

Town of Underhill
Development Review Board Minutes
Chairperson Charles Van Winkle

December 3, 2012

Board Members Present:

Charles Van Winkle, Chair
Penny Miller
Will Towle
Matt Chapek
Karen McKnight

Staff/Municipal Representatives Present:

Kari Papelbon, Zoning & Planning Administrator

6:32 PM: Chairperson Charles Van Winkle called the Niles final subdivision hearing to order at the Underhill Town Hall.

Applicant(s) Present:

Phil Jacobs
73 Upper English Settlement Rd. (HR016 & UE073)
Underhill, VT 05489

Identifier:	Contents:
ZA-1	Phil Jacobs' Conditional Use/Site Plan Review Hearing Request (dated 11-27-12)
ZA-2	A copy of the Final Plan prepared by O'Leary Burke Civil Associates, PLC (revised 10-13-08)
ZA-3	Copies of the photos submitted by a neighbor (5)
ZA-4	A copy of the Conditional Use Review Standards Findings Checklist
ZA-5	A copy of the Site Plan Review Standards Findings Checklist
ZA-6	Copies of the tax maps for HR016 and LE073
ZA-7	A copy of the hearing notice published in <i>The Burlington Free Press</i> on 10-24-12
S-1	A copy of the Final Plan prepared by O'Leary Burke Civil Associates, PLC (revised 10-13-08 – this is a duplicate of the plan included in the info pack)
S-2	A copy of the Boundary Line Adjustment survey prepared by O'Leary Burke Civil Associates, PLC (dated 5-5-11)
S-3	A copy of the Google Earth map of HR016 created by ZA/PA Papelbon

- S-4 A copy of the Vermont Agency of Natural Resources map of 73 Upper English Settlement Rd. created by ZA/PA Papelbon (dated 12-3-12)
- S-5 A copy of the Vermont Agency of Natural Resources map of 16 Harvest Run created by ZA/PA Papelbon (dated 12-3-12)
- S-6 Copies of the photos taken by ZA/PA Papelbon of the extraction on HR016 (dated 10-3-12)
- S-7 Photos of the grading work completed on HR016 submitted by Phil Jacobs (no date)

- Chairperson Van Winkle began the meeting by explaining the procedure for the hearing, which comes under the 2012 Unified Land Use and Development Regulations. He then swore in interested parties present and entered items ZA-1 through ZA-7 and S-1 through S-6 into evidence.
- Phil Jacobs provided an overview of his proposal. Previously he had subdivided the land at 16 Harvest Run, an area with significant sand and gravel. Mr. Jacobs stated that there were two areas on the property where the Town had taken material in the past. The material extracted recently was used to improve the turnaround at Mr. Jacobs' residence on Upper English Settlement Road. Mr. Jacobs explained that he did not wish to create a commercial extraction, but rather to annually extract material that may be in excess of the exempted amount in the regulations.
- Chairperson Van Winkle asked for clarification on the location and time of extraction. Mr. Jacobs responded that the material was extracted on the Harvest Run remaining lands, verifying that this was the Village property, and that the exaction was done when the roads were not posted.
- Chairperson Van Winkle asked how much material had been removed. Mr. Jacobs replied that he took out approximately 27-29 truckloads at 14 yards per load. A brief discussion of the allowed, exempted amount and the timeframe ensued. Mr. Jacobs added that the area of the extraction was an old pit and while he did not have photos showing the condition prior to the extraction, there was a drop-off that was potentially dangerous for those who use the property. Mr. Jacobs stated that he has graded this for a gradual slope and has filled in test pit holes from the 1970s.
- Board Member Penny Miller stated that there are regulations for site reclamation. She asked about whether the land had to have topsoil and be seeded whenever someone disturbs a large portion of their land. ZA/PA Papelbon explained that such measures were required to prevent erosion of soil and runoff potential, and stated that the proposal included seeding and mulching the disturbed area.
- Chairperson Van Winkle asked if the extraction area was near the stormwater pond on the property. Mr. Jacobs explained that the proposed stormwater ponds were revised to drainage swales and that the extraction was located away from the swale.

