

TOWN OF UNDERHILL
APPLICATION OF CHRIS WELLS AND HEIDI MCLAUGHLIN
FOR A REVISION TO AN APPROVED SUBDIVISION
FINAL FINDINGS AND DECISION

In re: Chris Wells and Heidi McLaughlin
493 VT Route 15 (VT493)
Underhill, VT 05489

Docket No. DRB 16-03, Wells McLaughlin

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a Final Subdivision amendment hearing on the application of Chris Wells and Heidi McLaughlin to modify the size of the Building Envelope on Lot 2 of the 2007 Wells and McLaughlin subdivision at 493 VT Route 15 in Underhill, VT. No other changes to the previous subdivision approval were sought.

- A. On March 9, 2016, Chris Wells and Heidi McLaughlin filed an application for an amendment to an approved subdivision. A copy of the application and additional information are available at the Underhill Town Hall.
- B. On March 30, 2016, a copy of the notice of the final hearing was mailed via Certified Mail to the following owners of properties adjoining the property subject to the application:
1. Andrew Johnson, 497 VT Route 15 Underhill, VT 05489
 2. James Durbrow 523 VT Route 15 Underhill, VT 05489
 3. Joann Prince P.O. Box 964 Milton, VT 05468
 4. Clifford and Nancy Hill P.O. Box 65 Underhill, VT 05489

A copy of the notice was also mailed to the applicant, Chris Wells and Heidi McLaughlin, at 493 VT Route 15, Underhill VT 05489, and to McCain Consulting at 93 South Main Street, Waterbury VT 05676.

- C. On March 19, 2016, notice of the final hearing on the proposed Well McLaughlin subdivision amendment 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;
- D. On April 2, 2016, notice of the final hearing was published in *The Burlington Free Press*.
- E. The final hearing, which combined sketch review and final review, began at 6:50 PM on April 18, 2016. This application was the first on the agenda. No site visit was held.

F. Present at the final hearing were the following members of the Development Review Board:

- Charles Van Winkle, chair
- Karen McKnight
- Mark Green
- Matt Chapek
- Penny Miller, clerk
- Will Towle, vice chair

G. 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 members of the public spoke at the hearing.

H. During the course of the hearing the following exhibits were submitted to the Development Review Board:

- a. A copy of the Application for Subdivision: Final (dated 4/4/2016);
- b. A copy of the Subdivision Checklist: Final Hearing (dated 4/18/2016);
- c. A copy of the Article VIII Subdivision Standards Findings Checklist (dated 4-18-2016);
- d. A copy of the Site Plan: entitled Amendment to WW-4-2754 for Lot 2, prepared by Consultant Gunner McCain (dated 10/8/2015);
- e. A copy of the DRB decision in re: VT493: 2-Lot Subdivision Application of Heidi McLaughlin and Chris Wells, Docket # DRB-06-10 (dated 7/16/2007);
- f. A copy of the 2007 subdivision permit for VT493 (dated 8/22/2007);
- g. A copy of an excerpt of the 2007 site plan, showing the proposed driveway (dated 2/13/2007);
- h. A copy of minutes from the 5/31/2007 Selectboard meeting, approved the driveway design;
- i. A copy of input received from the Chittenden East Supervisory Union (dated 2/26/2007);
- j. A copy of input received from the Underhill Jericho Fire Department (dated 2/26/2007);
- k. A copy of the Wastewater System and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (dated 2/13/2007);
- l. A map showing steep slopes from the ANR Natural Resources Atlas;
- m. A map showing wetlands from the ANR Natural Resources Atlas;
- n. A copy of the procedure checklist for this meeting;
- o. A copy of the revised Wastewater System and Potable Water Supply Permit from the Vermont Department of Environmental Conservation #WW-4-2754-1 (dated 11/10/2015);
- p. An email from the applicant’s consultant, McCain Consulting, clarifying the plans for the lot’s driveway (dated 4/8/2016); and
- q. A memorandum from Underhill Planning and Zoning, “Agenda and Information for 4/18/16 Hearing,” dated 4/18/2016.

These exhibits are available in the Wells McLaughlin VT493 subdivision file (DRB-16-03) at the Underhill Zoning Office.

