



Town of Underhill

Development Review Board

Final Findings and Decision

FINAL SUBDIVISION REVIEW AND CONDITIONAL USE REVIEW APPLICATION OF PAUL & JOAN CHAMBERLIN FOR A 2-LOT SUBDIVISION

In re: Paul & Joan Chamberlin
97 River Road (RV097)
Underhill, VT 05489

Docket No. DRB-16-06

Decision: Approved with conditions (see Section V – Decisions and Conditions of Approval)

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a final subdivision review and a conditional use review application submitted by Paul & Joan Chamberlin regarding a 2-lot subdivision of property they own located at 97 River Road in Underhill, Vermont. Since the applicants are proposing improvements along Chamberlin Woods Road that will impact Class II Wetlands, as well as traverse a Class III Wetlands, a conditional use permit is required. Section 7.2.F allows the Development Review Board (Board) to review conditional use requests concurrently with final subdivision review.

- A. On March 27, 2016, Paul & Joan Chamberlin filed a sketch plan review application for the subdivision for the abovementioned project. A sketch plan review meeting of the project was held on July 17, 2016 and was accepted on August 1, 2016.
- B. On January 30, 2017, Paul & Joan Chamberlin filed an application for preliminary subdivision approval for the abovementioned project. Planning Director & Zoning Administrator Andrew Strniste received the application and determined that it was complete shortly thereafter. A hearing date was scheduled for 6:35 PM at Underhill Town Hall on March 6, 2017.
- C. On March 22, 2017, the Development Review Board granted preliminary subdivision approval.
- D. On April 24, 2017, Paul & Joan Chamberlin filed an application for final subdivision approval for the abovementioned project. Shortly thereafter, Planning Director & Zoning Administrator Andrew Strniste received the application and determined that it was complete. A site visit was scheduled for 7:00 PM on May 15, 2017, at 97 River Road, and a hearing date was scheduled for 6:35 PM at Underhill Town Hall on May 22, 2017.
- E. On April 26, 2017, a copy of the notice of the joint final subdivision review and conditional use review hearing was mailed via certified mail to the following property owners adjoining the property subject to the application:
 - A. CW011 – Winifred Sullivan, 11 Chamberlin Woods, Underhill, VT 05489

- B. CW028 – Timothy & Jennifer Chamberlin, 28 Chamberlin Woods, Underhill, VT 05489
- C. HH015 – Eric & Kristen Baker, 15 Hedgehog Hill Road, Underhill, VT 05489
- D. HH022 – Clifford Peterson & Helen E. Wagner, P.O. Box 89, Underhill, VT 05489
- E. Town of Jericho – Town of Jericho; Attn: Town Clerk, Jessica Alexander; P.O. Box 39; Jericho, VT 05465
- F. MR075 – Linda M. Amundsen, P.O. Box 218, Underhill, VT 05489
- G. RV091 – David L. Sullivan Life Estate, N.L. & W.L. Sullivan Remaindermen, 91 River Road, Underhill, VT 05489
- H. RV113 – Ronald E. & Patricia A. Demag, 113 River Road, Underhill, VT 05489
- I. RV124T – Edwin G. Bovill & Susan Latchem, 5 Fields Lane, Jericho, VT 05465
- J. RV128T – John L. & Carol A. Larue, 128 River Road, Underhill, VT 05489
- K. RV130 – Richard A. & Suzanne T. Reyome, 130 River Road, Underhill, VT 05489
- L. RV133 – David & Rebecca Rogers, 133 River Road, Underhill, VT 05489
- M. RV137 – Susan L. Dodd & Daniel K. Bobbett, 137 River Road, Underhill, VT 05489
- N. RV175 – Erik & Joan Kasprik, 35 Lower English Settlement Road, Underhill, VT 05489
- O. MC100X & MC101X – McClellan Farm Homeowners Association; Chuck Erickson, President; 69 McClellan Farm Road; Underhill, VT 05489
- P. MC100X & MC101X – McClellan Farm Homeowners Association; George Twigg, Vice President; 55 McClellan Farm Road; Underhill, VT 05489
- Q. Applicant: RV097 – Paul & Joan Chamberlin, 97 River Road, Underhill, VT
- R. Applicant: Andy Chamberlin & Kiley Krywka, 104 Mountain Road, Underhill, VT 05489
- S. Consultant: Justin Willis, P.O. Box 1001, Jericho, VT 05465
- T. Consultant: Bradford Holden, 60 Covey Road, Underhill, VT 05489

F. During the week of April 23, 2017, notice of the public hearing for the proposed Chamberlin preliminary subdivision was posted at the following places:

- A. The Underhill Town Clerk's office;
- B. The Underhill Center Post Office; and
- C. The Underhill Flats Post Office.

