



Town of Underhill

Development Review Board

Final Subdivision Review & Conditional Use Review Findings and Decision

**COMBINED APPLICATION OF JASON MARIAS:
FINAL SUBDIVISION REVIEW APPLICATION FOR A 3-LOT SUBDIVISION, AND
CONDITIONAL USE REVIEW APPLICATION FOR THE CONVERSION OF A DETACHED ACCESSORY STRUCTURE TO
A DETACHED ACCESSORY DWELLING**

In re: Jason Marias
318 Irish Settlement Road (IS318)
Underhill, VT 05489

Docket No. DRB-17-04

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

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns a final subdivision review and conditional use review application submitted by Jason Marias (the applicant) regarding property located at 318 Irish Settlement Road. The applicant's final subdivision review application pertains to a proposed 3-lot subdivision of the aforementioned property, while the conditional use review application pertains to the conversion of part of a detached accessory *structure* to a detached accessory *dwelling*, which is also located on the aforementioned mentioned property.

- A. On February 16, 2017, Jason Marias filed a sketch plan review application for the abovementioned project. A sketch plan review meeting pertaining to the project was held on February 20, 2017, and a letter of acceptance was issued on March 7, 2017.
- B. On July 5, 2017, Jason Marias 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 site visit was scheduled to commence on Monday, July 17, 2017 at 6:00 PM, and the hearing date was scheduled for 7:15 PM at Underhill Town Hall on Monday, July 17, 2017.
- C. The site visit at the property's location commence on Monday, July 17, 2017 at 6:00 PM.
- D. The preliminary subdivision review hearing began at 7:15 PM on July 17, 2017 at the Town of Underhill Town Hall. On August 8, 2017, the Development Review Board granted preliminary subdivision approval with conditions.
- E. On January 29, 2018, Jason Marias filed a combined application for final subdivision review and conditional use review. Shortly thereafter, Planning Director & Zoning Administrator, Andrew Strniste, determined that the application was complete. The hearing was scheduled for 7:30 PM

at Underhill Town Hall, 12 Pleasant Valley Road, on February 26, 2018.

- F. On January 31, 2018, a notice of the combined 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:
1. IS301 – Dennis Grage & Susan Murray-Grage, 301 Irish Settlement Road, Underhill, VT 05489
 2. IS310 – William & Pamela Billings, 310 Irish Settlement Road, Underhill, VT 05489
 3. IS341 – Leslie M. Rosen & Adrienne R. Rosen, 341 Irish Settlement Road, Underhill, VT 05489
 4. IS348 – Charles J. Alexander, 348 Irish Settlement Road, Underhill, VT 05489
 5. IS351 – Mary Jo Berube, 351 Irish Settlement Road, Underhill, VT 05489
 6. FU011 – Jessica M. Remillard & Andrew R. Butler, 11 Fuller Road, Underhill, VT 05489
 7. FU012X [*Hand Delivered*] – Town of Underhill, P.O. Box 120, Underhill, VT 05489
 8. FU023 – John J. & Tammy L. Viggato, 51 Washington Ave., Natick, MA 01760
 9. FU049 – Jeffrey T. & Angela M. Moulton Trustees of the Ourthore Trust, 49 Highland Road, Underhill, VT 05489
 10. FU054X [*Hand Delivered*] – Town of Underhill, P.O. Box 120, Underhill, VT 05489
 11. IS318 [*Applicant*] – Jason & Amy Marias, 318 Irish Settlement Road, Underhill, VT 05489
- G. During the week of January 28, 2018, notice of the public hearing for the proposed Marias combined Final Subdivision Review and Conditional Use Review hearing was posted at the following places:
1. The Underhill Town Clerk's office;
 2. The Underhill Center Post Office; and
 3. The Underhill Flats Post Office.
- H. On Saturday, February 3, 2018, the notice of public hearing was published in the *Burlington Free Press*.
- I. The combined Final Subdivision Review and Conditional Use Review hearing began at 7:30 PM on February 26, 2018 at the Town of Underhill Town Hall.
- J. Present at the combined final subdivision review and conditional use review hearing were the following members of the Development Review Board:
1. Board Member, Charles Van Winkle, Chairperson
 2. Board Member, Matt Chapek
 3. Board Member, Mark Green
 4. Board Member, Daniel Lee
 5. Board Member, Karen McKnight
 6. Board Member, Penny Miller
 7. Board Member, Stacey Turkos

