." Lot 1 is encumbered with multiple easements. Very little of the project fits with the intent and purposes of the regulations. Board Member Towle asked if the variance for the wetland setback was denied whether there would be a buildable envelope on the lot. Mr. Lazorchak stated he was not sure there was another spot that could be developed, and provided a summary of the plan revisions to date. Board Member Towle added that he felt that the variance criterion that states the hardship has not been created by the applicant could not be met in this case because the lot is being created (it is not a pre-existing lot), Lot 1 is encumbered with several easements on all sides of the existing house, and the house for Lot 2 is very close to the shared lot line. Mr. Lazorchak stated that such did concern him. The utility easement is somewhat arbitrary, it could be moved, and it is not the preferred route as it is very costly. The leachfield construction easement would prohibit structures in that area, but it is temporary. A discussion of the encumbrances and future salability ensued.

- Board Member Will Towle asked why the power could not come up the driveway. Mr. Lazorchak stated that they have to find a route that avoids the wetlands to get power to the house. A Wetlands Permit might be required, and there is a power pole on Regis Parent's land that would be the preferred route for supplying power to Lot 2.

- Board Member Matt Chapek asked Mr. Lazorchak if the construction easement over Lot 1 for the septic system on Lot 2 would be removed after construction. Mr. Lazorchak stated that it would remain for maintenance purposes. ZA Papelbon asked why the construction easement was 50 feet wide. Mr. Lazorchak stated that it was probably oversized and could be 25 feet wide.

- Board Member Chuck Brooks asked if easement deeds had been submitted. ZA Papelbon replied that the language had been submitted.

- Board Member Peter Seybolt asked if the culvert had been designed to withstand the weight requested by the Underhill-Jericho Fire Department (35,000 pounds). Mr. Lazorchak responded that it had and was noted in the plans.

9:09 PM: Vice Chairperson Charles Van Winkle asked if the Board felt they had enough information to make a decision on the application. The Board indicated that they did. Board Member Matt Chapek made a motion, seconded by Board Member Chuck Brooks, to close the evidentiary portion of the hearing. The motion was passed by all Board Members present. Board Member Peter Seybolt made a motion, seconded by Board Member Chuck Brooks, to enter a closed deliberative session on the application after the last hearing. The motion was passed by all Board Members present.

Vice Chairperson Van Winkle indicated his desire to switch the Kusserow/Lewis sketch plan meeting and Geise final subdivision amendment hearing. Consultant Peter Lazorchak, Suzanne Kusserow, William Lewis, and Consultant Brad Holden were in favor.

9:11 PM: Vice Chairperson Charles Van Winkle called the Kusserow/Lewis sketch plan meeting to order.

Applicants Present:

Suzanne Kusserow
William Lewis
37 Beartown Rd.
(P.O. Box 125, 05490)
Underhill, VT 05489

Consultant Present:

Brad Holden
60 Covey Rd.
Underhill, VT 05489

Others Present:

Peter Lazorchak
(information above)

Identifier:	Contents:
ZA-1	Suzanne Kusserow and William Lewis' Application for Subdivision: Sketch Plan (dated 11-19-10)
ZA-2	A copy of the completed Subdivision Checklist: Sketch Plan
ZA-3	A copy of the proposed Sketch Plan: Planned Residential Development/Boundary Line Adjustment prepared by Bradford Holden for Suzanne Kusserow and William Lewis (dated November 2010)
ZA-4	A copy of the tax map for BE037

- Chairperson Van Winkle began the meeting by explaining the procedure for the sketch plan meeting. Regis Parent left at this point.

- Brad Holden, Consultant, provided an overview of the plans for a 3-lot Planned Residential Development (PRD) and a Boundary Line Adjustment with the adjacent parcel owned by William Lewis (previously-approved subdivided lot). A conventional layout is possible, but due to aesthetics and practicality for the site conditions a PRD layout is proposed.

- Board Member Peter Seybolt asked how the lots could be configured for a conventional subdivision. Mr. Holden explained that the lots would be drawn differently, but would comply with minimum acreage, and there would be shared driveways. Suzanne Kusserow stated that the lots follow glacial moraines, which offer protections. There would also be deed restrictions for aesthetics. Mr. Holden stated that the curb cut approved as part of the 2001 subdivision was not located in an area with the best sight distances. As such, Mr. Holden is proposing moving the curb cut approximately 100 feet north, where the driveway would serve both the Lewis lot and the proposed Lot 2.