G. On Saturday, April 29 2017, the notice of public hearing was published in the *Burlington Free Press*.

H. The site visit commenced at 7:20 pm on May 15, 2017 at 97 River Road, Underhill, Vermont.

I. Present at the site visit were the following members of the Development Review Board, and members of the public:

- A. Board Member, Charles Van Winkle, Chairperson
- B. Board Member, Matt Chapek
- C. Board Member, Mark Green
- D. Board Member, Karen McKnight
- E. Board Member, Penny Miller

Others present at the site visit were:

- F. Consultant, Bradford Holden
- G. Co-Applicant, Andrew Chamberlin

H. Co-Applicant, Kiley Krywka

J. The joint final subdivision review and conditional use review hearing commenced at 6:55 pm on May 22, 2017 at the Town of Underhill Town Hall.

K. Present at the final subdivision review and conditional use review hearing were the following members of the Development Review Board:

- A. Board Member, Charles Van Winkle, Chairperson
- B. Board Member, Matt Chapek
- C. Board Member, Mark Green
- D. Board Member, Karen McKnight
- E. Board Member, Penny Miller

Also in attendance was Staff Member, Andrew Strniste, Planning Director & Zoning Administrator.

Others present at the hearing were:

- 1. Nate Sullivan, Abutting Neighbor (91 River Road, Underhill, VT 05489)
- 2. Timothy Chamberlin, Abutting Neighbor (28 Chamberlin Woods, Underhill, VT 05489)
- 3. Jennifer Chamberlin, Abutting Neighbor (28 Chamberlin Woods, Underhill, VT 05489)
- 4. Paul Chamberlin, Applicant (97 River Road, Underhill, VT 05489)
- 5. Joan Chamberlin, Applicant (97 River Road, Underhill, VT 05489)
- 6. Andrew Chamberlin, Applicant (104 Mountain Road, Underhill, VT 05489)
- 7. Kiley Krywka, Applicant (104 Mountain Road, Underhill, 05489)

L. At the outset of the hearing, Chair Van Winkle explained the criteria under 24 V.S.A § 4465(b) for being considered an “interested party.” Those who spoke at the hearing were:

- 1. Paul Chamberlin
- 2. Andrew Chamberlin
- 3. Nate Sullivan

M. In support of the final subdivision review and conditional use review application, and as part of the staff report, the following exhibits were submitted to the Development Review Board:

- Exhibit A - Chamberlin Final Subdivision Review & Conditional Use Review Staff Report
- Exhibit B - Application for Final Subdivision
- Exhibit C - Application for Conditional Use and Site Plan Review
- Exhibit D - Site Plan Review Standards Findings Checklist
- Exhibit E - Conditional Use Review Standards Findings Checklist
- Exhibit F - Burlington Free Press Notice
- Exhibit G - Certificate of Service
- Exhibit H - Groundwater Source Protection Correspondence
- Exhibit I - Innovative-Alternative System Approval Letter
- Exhibit J - Wastewater System & Potable Water Supply Permit Cover Letter
- Exhibit K - Wastewater System & Potable Water Supply Permit
- Exhibit L - Proposed Road Maintenance Agreement
- Exhibit M - Site Plan

Exhibit M - WWPlan_ChamberlinS1D1REV041817 (Page 1)
Exhibit N - Wastewater & Water Supply Details
Exhibit N - WWPlan_ChamberlinS1D1REV041817 (Page 2)
Exhibit O - Chamberlin Final Plat_4-21-2017
Exhibit O – Survey
Exhibit P - Chamberlin-Access-Road_4-25-17
Exhibit P - Proposed Access Plan

The following exhibits were subsequently submitted and distributed prior to the start of the hearing:

Exhibit Q – Final Subdivision Review & Conditional Use Review Rules of Procedure

No exhibits were submitted during the hearing.

The exhibits submitted as part of the sketch plan application and preliminary subdivision review application, except as amended above, are also incorporated into this decision.

All exhibits are available for public review in the RV097 Final Subdivision Review/Conditional Use Review file (DRB 16-06) at the Underhill Zoning & Planning office.

II. FINDINGS

The Minutes of May 22, 2017 meeting, written by Andrew Strniste, are incorporated by reference into this decision. Please refer to the Minutes for a summary of the testimony.