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

Others present at the hearing were:

1. [*Applicant*] Jason Marias, 318 Irish Settlement Road, Underhill, VT 05489

2. *[Abutting Neighbor]* William Billings, 310 Irish Settlement Road, Underhill, VT 05489
3. *[Abutting Neighbor]* Pamela Billings, 310 Irish Settlement Road, Underhill, VT 05489

K. At the outset of the hearing, Chair Charles 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. Jason Marias, Applicant
2. William Billings, Abutting Neighbor
3. Pamela Billings, Abutting Neighbor

L. In support of the final subdivision application, the following exhibits were submitted to the Development Review Board:

- Exhibit A – Marias Final Subdivision & Conditional Use Review Staff Report
- Exhibit B – Marias (IS318) Final Subdivision & Conditional Use Review Hearing Procedures
- Exhibit C - Application for Final Subdivision
- Exhibit D - Final Subdivision Review Findings Checklist
- Exhibit E - Application for Conditional Use and Site Plan Review
- Exhibit F - Conditional Use Review Findings Checklist
- Exhibit G - Site Plan Review Findings Checklist
- Exhibit H - Burlington Free Press Notice
- Exhibit I - Certificate of Service
- Exhibit J - Proposed Road Maintenance Agreement
- Exhibit K - Correspondence from Fish & Wildlife Department
- Exhibit L - MMU Ability to Serve Letter
- Exhibit M - E911 Codes
- Exhibit N - Survey Plat
- Exhibit O - Site Plan
- Exhibit P - Detached Accessory Dwelling Floor Plan
- Exhibit Q - Detached Accessory Dwelling Elevation Plan
- Exhibit R - Project Review Sheet

No additional exhibits were distributed or updated after circulating the staff report, but prior to the hearing. During the hearing, Staff entered the following exhibit into the record:

- Exhibit S – MMU Ability to Serve Letter Pertaining to the Accessory Dwelling Unit
- Exhibit T – Supporting Correspondence Regarding Water & Wastewater Permit

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

All exhibits are available for public review in the IS318 Final Subdivision Review & Conditional Use Review file (IS318 / DRB 17-04) at the Underhill Zoning & Planning office.

II. FACTUAL FINDINGS & CONCLUSIONS

The Minutes of the February 26, 2018 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 March 1, 2011 Underhill Unified Land Use and Development Regulations (ULUDR), as amended through March 4, 2014:

FACTUAL FINDINGS

The applicant, Jason Marias, record owner of the property located at 318 Irish Settlement Road in Underhill, VT, is seeking a subdivision permit to subdivide land and a conditional use review permit to convert and expand a portion of the existing detached accessory structure to a detached accessory dwelling. The property is located in the Rural Residential zoning district as defined in Article II, Table 2.3 of the March 1, 2011 Underhill Unified Land Use & Development Regulations, as amended through March 4, 2014.

ARTICLE II – ZONING DISTRICTS

A. ARTICLE II, TABLE 2.3 – RURAL RESIDENTIAL DISTRICT

The Board finds that the focus of the proposed subdivision and proposed development are located in the Rural Residential District and conforms to the district's purpose statement.