- Board Member Will Towle asked what the reason was for the boundary line adjustment with the Lewis lot. Mr. Holden explained that it would be to avoid the necessity for an easement over Lot 1. The intent is to leave Lot 1 unencumbered. Mr. Holden further explained the existing and proposed rights-of-way per the plan. Four acres are proposed for open space.

- Board Member Seybolt asked if the open space was common space for use by Lots 2 and 3. Mr. Holden stated that the open space would all be on Lot 1, not common space. The PRD layout fits the topography of the land better than a conventional layout.

- Mr. Holden explained that the intent is to have a small house on Lot 2. In order to do so, there would be a waiver request for setbacks. Vice Chairperson Van Winkle explained the flexibility allowed in a PRD.

9:30 PM: Vice Chairperson Van Winkle asked if there were further questions. There were none. Vice Chairperson Van Winkle asked if the Board felt they had enough information to make a decision on the application. The Board indicated that they did and stated that they accept the sketch plan. Vice Chairperson Van Winkle explained the process for moving forward. Mr. Holden asked for clarification on what

the front lot line would be for Lot 2. It was stated that the DRB typically considers where the driveway enters the lot to be the front lot line. ZA Papelbon stated that Lot 3 might be a bit different because the lot is accessed from Beartown Rd. A discussion of the location of the driveway off of the shared right-of-way and the front lot line ensued. Mr. Holden requested the front lot line to be Beartown Rd. for Lot 3.

9:38 PM: Sketch plan meeting ended.

Suzanne Kusserow, William Lewis, and Brad Holden left at this point.

9:40 PM: Vice Chairperson Charles Van Winkle called the Geise Final Subdivision Amendment hearing to order. Board Members Chuck Brooks and Matt Chapek recused themselves from the hearing.

Consultant Present:

Peter Lazorchak
(information above)

Others Present:

Chuck Brooks
12 Brook Bend
Underhill, VT 05489

Identifier:	**Contents:**
ZA-1	Peter and Nancy Geise's Application for Subdivision: Final (dated 11-9-10)
ZA-2	A copy of the Subdivision Checklist: Final Hearing
ZA-3	A copy of the plans prepared by Peter Lazorchak of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet 1 dated 9-17-10)
ZA-4	A copy of the letter from Ernestine Chevrier of the Wastewater Management Division (dated 11-12-10)
ZA-5	A copy of the letter from Thomas Morse (dated 11-22-10);
ZA-6	A copy of the approved site plan prepared by Peter Lazorchak of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet S-2 revised 11-5-07);
ZA-7	A copy of the approved survey prepared by Nicholas Nowlan of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet S-7 dated 10-24-07);
ZA-8	A copy of the final decision (dated 10-1-07);
ZA-9	A copy of the tax map for VF004 and BB001;
ZA-10	A copy of the hearing notice published in the *Burlington Free Press* (11-20-10)
S-1	A copy of the revised plans (Water & Wastewater Design) prepared by Peter Lazorchak of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet 1 revised 11-30-10)

S-2 A copy of the revised survey prepared by Nicholas Nowlan of McCain Consulting, Inc. for Peter and Nancy Geise (Sheet S-7 revised 12-1-10)

S-3 A copy of the recorded deed for Lot 2

- Vice Chairperson Van Winkle began the meeting by explaining the procedure for the final subdivision amendment hearing. He then swore in all interested parties and entered the above items into record.

- Peter Lazorchak, Consultant, provided an overview of the plans for amending the subdivision approved in 2007. That subdivision was a reconfiguration of the land to create 2 new building lots. Most of the septic capacity was allocated to the community leachfield by the apartment building on Brook Bend. The proposal is to reallocate the septic system capacity for a 1-bedroom accessory apartment on Lot 2 to Lot 1 to create an accessory apartment in the existing barn. The Geises retained the right to change the accessory apartment septic allocation in the deed for Lot 2. An existing pump station on Lot 2 would be utilized.

- Board Member Peter Seybolt asked why the Geises did not want to keep the apartment on Lot 2 and just ask for an additional apartment on Lot 1. Mr. Lazorchak explained it was a matter of sewage capacity, and added that Lots 2-4 have been transferred and are no longer owned by the Geises. The final survey would identify any changes in septic easements for existing conditions.