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

FACTUAL FINDINGS

The applicants, Paul & Joan Chamberlin, record owner of the property located at 97 River Road in Underhill, VT, are seeking a subdivision permit to subdivide land. Since the applicants are proposing improvements along Chamberlin Woods Road that will impact Class II Wetlands, as well as traverse Class III Wetlands, the applicant was also required to obtain a conditional use permit. Section 7.2.F allows the Board to review conditional use requests concurrently with final subdivision review.

The property is located in the Rural Residential, Water Conservation, and Soil & Water Conservation zoning districts as defined in Article II, Table 2.3, Table 2.4, and Table 2.6 of the 2014 Underhill Unified Land Use & Development Regulations.

ARTICLE II – ZONING DISTRICTS

A. ARTICLE II, TABLE 2.3 – RURAL RESIDENTIAL DISTRICT

The Board finds that the newly created lots will meet the requirements of the Underhill Rural Residential District.

B. ARTICLE II, TABLE 2.4 – WATER CONSERVATION DISTRICT

The Board finds that the newly created lots will meet the requirements of the Underhill Water

Conservation District.

C. ARTICLE II, TABLE 2.6 – SOIL & WATER CONSERVATION DISTRICT

The Board finds that the Soil & Water Conservation zoning district does not apply to the proposed subdivision.

ARTICLE III – GENERAL REGULATIONS

A. SECTION 3.2 – ACCESS

The Board finds that a preliminary access permit (Access Permit #: A-16-07) for the 2-Lot subdivision was received from the Selectboard on May 10, 2016. The Board supports the findings of the Selectboard's decision, acknowledging that the Selectboard granted a waiver for the width of the access way from River Road to the end of the proposed shared driveway. The Board also supports the Underhill-Jericho Fire Department's finding that the road shall not exceed a 10% grade at any point. As a result, the Board requested that the applicants add shoulders to the access way from station number 0+00 to station number 8+00 (of the proposed access way) to provide a safer access for emergency vehicles, as well as not exceed a 10% grade at any point. The Board finds that the applicants complied with these requests, and that the required changes were addressed and depicted on the engineering plans.

The Board also finds that the widening of Chamberlin Woods between station numbers 2+00 and 3+00 (of the existing access way) requires a permit from the Army Corps of Engineers due to its close proximity to a Class II Wetland, as acknowledged by the applicants during the hearing. The applicants have communicated that that permit was recently applied for. The Board finds that the applicants shall have obtained that permit prior to the issuance of the Certificate of Occupancy. The proposed access way will also traverse a Class III between station numbers 5+00 and 7+00 (of the proposed driveway), which requires a State Wetlands Permit. Similarly, the Board finds that the applicants shall have obtained the State Wetlands Permit prior to the issuance of the Certificate of Occupancy. Per Section 3.19.D.6, since the access way will encroach on the buffers for both the Class II and Class III Wetland areas, the Board grants a conditional use permit at both locations, as discussed below.

Lastly, the Board finds that the applicants do not meet the frontage requirement as required in Tables 2.3.D and Table 2.4.D, and under Section 3.2.A. However, the Board waives the frontage requirement under 8.6.A.2.a.

B. SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

The Board finds that the proposed lots will meet the minimum lot and yard requirements, and will meet all setbacks except for the setback requirements regarding the proposed driveway traversing the Class III Wetlands that exists along the western property line of Lot 2, as well as the setback requirement pertaining to Chamberlin Woods Road and the Class II Wetlands between station numbers 2+00 and 3+00 (of the existing access way). The Board also waives the frontage requirements per this section (and under Section 3.2), as there is a 30 feet right-of-way that provides access to the newly proposed lot.

C. SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

The applicants shall identify two parking spaces on the site plan as required per this section prior to obtaining a final access permit from the Selectboard. These parking spaces shall be identified on the engineering drawing to be recorded in the Town of Underhill land records.

D. SECTION 3.14 – PERFORMANCE STANDARDS

The Board finds that the applicants will satisfy the requirements of this Section.

E. SECTION 3.17 – SOURCE PROTECTION AREAS

The Board finds that the applicants have confirmed with the Vermont Department of Environmental Conservation that the proposed mound system will not adversely impact the public well given the distance between the public well and the proposed wastewater system.

F. SECTION 3.18 – STEEP SLOPES

The Board finds that the subdivision contains areas of steep slopes (15-25%) and very steep slopes (>25%); however, the proposed development is generally located on areas of non-steep slopes, and therefore, there will be a *de minimis* impact on the areas of steep slopes.

