

TOWN OF UNDERHILL
APPLICATION OF MARC AND JANE MAHEUX
FOR A 2-LOT SUBDIVISION
FINDINGS AND DECISION

In re: Marc and Jane Maheux
38 Poker Hill Road
Underhill, VT 05489

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Docket No. DRB 12-04

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns lands owned by Marc and Jane Maheux, and their final hearing application for a 2-lot subdivision of property located at 38 Poker Hill Road in Underhill, VT.

- A. On 9 May 2012, the Maheux's filed an application for subdivision for the project. A sketch plan review of the project was held on 4 June 2012 and was accepted.
- B. The Applicant also sought Conditional Use Review approval for an earth disturbance project and is subject to the conditions in the DRB decision dated 6-24-2012.
- C. Application for Preliminary Approval was made on 9 February 2015. The Applicant had previously obtained Preliminary approval from the Development Review Board on January 6, 2014. The Applicant failed to submit an application for Final Subdivision Review within the required one year deadline [§ 7.6(A)]. The preliminary application submitted to the DRB was largely identical to the application reviewed in November and December 2013, with several supporting documents were added. A Preliminary Approval decision was issued by the Development Review Board on 6 April, 2015.
- D. On 7 December, 2015 an application for Final Approval was received, determined complete by the "acting" Zoning Administrator Brian Bigelow, and a hearing date scheduled for 1 February, 2016.

On 11 January 2016 , a copy of the notice of final hearing was mailed via Certified Mail to the following owners of properties adjoining the property subject to the application:

- 1. James and Gayle Massingham
- 2. Richard, Todd, Leon and David Provost
- 3. Marion and Peter Brooks
- 4. Wendy and Bruce Garrapy
- 5. Sara McKay
- 6. Judith and Alton Verity

7. Rick and Amy Witham
8. Thomas St. Amour
9. John and Jodi Jenot
10. Gregory and Maureen Frede

E. On 7 January 2016, notice of the public hearing for the proposed Maheux subdivision was posted at the following places:

1. The Underhill Town Clerk's office;
2. The Underhill Center Post Office;
3. The Underhill Flats Post Office

F. During the week of 13 January 2016, the notice of the public hearing was published in *The Burlington Free Press*.

G. The final hearing convened at 6:40 PM on 1 February, 2016 at the Underhill Town Hall.

H. Present at the final hearing were the following voting members of the Development Review Board: Charles Van Winkle, Chairman, Mark Hamelin, Karen McKnight, Penny Miller, and Will Towle. Mark Green a DRB Alternate was also present and voting on behalf of the absent board member Matt Chapek.

Acting Planning and Zoning Administrator Brian Bigelow also testified at the hearing.

I. At the outset of the hearing, Chairperson Charles Van Winkle explained the criteria under 24 V.S.A. § 4465 (b) for being considered an "interested party." No one spoke at the hearing.

J. In support of the final plat application the following exhibits were submitted to the Development Review Board:

1. Marc & Jane Maheux Application for Subdivision: Final (dated 12/7/2015);
2. A copy of the Survey Plat prepared by David A. Tudhope (#538), Project No. 759, Sheet 1 (dated 5-20-2011);
3. A copy of the completed Subdivision Checklist: Final Hearing;
4. A copy of the ANR Form 1 (Notice of Overshadowing at the time of Filing an Application for a Wastewater System and Potable Water Supply Permit) (No date);
5. A copy of VT DEC ANR Wastewater and Potable Water Supply Permit -Project #: WW-4-4126 (dated October 21, 2013);
6. A copy of completed application for water allocation from the Jericho-Underhill Water District for the proposed two units (810 gpd: 6 bedrooms @ 135 gals per day) for the newly created lot;
7. A copy of the draft warranty deeds for both lots;
8. A copy of the Project Review Sheet from the VT Department of Environmental Conservation & Natural Resources Board (date initiated 10-14-13);