- Board Member Miller stated that where the water crosses the access that there is not a culvert. Mr. Jacobs stated that there is a seasonal stream located in the area, but that it is more often dry depending on the year.
- Board Member Will Towle asked if the area would be constantly disturbed over the requested two-year extraction period. Mr. Jacobs stated that his intention was to periodically remove material.
- Board Member Miller asked if the material was used at his residence, to which Mr. Jacobs responded that it was.
- Board Member Matt Chapek asked if there were other extraction locations on the site. Mr. Jacobs stated that there were not.
- Board Member Miller asked if there was any intention of stockpiling material. Mr. Jacobs replied that there was not.
- Board Member Karen McKnight stated that the extraction area is close to the field used for horses and asked about the proximity to the drop-off. Mr. Jacobs stated that his brother's horses do use the field and that he has rounded-off the previous drop-off.
- Board Member Miller asked whether seeding and mulching had been done for the year. Mr. Jacobs stated that he had not, but added that the land was gravel with no standing water.
- Board Member Miller asked if the stream was experiencing runoff or sediment from the extraction work. Mr. Jacobs stated that it was not, and explained that the largest impact was seen during a previous flood event that brought material down from Sugar Hill.
- Chairperson Van Winkle provided a summary for clarification: 29 truckloads had been removed with plans for 42 truckloads per the application. Chairperson Van Winkle asked if the 42 was in addition to that already extracted. Mr. Jacobs replied that he requested 42 truckloads total. Chairperson Van Winkle asked whether the requested timeframe of June 1 through September 30 was for the following year. Mr. Jacobs explained that he may not complete the work next year but he may complete it the following year.
- Chairperson Van Winkle asked whether all of the extracted material had gone to the residence lot at 73 Upper English Settlement Road, to which Mr. Jacobs replied that it did. Chairperson Van Winkle asked about the remaining material to be removed. Mr. Jacobs asked whether he could provide a small amount of material to a friend as long as he does not make it a commercial operation. A brief discussion of the permission to provide gravel to others ensued. Mr. Jacobs stated that he is aware of and understands his neighbors' concerns and the impact of development on the property.
- ZA/PA Papelbon clarified that the exemption under Section 4.9(B)(1)(f) is for personal use onsite or on another property in common ownership, not for providing material to others. She stated that such an allowance would be a consideration for the DRB in their decision.

- Board Member Towle asked whether Mr. Jacobs would request the option to provide material to others, what amount would be provided to others, and whether restrictions on such would be amenable. Discussion ensued.
- Chairperson Van Winkle asked about whether there were erosion issues where the material had been deposited. Mr. Jacobs confirmed that the material deposited on his property had been used to widen the driveway turnaround and was not used to change the contours of his property.
- Board Member Towle asked Mr. Jacobs whether requiring compliance with the Low-Risk Site Handbook for the extraction site would be a condition to which he would be amenable. Mr. Jacobs replied that he would be ok with such a condition and stated that straw had been applied to the site. Board Member Chapek asked whether grass was growing, to which Mr. Jacobs responded that it was not.
- ZA/PA Papelbon provided her staff report. She stated that she had received an email about the project and she could not determine from a site visit whether the exempt threshold in the regulations had been exceeded. ZA/PA Papelbon also stated that since the proposal was not for a commercial operation most of the requirements in Section 4.9 were not applicable. In discussion of the seasonal stream Mr. Jacobs clarified he had contacted Alan Morse (an engineer) regarding the crossing. Mr. Jacobs stated that Mr. Morse stated that driving across the rocky stream bed would not be detrimental or result in excess siltation. ZA/PA Papelbon continued with her report, stating that the properties were not in a Source Protection Area, no floodplains were mapped on the properties, all natural features are identified on the submitted maps, a small area of deer yard and a wetland on the house lot will be unaffected by the driveway turnaround expansion. ZA/PA Papelbon also stated that she spoke to Nate on the Town Road Crew and his requirement was for no driving on posted roads.
- Chairperson Van Winkle asked for public comment.
- Ruth Nelson, 2 Sugar Hill, stated that she hoped the extraction operation would not become something commercial or bigger than the proposal. Chairperson Van Winkle stated that any plans for increasing the operation would require additional DRB review and that she would receive notification.
- Dori Richiedi, 12 Harvest Run, requested that the trucks associated with the extraction drive at reasonable speeds.
- Mr. Jacobs stated that he thought there might have been some confusion with the Town's project at the intersection of Park Street and Harvest Run over the summer, but that he feels the same as Mrs. Richiedi.
- Chairperson Van Winkle asked for final comments. Board Member Miller asked for clarification on the extraction amounts and the request for material to be given to a friend. A brief discussion ensued.

7:18 PM: Chairperson Van Winkle asked if the Board felt they had enough information to make a decision. The Board stated that they did. Chairperson Van Winkle asked whether the Board wished to deliberate in open or deliberative session. The Board indicated that they wished to deliberate in open session. Chairperson Van Winkle stated that the evidentiary portion of the hearing was closed and explained the process to the attendees. All attendees left at this point.

Board Member Will Towle made a motion to approve the proposed application as presented at the hearing, including the approval of up to 100 cubic yards per year out of the maximum allowed extraction of 1000 cubic yards to be used for non-personal use, with the proposed condition to require compliance with the *Low-Risk Site Handbook*. Discussion ensued. The motion was passed by all Board Members present.

7:32 PM: End of hearing.

The Board signed minutes, received the Town of Underhill Conflict of Interest Policy, discussed upcoming schedules, and briefly discussed the proposed Planning Commission hearings on the redistricting project.

8:00 PM: End of meeting.

These minutes of the 12-3-12 meeting of the DRB were accepted

This 17 day of December, 2012.



Charles Van Winkle, Chairperson

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