- ZA Papelbon asked Mr. Lazorchak if he had received any feedback on the proposal from the current owners of Lot 2. Mr. Lazorchak stated that he had not. Board Member Penny Miller asked if the DRB needed proof that the owners of Lot 2 gave up their right to the sewer allocation. Vice Chairperson Van Winkle asked who had control of the septic system. Mr. Lazorchak stated that he believed it was the Association, but the septic allocation proposal was part of the deed for Lot 2.

- Vice Chairperson Van Winkle asked who would sign the wastewater permit application. Mr. Lazorchak explained that the Geises and the owners of Lot 2 would both have to be on the application. If the owners of Lot 2 refused it would become a legal issue. Vice Chairperson Van Winkle stated that the DRB would require evidence that the owners of Lot 2 were in agreement with the proposal, e.g. through a joint wastewater permit application. Mr. Lazorchak requested such evidence be a condition of approval. ZA Papelbon stated that the owners of Lot 2 were provided adequate notice of the hearing and she did not hear from them.

- Board Member Miller asked what the existing house on Lot 1 uses for septic. Mr. Lazorchak stated there is a leachfield at the front of the lot.

- ZA Papelbon asked if a Wetlands Permit amendment would be required. Mr. Lazorchak stated he did not think so. ZA Papelbon stated that a new line to the pump station would require a new easement to Lot 2. She then asked Mr. Lazorchak to address the letter from neighbor Thomas Morse. Mr. Lazorchak states that he did not believe that Mr. Morse fully understood the proposal. The capacity for septic is not changing, it is being reallocated to a different lot. It was determined that the septic system has been permitted and in place, with the exception of the new line, for 2-3 years and was not a concern of the Board. Mr. Lazorchak stated that he believes the system is functioning adequately.

- Vice Chairperson Van Winkle swore in Chuck Brooks, 12 Brook Bend, who expressed his concern that all permits issued for the subdivision in 2007 run with the land and not the subdivider. A lengthy discussion of the application requirements ensued. ZA Papelbon summarized that the owner of Lot 2 should be a co-applicant in order for the DRB to approve the application. Board Member Miller asked if approval could be contingent upon obtaining the signature of the owner of Lot 2. Board Member Will Towle stated that it needed to be proven that the Applicant had the legal right to ask for the reallocation of septic. Mr. Lazorchak offered a copy of the deed to Lot 2 which includes the reservation by Peter and Nancy Geise to reallocate the septic capacity. The discussion continued.

- Vice Chairperson Van Winkle entered into record the Warranty Deed dated April 29, 2009 for Lot 2.

- Mr. Lazorchak stated that the State also required Mr. Greenough to be co-applicant on the Wastewater Permit Amendment.

- Vice Chairperson Van Winkle asked ZA Papelbon if the DRB had to rule on a Conditional Use for the accessory apartment on Lot 1. ZA Papelbon stated that the only thing the DRB needs to rule on is the change of plans for the allocation as depicted on the Mylars. Accessory apartments are administratively approved.

10:11 PM: Vice Chairperson Charles Van Winkle asked if the Board felt they had enough information to make a decision on the application. Board Member Penny Miller made a motion to close the evidentiary portion of the hearing. Board Member Towle asked why Michael Dunn owned the property. ZA Papelbon stated that she thought he was the attorney for the applicants. Mr. Lazorchak stated that he did not have any information on the deed. Board Member Towle mentioned a potential issue with the deed, but there was no definitive answer. Another discussion of the issue and process ensued.

There was no second to Board Member Miller's motion. Motion failed. A discussion of requirements continued.

10:19 PM: Board Member Will Towle made a motion, seconded by Board Member Penny Miller, to continue the hearing to January 17, 2011 at 6:30 PM. The motion was passed by all Board Members present. Board Members Matt Chapek and Chuck Brooks did not cast votes.

Peter Lazorchak left at this point.

The Board began their deliberations on the Netelkos and Shapiro applications. After a discussion, the Board decided, by consensus, to continue their deliberations over email. A brief discussion of their upcoming schedule ensued.

10:45 PM: End of meeting.

These minutes of the 12-6-10 meeting of the DRB were revised and accepted

This _____ day of _____, 2011.

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Vice Chairperson Charles Van Winkle

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.