

TOWN OF UNDERHILL  
APPLICATION OF MARCY GIBSON FOR SUBDIVISION  
PRELIMINARY FINDINGS AND DECISION

In re: Marcy Gibson  
50 New Road  
Underhill, VT 05489

Docket No. DRB-07-16: Marcy Gibson

**I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns Marcy Gibson's preliminary hearing application for a 2-Lot subdivision permit for property located at 50 New Road in Underhill, VT.

1. On July 30, 2007, Marcy Gibson filed an application for subdivision for the project. Gibson also submitted a site plan and an Act 250 permit for the entire parcel. A copy of the application and site plan are available at the Underhill Town Hall. A sketch plan hearing was held on August 20, 2007. The Sketch plan was approved.
2. On October 4, 2007, notice of a public site visit was published in the Mountain Gazette.
3. On October 16, 2007, a copy of the notice of a public site visit was mailed to the applicant, Marcy Gibson, 50 New Road, Underhill, VT, 05489. A copy of the notice of public site visit was mailed to the following owners of properties adjoining the property subject to the application:
  - a. McClellan, P.O. Box 152, Underhill Center, VT 05490
  - b. Oman, P.O. Box 216, Underhill Center, VT 05490
  - c. Murphy Living Trust, 94 Irish Settlement Rd., Underhill, VT 05489
  - d. Albertini, P.O. Box 168, Underhill Center, VT 05490
  - e. Moulton, 49 Highland Rd., Underhill, VT 05489
4. On October 16, 2007, a copy of the notice of a site visit and preliminary hearing was mailed to the applicant, Marcy Gibson, 50 New Road, Underhill, VT, 05489 and to the abutters listed above in (3).
5. On October 18, 2007, notice of the preliminary hearing was published in the Mountain Gazette.
6. By October 22, 2007, notice of the site visit and preliminary hearing on the proposed Gibson subdivision 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;
7. A site visit was held at the property on Saturday, October 27, 2007. Present the site visit were:
- Chuck Brooks
  - Matt Chapek
  - Stan Hamlet
  - Penny Miller
  - Peter Seybolt
  - Deb Shannon
  - Scott Tobin, Chair
  - Charlie Van Winkle

Chris Murphy, Zoning Administrator, and Zoning Assistant Kari Papelbon also attended the site visit.

8. The preliminary hearing was scheduled for 6:15 PM on November 5, 2007.
9. Present at the preliminary hearing were the following members of the Development Review Board:

- Chuck Brooks
- Stan Hamlet
- Penny Miller
- Peter Seybolt
- Charlie Van Winkle, Vice Chair

Chris Murphy, Zoning Administrator, and Zoning Assistant Kari Papelbon also attended the meeting.

10. At the outset of the hearing, Charlie Van Winkle (Vice Chair) explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." Interested parties who spoke at the hearing were:
- Marcy Gibson, 50 New Road, Underhill, VT 05489
  - Peter Lazorchak, McCain Consulting, 93 South Main Street, Waterbury, VT 05676
  - Kari Papelbon
  - Chris Murphy
13. During the course of the hearing the following exhibits were submitted to the Development Review Board:

1. A staff report sent by Zoning Assistant Papelbon to the Development Review Board;
2. Plans prepared by Peter Lazorchak of McCain Consulting for Marcy Gibson, dated 10-18-07 (Sheet 1: Site Plan and Sheet 2: Details);
3. A copy of the survey of property at 50 New Road prepared by Carroll Peters dated 10-5-07 for Marcy Gibson;
4. Copy of the letter from the Underhill-Jericho Fire Department dated 10-3-07;
5. Copy of the letter from Chittenden East School District dated 9-20-07.

These exhibits are available in the Marcy Gibson, NR050 Subdivision file at the Underhill Zoning Office.

## II. FINDINGS

### **Background**

The Minutes of the meetings written by Kari Papelbon are incorporated by reference into this decision. Please refer to these Minutes for a summary of the testimony.

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

1. The subject property, 50 New Road, lies in the Rural Residential District.
2. The Applicant, Marcy Gibson, is applying for a 2-lot subdivision of property at 50 New Road. The proposed new lot will be approximately 4.0 acres and is described on the plans as Lot 2.
3. There is an existing 50-foot right-of-way on New Road.
4. A 50-foot right-of-way in common is proposed along the existing driveway to Lot 1.
5. The width of the proposed driveway to Lot 2 is not depicted on the site plan. The driveway will be at least 12 feet wide per the Town of Underhill Road Policy.
6. The proposed setbacks for the building envelope on Lot 2 are not depicted on the site plan.
7. The engineering drawing is not currently tied to the survey.
8. There is an existing utility easement on the property. The location of the transformer and telephone box is on the southern part of Lot 2.

9. The location of the utility easement on the site plan does not match the location on the survey.
10. The turnaround area for the proposed driveway on Lot 2 as currently drawn crosses the underground utility lines. The utility easement contains a provision that states:

“The Grantor covenants and agrees not to plant any trees or other plants or construct or erect or permit the erection or maintenance of buildings or structures of any kind, or change the grade, fill or excavate within ten (10) feet on each side of said line or lines without written permission from executive officers of the Grantees.”

11. This project requires a State wastewater permit and a revision to the existing Act 250 permit. Lot 2 will be served by its own drilled well and septic system.
12. The well shield protection areas depicted on the plans extend approximately 50 feet onto the adjacent property.

### **III. DECISION AND ADDITIONAL FINAL HEARING REQUIREMENTS**

Based upon the findings above, and subject to any of the additional final hearing requirements set forth below, the Development Review Board grants preliminary approval for the subdivision as presented at the preliminary hearing.

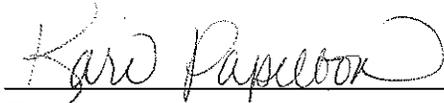
#### **Additional Final Hearing Requirements:**

1. The widths of the existing and proposed driveways shall be shown on the engineering drawing.
2. The proposed setbacks for the building envelope shall be shown on the engineering drawing.
3. The engineering drawing and survey must match for final subdivision approval. This includes building envelopes and utility locations. Revised copies of the engineering drawing and survey shall be submitted to the Zoning Administrator prior to scheduling the final subdivision hearing.
4. Evidence of submission of applications for a potable water supply and wastewater permit and the amended Act 250 permit to the State of Vermont shall be submitted to the Zoning Administrator prior to scheduling the final subdivision hearing.
5. Applicant shall make best efforts to relocate the well location to prevent the well shield protection area from extending onto the adjacent

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property. New engineering drawings reflecting the changed well location and well-shield protection area shall be submitted to the Zoning Administrator prior to scheduling the final subdivision hearing.

Dated at Underhill, Vermont this 14th day of November, 2007.



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Kari Papelbon, for the Underhill Development Review Board