G. SECTION 3.19 – SURFACE WATERS & WETLANDS

The Board finds that the applicants are in the process of obtaining an Army Corps of Engineers Permit for Chamberlin Woods Road, between station numbers 2+00 and 3+00 (of the existing access way), as a result of having to realign the road and replace the existing culvert near an existing Class II Wetlands. Once obtained, the applicants will have satisfied the burden of proof that there will be minimal impact to that Wetland Area.

In addition, the applicants are in the process of obtaining a State Wetlands Permit from the Vermont Department of Environmental Conservation for the proposed access way that will be traversing the Class III Wetlands (between station numbers 5+00 and 7+00 of the proposed driveway). Once obtained, the applicant will have satisfied the burden of proof that there will be minimal impact to that Wetland Area.

Furthermore, since the applicants will be impacting wetlands, they are required to obtain a conditional use permit per Sections 3.19.D.6 and 3.19.E.2.d, which the Board grants for both areas impacted. The Board relies on the permits obtained by the Army Corps of Engineers and the Vermont Department of Environmental Conservation to satisfy the burden that there will be minimal impacts to both wetland areas. These permits are required prior to the applicants obtaining a Certificate of Occupancy from the Planning & Zoning Administrator.

While an unnamed stream exists on the proposed lot, the proposed building envelope is located more than 125 feet away from the stream, thus satisfying the 25-foot setback per Section 3.19.D.3.a.

H. SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS

The Board finds that the applicant has submitted a copy of the Wastewater System & Potable Water Supply Permit (Permit #: WW-4-3276-1), thus validating the presumption that the wastewater system will not pollute or contaminate the soils, surface waters, or groundwater in the project's vicinity. The applicants have proposed a drilled well within the building envelope and have located the wastewater system south of the building envelope.

ARTICLE V – DEVELOPMENT REVIEW

A. SECTION 5.1 – APPLICABILITY

Staff finds that conditional use review is required per Sections 3.19.D.6 and 3.19.E.2.d. The Board notes that while conditional use review may be required per the Regulations, the review criteria did not help extract the relevant information necessary to address the issues or

concerns that Sections 3.19.D.6 and 3.19.E.2.d likely intended.

B. SECTION 5.3 – SITE PLAN REVIEW

SECTION 5.3.A – PURPOSE

The Board finds that site plan review is required as part of conditional use review per Section 5.4.C.

SECTION 5.3.B – STANDARDS

The Board finds the following regarding each subsection:

Section 5.3.B.1 – Existing Site Features: The Board finds that the proposed driveway will avoid all of the noted resources of this subsection excepted for the identified Class II Wetlands adjacent to Chamberlin Woods Road and the Class III Wetlands along the western property line of Lot 2.

Section 5.3.B.2 – Site Layout & Design: The Board finds that the proposed design of the development and driveway conform with the Rural Residential and Water Conservation zoning districts' setting and context, which are described in Section 5.3.B.2.b.

Section 5.3.B.3 – Vehicle Access: The Board finds that the applicants have proposed to upgrade the road to meet the conditions set forth by the Selectboard during its preliminary access permit review meeting, as well as the conditions set forth in the Board's preliminary subdivision decision. These upgrades include the construction of an access way that will not exceed a slope of 10% and a driveway that will contain two-foot shoulders on both sides of the access way.

Section 5.3.B.4 – Parking, Loading & Service Areas: See Section 3.13 above.

Section 5.3.B.5 – Site Circulation: The Board finds that the proposed development and driveway will provide site circulation that is consistent with a single-family dwelling.

Section 5.3.B.6 – Landscaping and Screening: See Section 8.2.I below.

Section 5.3.B.7 – Outdoor Lighting: The Board finds that outdoor lighting shall comply with Section 3.11 requiring outdoor light fixtures to be shielded or cut-off type to mitigate sky glow and light pollution.

Section 5.3.B.8 – Stormwater Management and Erosion Control: See Section 8.5 below.

C. SECTION 5.4 – CONDITIONAL USE REVIEW

SECTION 5.4.A – PURPOSE

The Board finds that Conditional Use Review is required per Sections 3.19.D.6 and 3.19.E.2.d. While conditional use review may be required per the Regulations, the Board finds that the conditional use criteria do not help extract the relevant information necessary to address the issues or concerns that Sections 3.19.D.6 and 3.19.E.2.d likely intended.

SECTION 5.4.B – GENERAL STANDARDS

The Board finds that the proposed development will not result in an undue adverse effect on any of the following subsections:

Section 5.4.B.1 – The Capacity of Existing or Planned Community Services or Facilities: The Board finds that both Mt. Mansfield Union School District and Underhill-Jericho Fire Department submitted ability to serve memorandums during preliminary subdivision review. Also note that the Vermont Department of Environmental Conservation has issued a Wastewater System & Potable Water Supply Permit for the construction of the new systems.