ARTICLE III – GENERAL REGULATIONS

A. SECTION 3.2 – ACCESS

The Board finds that a preliminary access permit (Access Permit #: A-17-05) for Lots 2 & 3 was obtained from the Selectboard on July 11, 2017. This permit was approved with the standard conditions in addition to the following conditions:

1. Use 18" by 30" CMP for Access Culvert;
2. Underhill-Jericho Fire Department Approval Required; and
3. Meet the 15' by 37.5' Turnaround Dimensions or Equivalent as *May Be Required* by the UJFD.

The Board finds that the applicant has incorporate these conditions into the current subdivision application. Since the applicant is requesting that the driveway straddle the property lines of Lots 2 & 3, the Board waives the driveway setback requirement per Section 3.2.D.9.a and Section 8.6.A.2.a.

B. SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

The Board finds that the proposed lots and proposed development will meet the requirements of the Rural Residential zoning district. One principal use is proposed for each lot. Each lot will contain a single-family dwelling and is permitted per Table 2.3.B.5. All lots meet the minimum frontage requirement of 250 feet. Furthermore, all proposed development projects will satisfy the setback requirements and the maximum building and lot coverage requirements. Lastly, the proposed detached accessory dwelling on Lot 1 also satisfies the requirements of this section.

C. SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

The Board finds that there is sufficient evidence to believe that the applicant will meet the parking requirement of two spaces per lot for Lots 2 & 3, and three spaces for Lot 1, as required per table 3.1.

D. SECTION 3.17 – SOURCE PROTECTION AREAS

The Board finds that the subdivision/development is not located within any known source protection areas, and therefore, review and analysis under this Section is not required.

E. SECTION 3.18 – STEEP SLOPES

The Board finds that the existing lot contains areas of steep slopes (15-25%) and very steep slopes (>25%); however, the applicant is not proposing development to be constructed in these areas, and therefore, there will be minimal impact on the areas of steep slopes. Any future construction on steep slopes shall satisfy the requirements of this section.

F. SECTION 3.19 – SURFACE WATERS & WETLANDS

The Board finds that Settlement Brook is located directly across Fuller Road; however, the associated 50 ft. setback is not expected to impact any of the proposed development locations as shown on the site plans. Furthermore, the Board finds that wetlands have been identified in the northern area of Lot 3 and towards the eastern portion of Lot 1. The applicant is not proposing any new development in these areas, and therefore, will cause little to no impact.

G. SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS

The Board finds that the applicant has submitted a Wastewater System and Potable Water Supply Permit Application to the Agency of Natural Resources; however, a permit has not been approved at the time of this decision. The Board finds that the obtainment of the ANR wastewater system and potable water supply permit provides a rebuttable presumption that the project has adequate water and wastewater disposal capabilities. The applicant shall submit a copy of the permit for recordation prior to submitting a building permit application for development on Lots 2 & 3 and prior to the issuance of a Certificate of Occupancy Permit for the detached accessory dwelling on Lot 1.

ARTICLE IV – SPECIFIC USE STANDARDS

A. SECTION 4.2 – ACCESSORY DWELLING

The Board finds that the applicant is required to obtain a conditional use permit under Section 4.2.B.1 since the applicant is proposing to expand an existing structure while constructing the detached access dwelling. The Board finds that the applicant has satisfied the requirements of this section. Specifically:

- The applicant is proposing one accessory dwelling;
- The accessory dwelling will be located in an accessory structure – the detached garage;
- The accessory dwelling will not exceed 50% of the existing total habitable floor area of the single-family dwelling, excluding unfinished attics and basements;
- The accessory dwelling will satisfy the setbacks, building and lot coverage requirements of the Rural Residential District;
- The applicant has submitted a Wastewater System & Potable Water Supply Permit Application to the Agency of Natural Resources and anticipates obtaining that permit. The applicant shall submit a copy of the permit for recordation prior to obtaining a Certificate of Occupancy permit for the detached accessory dwelling;
- The applicant is proposing to access the detached accessory dwelling by a shared driveway; and
- The Board finds that there is sufficient evidence to believe that the applicant will meet the parking requirement of three parking spaces for the subject lot.