II. FINDINGS

Factual Findings

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

- A. The applicants seek a permit to modify the size of the Building Envelope on Lot 2 of the 2007 Wells and McLaughlin subdivision. The subject property is a 3.27-acre parcel located at 493 VT Route 15 in Underhill, VT (VT493).
- B. The property is located in the Rural Residential district as defined in Article II, Table 2.3 of the 2014 Unified Land Use and Development Regulations.
- C. Subdivision approval is requested for the project pursuant to review under the following sections of the 2014 Unified Land Use and Development Regulations:
 - Article II, Table 2.3 – Rural Residential District (pg. 12)
 - Section 3.2 – Access (pg. 27)
 - Section 3.7 – Lot, Yard & Setback Requirements (pg. 35)
 - Section 3.18 – Steep Slopes (pg. 53)
 - Section 3.19 – Surface Waters & Wetlands (pg. 60)
 - Article VII – Subdivision Review (pg. 132)
 - Section 7.6 – Final Subdivision Review (pg. 139)
 - Article VIII – All (pg. 143)
- D. The 4/18/2016 memorandum from Underhill Planning and Zoning stated that the applicant appeared to be proposing an amendment to the driveway as approved in 2007. Communication with the applicant’s consultant (via email on 4/8/2016) later clarified that no amendment to the driveway access is proposed and the driveway plan as approved in 2007 is still applicable (see Exhibit P).

III. CONCLUSIONS

Applicable Regulation Standards

Article II, Table 2.3 – Rural Residential District (pg. 12)

The purpose of this district is to accommodate medium density development on land that has access to public roads where traditional development has taken place, where soil cover is thicker than on the hillside.

The existing lot meets all dimensional requirements. The building envelope as proposed appears to meet the front setback requirements of 30 feet and side and rear setback requirements of 50 feet from the lot lines.

Section 3.2 – Access (pg. 27)

A proposed driveway design and location was approved as part of the 2007 subdivision application, and was approved by the Selectboard. While the drawings presented show an existing driveway, it is not complete and as part of this submission the applicant is proposing an alignment change. The board finds the “curb cut” location is the same as the 2007 approval. The board finds the alignment through lot 1 is consistent with the 2007 approval. The board finds the alignment change is largely limited to lot #2.

Section 3.7 – Lot, Yard & Setback Requirements (pg. 35)

The proposed development appears to meet all lot, yard and setback requirements.

Section 3.18 – Steep Slopes (pg. 53)

No additions to the building envelope or other development are proposed in areas of steep slopes.

Section 3.19 – Surface Waters & Wetlands (pg. 60)

No surface waters are present on the property.

A Class II wetland is present on the property. When the DRB approved the subdivision and building envelope on Lot 2 in 2007, it was determined that the building envelope would not affect the Class II wetland. The proposed change to the building envelope will not affect the wetland.

Section 3.22 – Water Supply & Wastewater Systems (pg. 65)

The Board finds that the water supply and wastewater systems have been approved by the Vermont Department of Environmental Conservation, which issued a revised Wastewater System and Potable Water Supply Permit (WW-4-2754-1) on November 10, 2015. The permit is for a four bedroom single family residence.

Article VI – Flood Hazard Area Review (pg. 120)

No development is proposed within the Flood Hazard Area.

Article VII- Section 7.6 – Final Subdivision Review (pg. 139)

The purpose of final subdivision review is to determine final project conformance with the municipal plan, the regulations and other municipal ordinances in effect at the time of application.

On July 16, 2007, the DRB approved the 2-lot subdivision (decision attached).

The submission requirements of Section 7.6 and the hearing requirements of Section 7.6(C) have been fulfilled.

Section 7.7 – Plat Recording Requirements (pg. 140)

Within 180 days of the date of final subdivision approval by the PC, the applicant shall file Mylars of both the approved plat and the site plan in accordance with the regulations of Section 7.7.

Article VIII- Subdivision Standards- Sections 8.1-8.8 (143-163)

On July 16, 2007, the DRB approved the subdivision at 493 VT Route 15, determining that all standards had been met.

IV. DECISION AND CONDITIONS

Based upon the findings above, and subject to the conditions below, the Development Review Board grants the subdivision amendment as presented at the final hearing (Board Members Van Winkle, Miller, McKnight, Chapek, Towle and Green voted in favor).

- A. Building envelopes shall be in accordance with the applicable zoning dimensional setback requirements stipulated in the Underhill Unified Land Use and Development Regulations in effect at the time of the application for building permit.
- B. The revised engineering drawing shall be submitted in accordance with Section 7.7.
- C. All subdivision and recording fees must be paid in full prior to recording a subdivision plat in accordance with Section 7.7(B).
- D. This amendment to the 16 July 2007 approval specifically allows for the relocation of the water supply and wastewater disposal systems as authorized under #WW-4-2754-1 (dated 11/10/2015), the driveway realignment and the revisions to the building envelope depicted on the engineering drawing in the 2007 approval.
- E. A Zoning Permit shall be retained prior to construction in accordance with Section 10.3 of the Unified Land Use & Development Regulations.
- F. Prior to the issuance of a certificate of occupancy the applicant shall furnish a certification that the water supply, wastewater disposal system and driveway were constructed in accordance with the approved plan.

Dated at Underhill, Vermont this 2nd day of May, 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 3 June 2016.