Section 5.4.B.2 – The Character of the Area Affected: The Board finds that the proposed single-family dwelling will be consistent with the Town Plan.

Section 5.4.B.3 – Traffic on Roads and Highways in the Vicinity: The Board finds that the proposed single-family dwelling will result in minimal impact on the road network, if any.

Section 5.4.B.4 – Bylaws in Effect: The Board makes no finding regarding this subsection.

Section 5.4.B.5 – The Utilization of Renewable Energy Resources: The Board finds that the proposed development would not interfere with any sustainable use of renewable energy resources.

SECTION 5.4.C – SITE PLAN REVIEW STANDARDS

The Board finds that site plan review is required per this section. The Board notes that while site plan review may be required, the criteria does not help extract the relevant information necessary to address the issues or concerns that Sections 3.19.D.6 and 3.19.E.2.d likely intended.

SECTION 5.4.D – SPECIFIC STANDARDS

The Board has not identified any conditions that need to be imposed to reduce or mitigate any identified adverse impacts of the proposed development.

Section 5.4.D.1 – Conformance with the Town Plan: The Board finds that the proposed project complies with the Town Plan.

Section 5.4.D.2 – Zoning District & Use Standards: The Board finds that the proposed project conforms with the use standards and zoning district requirements.

Section 5.4.D.3 – Performance Standards: The Board finds that the proposed project will comply with the performance standards set forth in Section 3.14.

Section 5.4.D.4 – Legal Documentation: The Board finds that the applicants have not submitted final legal documents pertaining to the easements and the maintenance agreement which were submitted in draft form as part of the preliminary subdivision application.

ARTICLE VI – FLOOD HAZARD AREA REVIEW

The Board finds that a 100-year Flood Hazard Area is located on the existing and proposed lots; however, the proposed development is not expected to impact this area. Therefore, this Article does not apply.

ARTICLE VII – SUBDIVISION REVIEW

A. SECTION 7.2 – APPLICABILITY

The Board finds that the applicants’ proposed subdivision is subject to the requirements of the 2014 Underhill Unified Land Use & Development Regulations per § 7.2, and has been classified as a “minor subdivision” during the sketch plan review meeting and decision issued on August 1, 2016.

B. SECTION 7.3 – SKETCH PLAN REVIEW

The Board finds that the applicants satisfied the conditions as provided in the Sketch Plan Review Letter issued on August 1, 2016.

C. SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW

The Board finds that Preliminary Subdivision approval was granted on March 22, 2017.

D. SECTION 7.6 – FINAL SUBDIVISION REVIEW

The Board finds that the applicants satisfied the intent of this Section and reasonably provided the necessary materials to make a determination on the final subdivision review application. Staff notes that the applicants still need to satisfy the following condition of the preliminary approval findings & decisions:

- Condition 3: The Army Corps of Engineers Permit – This permit will be required prior to the issuance of the Certificate of Occupancy

SUBDIVISION STANDARDS, ARTICLE VIII

A. SECTION 8.1 – APPLICABILITY

The Board finds that no technical review was needed as part of this review. The applicant has not requested any waivers; however, a conditional use permit is required due to the Class II Wetlands and the Class III Wetlands being impacted (see Section 3.19). Furthermore, the frontage requirement is waived per Section 8.6.A.2.a since the applicant fails to meet the minimum frontage length requirement for both the Rural Residential and Water Conservation zoning districts.

B. GENERAL STANDARDS, SECTION 8.2

SECTION 8.2.A – DEVELOPMENT SUITABILITY

The Board finds that there are no foreseen undue adverse impacts to the public health and safety, the natural environment, neighboring properties and uses, or the character of the area in which the proposed development is located.

SECTION 8.2.B – DEVELOPMENT DENSITY

The Board finds that the proposed subdivision meets the density requirements per this section for both the Rural Residential and Water Conservation zoning districts.

SECTION 8.2.C – EXISTING CONDITIONS

The Board finds that the proposed layout of the development will minimize the impact to the natural environment; however, the Board does find that the Class II Wetlands along Chamberlin Woods Road and the Class III Wetlands along the western property line of Lot 2, where the access way is proposed to traverse the wetland, will both be negatively impacted.

SECTION 8.2.D – UNDERHILL TOWN PLAN & DEVELOPMENT REGULATIONS

The Board finds that the proposed subdivision & development conform to the Underhill Town Plan & the Underhill Unified Land Use and Development Regulations.