ARTICLE V – DEVELOPMENT REVIEW

A. SECTION 5.1 – APPLICABILITY

Staff finds that conditional use review is required per Section 4.2.B.1, and only applies to Lot 1.

B. SECTION 5.3 – SITE PLAN REVIEW

SECTION 5.3.A – PURPOSE

The Board finds 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 applicant has submitted a site plan illustrating that the proposed development will not have an undue adverse impact on natural, historic and scenic resources that are listed in Subsection 5.3.B.1.a.

Section 5.3.B.2 – Site Layout & Design: The Board finds that the site design and layout reinforces the traditional, compact village settlement pattern of the Rural Residential District as described in Section 5.3.B.2.b. In addition, the Board did not find any evidence to the contrary that the site design ~~did not~~ reinforces the rural character and traditional working landscape of the district, as well as minimize encroachments to open fields and prominent ridgelines or hilltops. The Board finds that the existing building is already oriented and designed in a manner that is compatible with the residential character and scale of adjoining development.

Section 5.3.B.3 – Vehicle Access: The Board finds that the detached accessory dwelling will be served by a shared driveway that currently serves 318 Irish Settlement Road (IS318). The applicants shall obtain an access permit from the Selectboard per Section 3.B(iii) of the Underhill Road Ordinance.

Section 5.3.B.4 – Parking, Loading & Service Areas: The Board finds that the applicant has provided sufficient evidence that he will satisfy the on-site parking requirements for the single-family dwelling and the detached accessory dwelling (three parking spaces total), thus satisfying the parking requirements under Sections 3.13 and 4.2.A.5.

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 with a detached accessory dwelling.

Section 5.3.B.6 – Landscaping and Screening: The Board finds that the applicant is not proposing any new landscaping or screening mechanisms; however, the existing landscaping and screening satisfy the requirements under this subsection.

Section 5.3.B.7 – Outdoor Lighting: The Board finds that the applicant is not proposing a significant amount of new outdoor lighting, and any new lighting that is installed will be consistent with other residential lots along Irish Settlement Road. Any exterior residential lighting that is installed shall conform to the General Standards outlined in section 3.11 B of the ULUDR.

Section 5.3.B.8 – Stormwater Management and Erosion Control: The Board finds that the applicant shall utilize the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control during the construction of the detached accessory dwelling.

C. SECTION 5.4 – CONDITIONAL USE REVIEW

SECTION 5.4.A – PURPOSE

The Board finds that Conditional Use Review is required per Sections 4.2.B.1.

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 the detached accessory dwelling will result in little to no impact on community services and facilities. The Board notes that the applicants are in the process of obtaining a Wastewater System and Potable Water Supply Permit.

Section 5.4.B.2 – The Character of the Area Affected: The Board finds that the proposed detached accessory dwelling is consistent with the Town Plan.

Section 5.4.B.3 – Traffic on Roads and Highways in the Vicinity: The Board finds that the proposed detached accessory 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 makes no finding regarding this subsection.

SECTION 5.4.C – SITE PLAN REVIEW STANDARDS

The Board finds that site plan review is required per this section. Analysis can be found directly above under Section 5.3 – Site Plan Review.

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 to the conditional 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 applicant is not required to submit any legal documents as part of this application process.

ARTICLE VI – FLOOD HAZARD AREA REVIEW

The Board finds that a 100-year Flood Hazard Area is not located on the existing lot, and therefore, review and analysis under this article is not required.

ARTICLE VII – SUBDIVISION REVIEW, ARTICLE VII

A. SECTION 7.2 – APPLICABILITY

The Board finds that the applicant’s proposed subdivision is subject to the requirements of the March 1, 2011 Underhill Unified Land Use & Development Regulations, as amended through March 4, 2014, per Section 7.2, and was classified as a “minor subdivision” during the sketch plan review meeting and in the decision letter issued on March 7, 2017.

