

**Underhill Development Review Board**  
**Conditional Use Application of Kevin and Kelly Perline, IS075**  
**Findings and Decision**

**In re: Kevin and Kelly Perline**  
**75 ~~83~~ Irish Settlement Road**  
**Underhill, VT 05489**

Docket No. DRB-07-08:

**I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns Kevin and Kelly Perline' application to operate a therapeutic equine program for children from the barn area at their residence at 75 Irish Settlement Road as a home occupation.

1. On March 13, 2007, an application was received by the Zoning Administrator from Kevin Perline to operate a therapeutic equine experiential learning program as a home occupation. A conditional use hearing is required for this occupation under § VII(B) and III (M).
2. Notice of a public hearing was published in the Mountain Gazette on April 19, 2007.
3. On April 20, 2007, notice of a public hearing was posted at the following places:
  - a. The Underhill Town Clerk's office;
  - b. The Underhill Center Post Office;
  - c. The Underhill Flats Post Office;
  - d. The Underhill/Jericho Deborah Rawson Memorial Library;
  - e. The subject property at 75 Irish Settlement Road.
4. On April 20, 2007 a copy of the notice of a public hearing was mailed to the applicant and the following abutting neighbors:
  - a. Jackson, PO Box 75 Underhill Ctr., VT 05490
  - b. Jobst, PO Box 75, Underhill Ctr, VT 05490
  - c. Boardman, PO Box 25 Underhill Ctr., VT 05490
  - d. Moore, 36 Evergreen Lane, Underhill, VT 05489
  - e. Davis, P.O. Box 229, Underhill, VT, 05490;
5. The conditional use request was considered by the development review board at a public hearing on Monday, May 7, 2007. The development review board reviewed the conditional use request under the Town of Underhill Zoning Bylaw §§ III(M) and VII(B), as amended March 2003.
6. Present at the hearing were the following members of the Development Review Board:

- Scott Tobin, Chair
  - Charles Van Winkle
  - Chuck Brooks
  - Stan Hamlet
  - Peter Seybolt
  - Kathy Rupright
7. At the outset of the hearing, Scott Tobin (Chair) explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." Interested parties who spoke at the hearing:
- a. Lisa Aunchman-Johnson and Bill Johnson, 472 Poker Hill Road Underhill, VT 05489
  - b. Ellen Duval, 25 Pine Ridge Road, Underhill, VT 05489
  - c. Frank Jackson, 84 Irish Settlement Road
8. During the course of the hearing the following exhibits were submitted to the Development Review Board:
- A copy of the Mt. Gazette warning;
  - A copy of the Perline's Conditional Use Hearing request;
  - A copy of the Perline's site plan and their response to the home occupation criteria;
  - A staff report sent by ZA Murphy to the Development Review Board
- These exhibits are available in the Perline Development Review Board file at the Underhill Zoning Office.
9. The Minutes of the meeting written by Chuck Brooks are incorporated by reference into this decision. Please refer to these Minutes for a summary of the testimony.

## II. FINDINGS

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

1. The use on the subject property, 75 Irish Settlement Road lies in the Water Conservation District.
2. A hearing for this use is required by § VII (B) of the Underhill Zoning Regulations ("the Regulations") as a conditional use. The criteria for conditional use approval as stated in § III (F) of the Underhill Zoning Regulations is: "a determination [by the Board that] ...the proposed conditional use complies with standards applicable as set forth in the by-laws, is not injurious, noxious, or offensive and that the proposed conditional use does not adversely affect:
  - The character of the area
  - Traffic on roads or highways in the vicinity

- By-laws then in effect.
3. The proposed conditional use will be a program for children who have development delays, and/or physical problems. None of the clients served by this program will have a history of drug/alcohol abuse or will have been determined to be a juvenile delinquent by the state of Vermont.
  4. The program consists of clients working with the goats and horses in the barn area. The clients groom the animals, walk them around, and build habitat areas for the goats. At times soft music is played.
  5. Hours of operation for the proposed home occupation are:
  6. Summer: 7/16-8/10 Tues. and Thursday, 8AM-12:30 PM; Monday evening Sessions: 6/25, 7/2, 7/9, 7/16, 7/23, and 7/30 6:00PM-8:30 PM; Weekly, Weds. evenings, 5:30 PM-8:30 PM. If all sessions are scheduled and full, the total number of clients served would be between 13-21, with no more than 6 clients present at any one time.
    - School Year: Mon. and Weds., 4:00PM-7:00 PM; Tues. and Thurs. 10 AM-12:00PM; Fri: 9:30 AM-12:00PM. No more than 6 clients at any one time.
  7. The proposed use will generate minimal traffic, and there is adequate on-site parking for the proposed use.
  8. The home occupation will be conducted only by the Perlins. They will not have any employees.
  9. The home occupation will be conducted in the barn area of the premises. It will not change the rural, residential character of the neighborhood.
  10. No materials or mechanical equipment will be used that will be detrimental to the character of the neighborhood.
  11. There will be no exterior sign.
  12. There will be no sale of goods.
  13. There are no hazardous materials or wastes generated by this home occupation.
  14. The use will not constitute a health or safety risk to adjoining residences.
  15. The proposed use as presented is not injurious, noxious or offensive to the neighborhood and will not adversely affect the character of the area, the traffic on roads or highways in the vicinity, or Town by-laws now in effect.

### III. DECISION AND CONDITIONS

Based upon these findings, and subject to any of the conditions set forth below, the Development Review Board approves the conditional use permit for the proposed home occupation:

1. That the approved home occupation operate in accord within the provisions of Finding #5 regarding hours of operation and number of clients at any one time.

If this condition is not met, the conditional use permit for the office building shall be rescinded.

Dated at Underhill Vermont, this 18 day of June, 2007.

  
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Scott Tobin, Chair Development Review Board

**NOTICE:** This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

UNDERHILL TOWN CLERK'S OFFICE  
Received For Record 7:05 A.D., 2007  
At 10 O'clock 00 minutes A M. & Recorded  
In Book 160 Page 407-41 of Underhill Records  
Attest Jan Arni  
Town Clerk