SECTION 8.2.E – DISTRICT SETTLEMENT PATTERNS

The Board finds that the proposed subdivision & development are consistent with the characteristics of the rural zoning districts as described in Section 8.2.E.2.

SECTION 8.2.F – LOT LAYOUT

The Board finds that the proposed subdivision meets the requirements of this subsection.

SECTION 8.2.G – BUILDING ENVELOPE

The Board finds that the proposed building envelope on Lot 2 meets the requirements of this subsection and does not encroach upon any identifiable setbacks.

SECTION 8.2.H – SURVEY MONUMENTS

The Board makes no finding regarding this subsection.

SECTION 8.2.I – LANDSCAPING & SCREENING

The Board finds that the applicants are proposing development that preserves the existing trees, tree lines, and wooded areas located on the proposed lot. While the building envelope does contain forested area, the applicants have shown development that does not substantially disturb the forested area. The applicants have stated their intention of retaining the trees/forested area to maximize privacy and retain an aesthetically pleasing lot.

SECTION 8.2.J – ENERGY CONSERVATION

The Board finds that the applicants have identified a proposed building envelope located on a south facing slope, where minimum clearing is required to capitalize on solar energy potential.

C. SECTION 8.3 – NATURAL & CULTURAL RESOURCES

SECTION 8.3.A – RESOURCE IDENTIFICATION & PROTECTION

The Board is unaware of any cultural or natural features that should be conserved. The existence of the Class II and Class III Wetlands is discussed above in Section 3.19 and below in Section 8.3.B.

SECTION 8.3.B – SURFACE, WATERS, WETLANDS & FLOODPLAINS

The Board notes that existence of Class II & Class III Wetlands at various locations on the property. The Class II Wetland on Lot 2 will not be impacted by the proposed subdivision and development. The Class II Wetland in proximity of Chamberlin Woods Road, between station numbers 2+00 and 3+00 (of the existing access way), will require a permit from the Army Corps of Engineers. The proposed driveway will also traverse a Class III between station numbers 5+00 and 7+00, which will require a State Wetlands Permit. Both areas will require a conditional use permit from the Town per Sections 3.19.D.6 and 3.19.E.2.d, which have been granted as part of this review.

SECTION 8.3.C – ROCK OUTCROPS, STEEP SLOPES, HILLSIDES & RIDGELINES

The Board finds that the proposed Lot 2 includes some areas of steep slopes and areas of very steep slope; however, the intended development site will be in an area between 5% to 15% slope, which does not require any additional review.

SECTION 8.3.D – NATURAL AREAS & WILDLIFE HABITAT

The Board finds that a wintering deer yard is located on the northern part of the existing lot; however, the proposed subdivision and development is located to the south of the boundary. The Board also finds that there is a priority level 6/7 habitat block where development is proposed; however, the proposed development will be located towards the edge of this designated area.

SECTION 8.3.E – HISTORIC & CULTURAL RESOURCES

The Board is unaware of any historic and cultural resources located on the existing lot, and therefore, makes no finding in regards to this subsection.

SECTION 8.3.F – FARMLAND

The Board finds that the proposed subdivision and development do not impact any prime agricultural soils, and that the applicant has acknowledged that this location was selected to avoid any impact to prime agricultural soils or the farm fields.

SECTION 8.3.G – FORESTLAND

The Board finds that the applicants are not proposing to disturb any of the forestland on the existing or proposed lots at this time, and therefore, there will be minimal impact, if any, on forestland.

D. SECTION 8.4 – OPEN SPACE & COMMON LAND

SECTION 8.4.A – OPEN SPACE

The Board finds that the applicants are not proposing to designate any land as open space.

SECTION 8.4.B – COMMON LAND

The Board finds that the applicants are not proposing to designate any land as common land.

SECTION 8.4.C – LEGAL REQUIREMENTS

The Board finds that the applicants have submitted a road maintenance agreement and that this agreement should be referenced in the deeds.

E. SECTION 8.5 – STORMWATER MANAGEMENT & EROSION CONTROL

The Board finds that the applicants shall excavate and preform site work in compliance with “The Low Risk Handbook for Erosion Prevention and Sediment Control.” The Board also finds that the proposed development will have minimal impact on stormwater runoff and requires no additional treatment plan.

F. SECTION 8.6 – TRANSPORTATION FACILITIES

SECTION 8.6.A – ACCESS & DRIVEWAYS

The Board finds that the access way is considered a development road up to 11 Chamberlin Woods, a shared driveway to the proposed driveway at 28 Chamberlin Woods, and a driveway from 28 Chamberlin Woods to the newly proposed lot. As noted, the applicant received an access permit by the Selectboard on May 10, 2016 (Access Permit #: A-16-07). The Board incorporates the conditions of that preliminary access permit into this decision by reference. In addition to satisfying the conditions of the preliminary access permit, the applicants have also

satisfied the conditions of the preliminary subdivision review findings & conditions by incorporating two-foot wide shoulders on both sides of the proposed driveway.