B. SECTION 7.3 – SKETCH PLAN REVIEW

The Board finds that the applicant adequately satisfied the conditions provided in the Sketch Plan Review Letter issued on March 7, 2017.

C. SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW

The Board finds that the applicant satisfied the intent of this section and provided the necessary materials to make a determination on the preliminary subdivision application. The Board granted preliminary subdivision approval on August 8, 2017.

D. SECTION 7.6 – FINAL SUBDIVISION REVIEW

The Board finds that the applicant satisfied the intent of this section and reasonably provided the necessary materials to make a determination on the final subdivision review application.

SUBDIVISION STANDARDS, ARTICLE VIII

A. SECTION 8.1 – APPLICABILITY

The Board finds that no technical review is required as part of this review. The Board also finds that the applicant has implicitly requested that the Board waive the side setback requirements for the proposed driveway since it will straddle the property line between Lots 2 & 3. Therefore, the Board waives this requirement under Sections 3.2.D.9, 3.7 and 8.6.A.2.a.

B. SECTION 8.2 – GENERAL STANDARDS

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. The Board notes that due to the configuration of the existing lot and positioning of the wells and wastewater system, impacting neighboring properties with regards to the well shields and isolation distances for the wastewater systems is likely.

SECTION 8.2.B – DEVELOPMENT DENSITY

The Board finds that the proposed subdivision meets the density requirements of the Rural Residential District.

SECTION 8.2.C – EXISTING CONDITIONS

The Board finds that the proposed layout of the development will minimize the impact on the natural environment, and that there will be minimal impact to the existing site features and natural amenities. The Board notes that prime agriculture soils are present on the proposed lots and will be impacted; however, due to other constraints, development is not feasible outside of these identified areas.

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 applicant is proposing the least restrictive building envelope as allowed by the March 1, 2011 *Underhill Unified Land Use & Development Regulations*, amended through March 4, 2014. Per Section 8.3.C.1, the Board finds that the applicant shall adjust the building envelope, to the extent physically feasible, to exclude areas with a slope greater than 15%.

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 applicant is proposing development that will require the removal of wooded areas in order to accommodate the development locations. The removal of these areas is inevitable due to the existing lot being heavily forested; however, the development locations will ultimately preserve the existing trees and tree lines, thus satisfying the intent of this Section.

SECTION 8.2.J – ENERGY CONSERVATION

The Board makes no findings, nor makes any requirements with regard to energy conservation.

C. SECTION 8.3 – NATURAL & CULTURAL RESOURCES

SECTION 8.3.A – RESOURCE IDENTIFICATION & PROTECTION

The Board has not identified, nor has the applicant identified, any cultural or natural resources/features that requires protection or preservation.

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

The Board finds that there will be no adverse impacts on the wetlands that exist in various locations on the existing lot; nor will there be any adverse impacts to Settlement Brook, which is immediately across Fuller Road. The Board notes that the applicant shall adjust the building envelope to incorporate buffers for the mapped wetlands as depicted on the site plan.

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

The Board finds that the existing lot contains areas of steep slopes and very steep slopes; however, the applicant has identified locations outside of these areas where the proposed development is to be constructed, and therefore, there will be a *de minimis* impact on the areas. To the extent physically feasible, the applicant shall attempt to exclude areas from the building envelope that contains areas with a slope greater than 15%.

SECTION 8.3.D – NATURAL AREAS & WILDLIFE HABITAT

The Board finds that correspondence has been submitted verifying that the identified wintering deer yard is no longer a significant presence on the lot. Additionally, the Board finds that a priority level 6/7 habitat block is located on the existing lot and that the proposed development will be located in, and likely fragment, this area.

SECTION 8.3.E – HISTORIC & CULTURAL RESOURCES

The Board is unaware of any historic or cultural resources that require preservation, and therefore, makes no finding regarding this Section.