9. A copy of the letter from Harry Schoppmann of the Underhill Jericho Fire Department (dated October 29, 2013);
10. A copy of input from the Chittenden South Supervisory Union (dated October 25, 2013);
11. A copy of the Findings Checklist;
12. A copy of a letter from the Applicant to the DRB, Re: Explaining Concerns on the Preliminary Findings Checklist (dated 11-25-2013);
13. A copy of the Application for Water Connection (Jericho-Underhill Water District), (dated 6-10-2004) with a 8.5" x 11" copy of the Survey Plat prepared by David A. Tudhope (dated 5-20-2011);
14. A copy of a letter from the Applicant to the Selectboard (dated 2-9-2015);
15. A copy of a letter from Town Administrator to Marc Maheux, Re: Requirement for Access Permit (dated 2-19-2015);
16. A copy of the Preliminary Subdivision Findings and Decision (dated 1-6-2014);
17. A copy of the Conditional Use Approval for an Earth Disturbance Project Findings and Decision (dated 6-21-2012);
18. A copy of the Sketch Plan Letter to Applicant (dated 6-12-2012);
19. A copy of the DRB minutes from the 6-4-12 Sketch Plan meeting;
20. A copy of the DRB minutes from 11-4-2013 Preliminary Subdivision Review;
21. A copy of the DRB minutes from 12-2-2013 continued Preliminary Subdivision Review;
22. A copy of the hearing notice as published in *Seven Days*, posted in 3 public places and mailed to abutters;
23. A copy of the ANR Atlas map indicating slope and the Special Flood Hazard Area;
24. A copy of the tax map for PH038 indicating zoning districts;
25. A copy of the procedure checklist for this meeting;
26. The Preliminary Findings and Decision dated 1 January, 2014; and
27. A staff report.

All exhibits are available for public review in the Maheux (PH038) subdivision file (DRB- 12-04) at the Underhill Zoning & Planning Office.

II. FINDINGS

Based on the application, testimony, exhibits, and evidence submitted relative to this proceeding, the Development Review Board makes the following findings under the requirements of the Underhill Unified Land Use and Development Regulations (ULUDR):

General Standards, Section 8.2

Development Suitability: The Applicant seeks a permit to subdivide land. The subject property is a parcel located at 38 Poker Hill Road in Underhill, VT (PH038). The board finds that the development is suitable and compatible with the surrounding area.

Development Density: The majority of the proposed subdivision is located within the Underhill Flats Village Center District, in which the minimum lot size is 1 acre. Small portions of the lot are located within the Rural Residential and Flood Hazard Overlay Districts. No development is proposed in the Rural Residential or Flood Hazard Overlay District. The board finds the proposed development density is consistent with the zoning districts and surrounding area.

Existing Site Conditions: The existing site conditions comprise rolling terrain extending from Poker Hill Road extending downwards to Roaring Brook. The landscape and vegetative cover are indicative of land masses typical of the area along Poker Hill Road. The board finds that the proposed development will not adversely affect the existing site conditions.

Underhill Town Plan & Regulations: The board finds that the proposed development is consistent with the goals of the Underhill Town Plan and conforms to the ULUDR as amended.

District Settlement Patterns: The board finds that the proposed subdivision is compatible with the district settlement patterns of the Underhill Flats Village Center.

Lot Layout: The board finds that the proposed lots conform to desired district settlement patterns.

Building Envelopes: The building envelope for Lot #1 "shall be what the current zoning regulations will allow."

Energy Conservation: The board does not find any evidence was submitted in support of energy conservation.

Natural & Cultural Resources, Section 8.3

The board finds that the development contains no Steep or Very Steep Slopes as defined by the ULUDR.

Stormwater Management & Erosion Control, Section 8.5

The board finds the proposed development will not create an undue adverse impact with regards to the amount of stormwater runoff during and after construction as required in Section 3.18-C-5.

Transportation Facilities, Section 8.6

The board finds that the proposed development access location conforms to access requirements as outlined in section 3.2-D-10. The Board cannot determine from evidence submitted whether or not the existing driveway meets the minimum standards. Therefore provided no realignment or changes are made the board finds the existing driveway to be a preexisting use and enjoys exemption from meeting current driveway standards. The board shall condition that any modifications to the existing driveway will require the facility be upgraded to meet current B-71 Standards or verified to the satisfaction of the appropriate municipal panel or representative that the modifications meet town standards.

Public Facilities & Utilities, Section 8.7

The board finds there are no public facilities proposed with this project.

III. CONCLUSION

The board concludes the proposed development is not out of character with the area, will not create an undue adverse impact on the town and will not adversely affect the quiet enjoyment of surrounding properties by their respective owners.

IV. DECISION AND CONDITIONS OF APPROVAL

Based upon the findings above, and subject to the conditions below, the Development Review Board grants Final approval for the subdivision as presented at the final hearing with the following conditions.

- A. The board approves one (1) principal dwelling on Lot 2, and one (1) principal dwelling on Lot 1.
- B. The board shall note the existing driveways serving either lot are pre-existing and exempt from a town permit. However the board conditions that any modifications to the existing driveway serving either lot will require the facility involved be upgraded to meet current B-71 Standards or verified to the satisfaction of the appropriate municipal panel or representative that the modifications meet town standards.

Dated at Underhill, Vermont this 7st day of **March, 2016**.



Charles Van Winkle, Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings 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. Appeal period ends 8 April 2016.