The Board waives the frontage requirements of Table 2.3.D, Table 2.4.D and Section 3.2.A per this Section (specifically Section 8.6.A.2.a). Please refer to Section 3.2 for more information.

SECTION 8.6.B – DEVELOPMENT ROADS

The Board finds that since the proposed access way is considered a development road, it must meet the requirements of this subsection.

SECTION 8.6.B.1 – SYSTEM CAPACITY

The Board finds the proposed development will not adversely affect the ability of the road system to handle the added volume and type of traffic to be generated by the newly created lot. The Board also finds that the subdivision will not result in undue traffic congestion or delay on public highways, or exceed the functional or structural capacity of travel lanes, intersections, bridges, culverts and other highway infrastructure in the vicinity of the proposed subdivision.

SECTION 8.6.B.2 – LAYOUT

The Board finds the Selectboard has issued a preliminary access permit (Permit #: A-16-07), and defers to the Selectboard regarding this subsection.

SECTION 8.6.B.3 – DEVELOPMENT ROADS

The Board finds the Selectboard has issued a preliminary access permit (Permit #: A-16-07), and defers to the Selectboard's recommendations for dimensional and geometric design standards; however, the Board supports the UJFD's request for the addition of shoulders to facilitate emergency vehicle access. The applicants have made these changes prior to this review. The Board notes that the Underhill Unified Land Use & Development Regulations requires a 50 ft. right-of-way, whereas the Selectboard approved a 30 ft. right-of-way in the preliminary access permit.

SECTION 8.6.B.4 - IMPROVEMENTS

The Board finds the Selectboard has issued an access permit (Permit #: A-16-07), and defers to the Selectboard's recommendations regarding improvements to Chamberlin Woods Road.

SECTION 8.6.B.5 – ACCEPTANCE

The Board finds that the proposed development road will not be accepted for ownership by the Town.

SECTION 8.6.B.6 – NAMES, SIGNS AND 911 LOCATOR NUMBERS

The Board finds that names, signs, and 911 locator numbers shall be posted prior to the issuance of a building occupancy permit.

SECTION 8.6.C – PARKING FACILITIES

The Board finds that no parking facilities, other than those to be expected with single-family residences, are proposed.

SECTION 8.6.D – TRANSIT FACILITIES

The Board finds that no transit facilities are proposed.

SECTION 8.6.E – PEDESTRIAN ACCESS

The Board makes no finding regarding this subsection.

G. SECTION 8.7 – PUBLIC FACILITIES & UTILITIES

SECTION 8.7.A – PUBLIC FACILITIES

The Board finds the proposed subdivision and development will not create an undue burden on the existing and/or planned public facilities. The Board finds there will be no adverse impact on the school district.

SECTION 8.7.B – FIRE PROTECTION

The Board finds the Underhill Jericho Fire Department has provided an ability to serve letter, provided that the slope of the road does not exceed 10%, and the inclusion of two-foot wide shoulders on both sides of the proposed driveway.

SECTION 8.7.C – WATER SYSTEMS

The Board finds that the applicants are proposing to supply potable water via a drilled well on the subdivided lot. A water/wastewater permit has been obtained and submitted as part of this application.

SECTION 8.7.D – WASTEWATER SYSTEMS

The Board finds that the applicants are proposing that the lots be served by a private wastewater system. A water/wastewater permit has been obtained and submitted as part of this application.

SECTION 8.7.E – UTILITIES

The Board finds electrical, communication, and media utilities shall be located below grade.

H. SECTION 8.8 – LEGAL REQUIREMENTS

The Board finds that the applicants have provided a road maintenance agreement for Chamberlin Woods Road, but has not provided final deed language incorporating noted easements and the road maintenance agreement.

III. CONCLUSION

The Board is satisfied with the level of investigation, engineering and evaluation conducted in the application submittal and review process concerning the above-mentioned project. The Board thoroughly reviewed all aspects of the proposal under the evaluation criteria in the ULUDR.

The Board concludes that based on the evidence submitted and the above findings, the proposed subdivision/development generally conforms to the Underhill Unified Land Use & Development Regulations.

