

**TOWN OF UNDERHILL
Development Review Board
Subdivision Review
Findings and Decision**

**In re: VT 493: 2-Lot Subdivision Application of Heidi McLaughlin and Chris Wells
Docket # DRB-06-10**

A. PROCEDURAL HISTORY

1. This proceeding involves review of an application for a two-lot subdivision of land submitted by Chris Wells and Heidi McLaughlin of land they own located at 493 VT Rte. 15 in Underhill, VT. This application was reviewed under the Town of Underhill subdivision regulations, zoning regulations, and road policy.
2. The application and plat were received by Christine Murphy, Underhill Planning Administrator on June 1, 2006. A copy of the application and plat are available at the Underhill Town Hall. A sketch plan hearing was held on June 16, 2006. The sketch plan was approved, and permission to combine the preliminary and final hearing was granted at the sketch plan meeting.
3. The Development Review Board held a joint preliminary and final hearing on Monday, March 5, 2007. Certified mail notice was mailed to the abutting neighbors on February 15, 2007. The following abutters and the applicant were mailed notice of the hearing:
 - Ryan 497 VT Rte 15, Underhill, VT 05489
 - Durbrow, 523 VT Rte. 15, Underhill, VT 05489
 - Prince, PO Box 964 Milton, VT 05468
 - Hill, 483 VT Rte 15, PO Box 65, Underhill, VT 05489
4. On February 15, 2007, notice of a final hearing was posted at the following places:
 - The Underhill Town Hall;
 - The Underhill Center Post Office on River Road;
 - The Underhill Flats Post Office on Park Street;
 - At the subject property at 493 VT Rte. 15.
5. On February 15, 2007 notice of the final hearing was published in the Mountain Gazette.

6. The combined hearing was scheduled for Monday, March 5, 2007 at 6:00 PM.
7. Present at the hearing were the following members of the Development Review Board:
 - Scott Tobin, Chair
 - Chuck Brooks, Secretary
 - Matt Chapek
 - Stan Hamlet
 - Peter Seybolt
 - Kathy Rupright
8. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. The following interested parties were present:
 - Clifford and Nancy Hill 493 VT Rte. 15
 - Jim Durbrow, 523 VT Rte. 15
 - Lisa Hill
9. During the course of the hearings the following exhibits were submitted to the Development Review Board:
 - ZA-1 Mt. Gazette Warning
 - ZA-2 Three sheet preliminary plat, prepared by Nicholas Nowlan for applicants, dated 12-04-2006 & 01-26-2007
 - ZA-3 Copy of town map showing wetland on applicant's property
 - ZA-4 Copy state wastewater & potable water supply permit, issued to applicants 02-13-2007
 - ZA-5 Staff report prepared by ZA before meeting and mailed to DRB members
 - ZA-6 Staff memo from Laurel Williams, dated 02-22-2007, issued to DRB members at this hearing
 - ZA-7 Hearing checklist utilized for this hearing
10. Because of concerns raised at the hearing relative to a state identified wetland; the slope of the proposed driveway; and the culvert for the proposed drive, the hearing was continued until a site visit could be made on May 12, 2007 at 10:15 AM. The Hearing was further continued to June 18, 2007 at 6:15 PM.
11. The site visit was conducted on Saturday, May 12, 2007. Present at the site visit was Scott Tobin, Chuck Brooks, Stan Hamlet, Kathy Rupright, and Matt Chapek.

12. The final hearing took place on Monday, June 18, 2007 at 6:15 PM. The following Board members were present:

- Stan Hamlet
- Scott Tobin
- Chuck Brooks
- Charles Van Winkle
- Peter Seybolt and
- Matt Chapek

Minutes for this hearing and the 3/5/07 hearing are on file at the Underhill Town Hall and are incorporated by reference into this decision.

B. FINDINGS

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

1. The applicants seek a permit to subdivide land. The subject property is a 6.9 parcel located at 493 VT Rte. 15 in the Town of Underhill, VT (VT493). The proposed 2-lot subdivision will be comprised of: Lot 1 a 3.62 acre homestead lot; and Lot 2 a 3.28 acre building lot.
2. The property is located in the Rural Residential District as described on the Town of Underhill Zoning Map on record at the Town of Underhill municipal office.
3. Subdivision approval is requested for the project pursuant to review under the following sections of the Town of Underhill Subdivision Regulations:
 - Planning Standards, Evaluation Considerations;
 - The Underhill Zoning Regulations, and
 - The Underhill Road Policy
4. The following Findings are made in accord with the Evaluation Considerations:
 - a. The area of proposed development is suitable for development. The wetland identified on the state wetland map, but not on the federal wetland map is an erroneous identification on the state's part. There is not a wetland in this area, as confirmed by wetland consultants from McCain Consulting and the DRB site visit. There is a wet portion of land by the driveway, however if the culvert is correctly placed, the natural water flow from the Durbrow land and through the culvert should stop the backing up of water onto the Durbrow land (VT523). This wet area was examined by McCain Consulting and the Zoning Administrator, and it was found not to be a wetland but a piece of land that is ledge about 6-10" down, which prevents water absorption. If the culvert is installed according to the plan from McCain Consulting, the water should maintain its traditional flow across the Wells-McLaughlin property and not have any effect on the Durbrow property.