SECTION 8.3.F – FARMLAND

The Board finds that the applicant is proposing development that will occur on prime agricultural soils; however, due to other constraints on the property (e.g. steep slopes and wetlands), development on these agricultural soils is unavoidable, and as a result, fragmentation is highly probable.

SECTION 8.3.G – FORESTLAND

The Board finds that the lot is largely forested and that the proposed future development would necessitate the clearing of part of the forest to accommodate the driveways and the proposed single-family dwellings.

D. SECTION 8.4 – OPEN SPACE & COMMON LAND

SECTION 8.4.A – OPEN SPACE

The Board finds that the applicant has not proposed to designate any land as open space.

SECTION 8.4.B – COMMON LAND

The Board finds that the applicant has not proposed to designate any land as common land.

SECTION 8.4.C – LEGAL REQUIREMENTS

The Board finds that this subsection does not apply since the applicant has not designated any land as open space or common land as part of the proposed project.

E. SECTION 8.5 – STORMWATER MANAGEMENT & EROSION CONTROL

The Board finds that the proposed development will have minimal impact on stormwater runoff and does not require an additional treatment plan. The applicant shall conform to the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control, published by the Watershed Management Division of the Vermont Department of Environmental Conservation when performing excavation and site work.

F. SECTION 8.6 – TRANSPORTATION FACILITIES

SECTION 8.6.A – ACCESS & DRIVEWAYS

The applicant obtained a preliminary access permit from the Selectboard on July 11, 2017 (Access Permit #: A-17-05), with the noted conditions in Section 3.2 above. The applicant has incorporated the conditions of approval as part of the final subdivision review application. Furthermore, the Board grants the setback waiver for the driveway as required per Section 3.2.D.9.a.

SECTION 8.6.B – DEVELOPMENT ROADS

The Board finds that this subsection does not apply since the access way will only serve two lots.

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 finds that review under this section is not required.

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 that there will be no adverse impact on the school district.

SECTION 8.7.B – FIRE PROTECTION

The Board finds there will be no undue burden on the existing and/or planned public facilities. The Board encourages the applicant to obtain written affirmation from the Underhill-Jericho Fire Department during the final access permitting process.

SECTION 8.7.C – WATER SYSTEMS

The Board finds that the applicant is proposing to supply potable water via a drilled well on Lots 1 and 2, where Lot 3 will use the existing well already on the proposed Lot 3. The applicant has submitted a Wastewater System & Potable Water Supply Permit application, and approval is anticipated. The abovementioned State permit shall be submitted for recordation prior to obtaining a Certificate of Occupancy for the detached accessory dwelling on Lot 1 under Section 10.4.A.2, and prior to the issuance of the building permits for the anticipated single-family dwellings on Lots 2 & 3 which satisfy the presumption the adequate water will be provided to each lot.

SECTION 8.7.D – WASTEWATER SYSTEMS

The Board finds that the applicant is proposing below grade wastewater systems on each lot. The applicant has submitted a Wastewater System & Potable Water Supply Permit application, and approval is anticipated. The abovementioned State permit shall be submitted for recordation prior to obtaining a Certificate of Occupancy for the detached accessory dwelling on Lot 1 under Section 10.4.A.2, and prior to the issuance of the building permits for the anticipated single-family dwellings on Lots 2 & 3 which satisfy the presumption the wastewater systems will not contaminate the surrounding soils and groundwater.

SECTION 8.7.E – UTILITIES

The Board finds the applicant has illustrated the expected locations of all electrical, communications, and media utilities, which shall be installed underground in accordance with Section 8.7.E.

H. SECTION 8.8 – LEGAL REQUIREMENTS

The Board finds that the applicant has provided a draft road maintenance agreement. Finalized deeds shall reference or incorporate the road maintenance agreement.

III. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS

The Board grants the following waivers:

1. In regards to Lot 1, the applicant, or subsequent landowner(s), is 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.
2. The applicant is not required to come before the Board if they wish to relocate the single-family dwellings within their respective building envelope. The Board recognizes that the identified location of these structures on the engineering plans submitted as a part of this application are for illustration purposes only, and does not reflect the final footprint of the single-family dwellings.
3. The driveway setback requirement for Lots 2 & 3 per Sections 3.2.D.9.a and 8.6.A.2.a.

IV. DECISIONS AND CONDITIONS OF APPROVAL

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

Based upon the findings above, and subject to the conditions below, the Development Review Board grants final subdivision approval and conditional use approval for the project presented in the application and at the hearing with the following conditions:

1. 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
2. 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.
3. 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. Subdivision Boundary Survey Prepared for Jason Marias (Plan Sheet 1 of 1, Dated 01/30/2018) Nathan P. Nadeau, last revised January 30, 2018, or subsequent revision to the extent required as part of this approval.

- b. Subdivision Site Plan Prepared for Jason Marias (Plan Sheet 1 of 3, Dated 01/30/2018) Prepared by Bradford Dexter LeFavour, last revised on December 6, 2017, or subsequent revision to the extent required as part of this approval.
4. The Board requires the applicant to record the abovementioned plans (Under Condition 3) as Mylar in the Underhill Land Records
 - a. The Survey Plat shall contain the following features:
 - i. Property lines;
 - ii. Any applicable easements;
 - iii. Existing and proposed monumentation;
 - iv. Parcel Codes
 - b. The Subdivision Site Plan shall contain the following features:
 - i. Property lines;
 - ii. Any applicable easements;
 - iii. Building envelope;
 - iv. Delineated Wetlands and Buffers;
 - v. Parcel Codes
5. The Board hereby delegates authority to the zoning administrator to make an interpretation on the encroachment /impact of any proposed building on the delineated wetland or applicable wetland buffer at the time of permit application. In particular the Board found no impact to the wetland at the time of approval due to non-encroachment on the wetland or wetland buffer, and is delegating authority to the Zoning Administrator to ensure the wetland buffer is not encroached upon prior to issuing a permit. The burden of proof shall reside with the applicant, to the satisfaction of the Zoning Administrator.
6. 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.
7. The final plat shall include parcel codes, and shall be submitted for recording within 180 days of the date of this approval (September 24, 2018) in accordance with Section 7.7 of the Underhill Unified Land Use & Development Regulations.
8. 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.
9. Per Section 8.3.C.1, the Board prohibits the permittee from building on land areas with a slope greater than 15 % unless approved by the Board, or within the applicable wetland buffer as required by the VT Agency of Natural resources. The burden of proof shall be on the building permit applicant to the satisfaction of the Zoning Administrator.
10. The applicant shall submit a copy of the Wastewater System and Potable Water Supply permit for recordation prior to submitting a building permit/conversion of use permit application for the detached accessory dwelling.
11. The applicant shall submit a copy of the Wastewater System and Potable Water Supply permit for recordation prior to obtaining a certificate of occupancy permit in regards to Lots 2 and 3. In addition, prior to the issuance of a Certificate of Occupancy, the applicant or subsequent landowner 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.
12. Prior to the issuance of a Certificate of Occupancy, the applicant shall provide a certification letter from a Vermont Licensed Professional Engineer or qualified consultant indicating 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 applicant shall obtain an access permit from the Selectboard per Section 3.B (iii) of the Underhill Road Ordinance. Any modifications as part of that process may be

administratively approved by the Zoning Administrator so long as those changes are consistent with this decision.

14. Any exterior residential lighting that is installed shall conform to the General Standards outlined in section 3.11 B of the ULUDR.
15. The applicant shall conform to the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control, published by the Watershed Management Division of the Vermont Department of Environmental Conservation when performing excavation and site work.
16. New property boundary monumentation referenced on the survey plat shall be installed as a condition of approval.
17. 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 28 day of March, 2017.

Charles Van Winkle

Charles Van Winkle, Development Review Board Chair

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 April 27, 2018.