IV. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS

The Board grants the following waivers/modifications:

1. The applicants are not required to come before the Board for the construction of any out buildings, ancillary buildings, or accessory buildings, which would typically be

required for any projects obtaining site plan review approval; instead the application for a building permit for those accessory-type buildings can be administratively reviewed and approved. However, the abovementioned structures must conform to the Regulations in effect at the time of the proposed projects. Accessory dwellings requiring the construction of an additional structure or the expansion of the proposed single-family dwelling will require additional review.

2. The applicants are not required to come before the Board if they wish to relocate the single-family dwelling within the building envelope. The Board recognizes that the identified location on the engineering plans submitted as a part of this application is for illustration purposes only, and does not reflect the final footprint of the single-family dwelling.
3. The Board waives the frontage requirements as required under Section 3.2.A per Section 8.6.A.2.a.
4. The building envelope as shown on the subdivision plat is in excess of the minimum required by the Current Uniform Land Use and Development Regulations. The applicants are proposing the additional restrictions, and as such, these additional building setbacks are non-binding nor enforceable by the Town.

V. DECISIONS 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 well as granting the conditional use permits required for the access way, as presented at the hearing with the following conditions:

1. The Board requires the project to be constructed in accordance with the drawing set submitted as part of the review process, and as amended accordingly to address the changes herein and those to be recorded, which are listed as follows:
 - a. Site Plan, Wastewater System & Water Supply (Plan Sheet S1, Revised 4/18/2017)
 - b. Details, Wastewater System & Water Supply (Plan Sheet D1, Undated)
 - c. Final Plat (Prepared by Bradford L, Holden, Dated April 21, 2017)
 - d. Preliminary Site Plan (Plan Sheet C-1, Dated April 25, 2017)
2. Note, only c, listed above is required to be recorded in the Underhill Land Records.
3. Therefore the Board requires that the applicants formalize upon approval the proposed roadway maintenance agreement, as submitted as part of the preliminary subdivision application, and be referenced in the deeds.
4. All members accessing Chamberlin Road shall participate in the road maintenance agreement, as submitted as part of the preliminary subdivision application.
5. The applicants shall obtain final access approval from the Selectboard. Any changes the Selectboard may impose to the currently proposed access way do not require Board review unless the new position is less restrictive than the Board's requirements of not exceeding a slope of 10% and adding, at a minimum, two-foot wide shoulders to both sides of the proposed driveway.
6. Prior to the issuance of a Certificate of Occupancy, the applicants shall provide a certification letter from a Vermont Licensed Professional Engineer or Licensed designer that the wastewater system and water supply have been constructed according to the approved ANR plan.
7. The E-911 Codes for the lots shall be posted per the Underhill-Jericho Fire Department specifications prior to the issuance of a Certificate of Occupancy permit.

8. Per Section 7.2.B, no land shall be subdivided until final subdivision approval has been obtained from this Board, and the approved subdivision plat is recorded in the Town of Underhill Land Records.
9. No transfer, sale or long-term lease, of title to property as defined under 32 V.S.A. § 9601 of any portion of an existing lot; predevelopment site work; or issuance of zoning permits to develop a subdivided lot shall occur until final subdivision has been approved from this Board, and the final Mylar (the subdivision plat) have been recorded in the Underhill Land Records per Section 7.2.C
10. The final plat shall include parcel codes, and shall be submitted for recording within 180 days of the date of this approval (November 26, 2017) in accordance with Section 7.7 of the Underhill Unified Land Use & Development Regulations.
11. All subdivision and recording fees must be paid in full prior to recording a subdivision plat in accordance with Section 7.7.B of the Underhill Unified Land Use and Development Regulations.
12. Prior to the issuance of a Certificate of Occupancy, the applicant shall provide a certification letter from a Vermont Licensed Professional Engineer indicated that all common infrastructure improvements listed in Condition 1, and what is required by this decision, have been constructed according to what was proposed as part of this review.
13. The applicants are required to obtain the Army Corps of Engineers permit prior to the issuance of the Certificate of Occupancy. A copy of this permit shall be submitted to the Planning & Zoning Administrator to place in the property's zoning file.
14. The applicants are required to obtain the State Wetlands permit prior to the issuance of the Certificate of Occupancy. A copy of this permit shall be submitted to the Planning & Zoning Administrator to place in the property's zoning file.
15. New property boundary monumentation referenced on the survey plat shall be installed as a condition of approval.
16. Notwithstanding the conditions above, prior to issuing a building permit, the applicant shall comply with applicable aspects of the Underhill Land Use and Development Regulations in effect at the time of the application.

Dated at Underhill, Vermont this 30 day of May, 2017.

Charles Van Winkle, Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environment 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 29 June 2017.