- b. Preservation and protection: The proposed building site has no brooks, streams or wetlands. There are no scenic outcroppings and there is the usual crossing of deer and other wildlife which will not be affected due to this land being surrounded by many acres of field and woods that are undeveloped.
- c. Sufficient open space: The acreage for this subdivision will be 3.2 acres which is a sufficient amount for active and passive recreation.
- d. Control of erosion & Runoff: All necessary steps will be taken to limit runoff and erosion control during and after construction. As a condition of subdivision, the Applicants will be required to adhere to the best practices of erosion control as outlined in the state of Vermont small construction handbook.
- e. This subdivision developed in accordance with the submitted plans will meet the requirements of Town of Underhill regulations. State wastewater permit #WW4-2754 dated 2/13/07 is evidence of compliance with state requirements.
- f. There is no water or threat of flooding. No flood plains.
- g. There is a mix of properties in the surrounding area, 2 with 3 acres or less and two with much larger parcels of land. This proposed development is compatible with current development and in accord with the three acre zoning regulation.
- h. Suitable for proposed density: 3 acres is a suitable size and will not cause the neighborhood to be too densely populated.
- i. Pedestrian traffic: There are no issues with safety, convenience, access and attractiveness in terms of this proposed 3 acre subdivision.
- j. Burden to local government & municipalities: Letters from the Chittenden East Supervisory Union and the UJFD indicate that this proposed development will not be an undue burden on these public entities. The driveway must be 14' in width plus shoulders per the UJFD request in their letter dated 2/26/07.
- k. A drilled well must be installed on the new lot. Surrounding availability of water in other local wells indicate that that this should not be a problem. The Applicants have received a state potable water supply and wastewater permit from the state.
- l. Highway congestion: There will be no new curb cuts as the same driveway will be used. Traffic increase will be confined to that normally served by a single family home. The Board does not find that this will be a problem at this location.
- m. Increase in visual, air, noise water pollution: The new house will not be visible to Route 15 except in the winter. It will also be private enough that will not affect neighbors with noise or light pollution.

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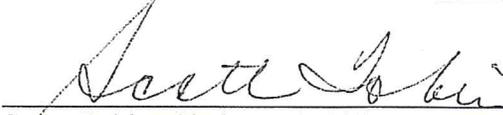
C. DECISION AND CONDITIONS

Based upon these findings, the Underhill Development Review Board grants approval of the subdivision application and plat for Chris Wells and Heidi McLaughlin for land located at 493 VT Route 15 in Underhill VT with the following conditions:

1. Per the Underhill Subdivision Regulations, final approval of the subdivision is granted upon filing of the final subdivision survey plat in the Underhill Land Records.
2. In addition, the Applicant shall submit a detailed site plan Mylar showing the wastewater and potable water supply system and the proposed driveway design with additional culverts to the Planning Administrator for recording in the Underhill Land Records.
3. The Mylars (site plan and survey) shall include the new property codes for the subdivided lot.
4. Prior to recording the final plat, the applicant shall submit a copy of the survey plat and the site plan in digital format. The format of the digital information shall require approval of the Planning Administrator.
5. The proposed driveway onto Lot 2 shall be constructed according to the submitted driveway design. The culvert must be moved to the location shown on the design, and the width of the driveway must be 14' plus shoulders per the UJFD letter. The designer shall perform an inspection during and upon completion of construction of the driveway to make sure that all the design elements, including but not limited to the drainage plan, have been constructed as designed. Before a building permit would issue to any lot, the designer must certify by letter to the Planning Administrator that driveway to Lot 2 has been constructed as designed, with the letter filed in the zoning records of the Town of Underhill.
6. All building envelopes, septic areas and driveway must be staked out by an engineer, surveyor, and/or licensed designer prior to any construction, and off-set stakes must be held in place until completion of construction and inspection by the Planning Administrator or her agent for conformance with the approved plans.
7. Basic erosion control measures must be observed during construction. When required by the Zoning Administrator, erosion control plans will be submitted prior to issuance of a building permit.
8. A lot created by the subdivision shall post its 911 code according to UJFD regulations before issuance of any building permit.
9. All subdivision fees must be paid in full to the Planning Administrator before filing of the final survey with the Town Clerk.

This decision will be recorded in the Underhill Land Records.

Dated at Underhill, Vermont, this 16th day of July, 2007.



Scott Tobin, Chair Underhill 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.