



Town of Underhill

Development Review Board

Findings and Decision

**COMBINED PRELIMINARY & FINAL SUBDIVISION REVIEW APPLICATION OF WILLIAM W. & LISA S. TIMBERS
FOR A 2-LOT SUBDIVISION**

In re: William W. & Lisa S. Timbers
662 Irish Settlement Road
Underhill, VT 05489

Docket No. DRB-17-14

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

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding concerns the combined preliminary & final subdivision review application submitted by William W. & Lisa S. Timbers regarding a 2-lot subdivision of property they own located at 662 Irish Settlement Road in Underhill, Vermont.

- A. On September 6, 2017, William W. & Lisa S. Timbers filed a sketch plan review application for the abovementioned project. A sketch plan review meeting of the project was held on September 18, 2017 and a letter of acceptance was issued on October 2, 2017. As part of that sketch plan review letter, the Development Review Board waived preliminary subdivision review.
- B. On January 1, 2018, William W. & Lisa S. Timbers filed a combined preliminary and final subdivision review application 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 Saturday, February 24, 2018 at 8:30 AM, while the hearing date was scheduled for 6:35 PM at Underhill Town Hall on February 26, 2018.
- C. On January 31, 2018, notice regarding the combined preliminary & final subdivision review hearing was mailed via certified mail to the following property owners adjoining the property subject to the application:
 1. IS621T – John A. Butler & Carol L. Penberthy, 621 Irish Settlement Road, Underhill, VT 05489
 2. IS626 – Michael C. & Patricia W. Weisel, P.O. Box 71, Underhill Center, VT 05490
 3. IS646 – David E. & Sally E. Baker, 646 Irish Settlement Road, Underhill, VT 05489
 4. IS654 – Timothy C. R. Frost, 654 Irish Settlement Road, Underhill, VT 05489
 5. PV623 – Arnold & Paula Baizley, 623 Pleasant Valley Road, Underhill, VT 05489

6. PV633T – Joseph M. & Anne Marie Tisbert, 5901 Pleasant Valley Road, Cambridge, VT 05444
 7. Applicant: IS662 – William W. & Lisa S. Timbers, 662 Irish Settlement Road, Underhill, VT 05489
 8. Consultant: McCain Consulting, Inc., 93 S. Main St., Waterbury, VT 05676
- D. During the week of January 28, 2018, notice of the public hearing for the proposed Timbers' combined preliminary & final subdivision 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.
- E. On Saturday, February 3, 2018 the notice of public hearing was published in the *Burlington Free Press*.
- F. A site visit at the property located at 662 Irish Settlement Road, Underhill, Vermont, commenced at 8:30 am on Saturday, February 24, 2018.
- G. Present at the site visit were the following members of the Development Review Board:
1. Board Member, Matt Chapek
 2. Board Member, Mark Green
 3. Board Member, Daniel Lee
 4. Board Member, Karen McKnight
 5. Board Member, Penny Miller
 6. Board Member, Stacey Turkos

Municipal representatives and members of the public present during the site visit were:

7. Abutting Neighbor, David E. Baker
 8. Applicant, William W. Timbers
 9. Consultant, Gunner McCain
- H. The final subdivision review hearing began at 6:35 PM on February 26, 2018 at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, Vermont.
- I. Present at the final subdivision 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, William W. Timbers (662 Irish Settlement Road, Underhill, VT 05489)
2. Applicant's Consultant, Gunner McCain (93 S. Main St., Waterbury, VT 05676)
3. Abutting Neighbor, David E. Baker (646 Irish Settlement Road, Underhill, VT 05489)

J. 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. Applicant, William W. Timbers
2. Applicant's Consultant, Gunner McCain
3. Abutting Neighbor, David E. Baker

K. In support of the combined preliminary & final subdivision application, the following exhibits were submitted to the Development Review Board:

1. Exhibit A - Timbers' Preliminary & Final Subdivision Review Staff Report
2. Exhibit B - Timbers' (IS662) Preliminary & Final Subdivision Hearing Procedures
3. Exhibit C - Application for Final Subdivision
4. Exhibit D - Preliminary & Final Subdivision Checklist
5. Exhibit E - Correspondence from Applicant to the Board
6. Exhibit F - Certificate of Service
7. Exhibit G - Burlington Free Press Notice
8. Exhibit H - Preliminary Access Permit (Access Permit No. A-18-01)
9. Exhibit I - UJFD Ability to Serve Letter
10. Exhibit J - Draft Road Maintenance Agreement
11. Exhibit K - Habitat Assessment Memorandum
12. Exhibit L - MMU Ability to Serve Letter
13. Exhibit M - Site Plan
14. Exhibit N - Driveway Plan
15. Exhibit O - Survey

No other exhibits were subsequently submitted and distributed prior to the start of the hearing. However, during the hearing, the following exhibit was submitted into the record:

16. Exhibit P - UJFD Ability to Serve Letter In Response to Updated Plans
17. Exhibit Q - Updated Site Plan

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

All exhibits are available for public review in the IS662 Timbers' Combined Preliminary & Final Subdivision Review file (DRB 17-14) 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 2014 Underhill Unified Land Use and Development Regulations (ULUDR):

PROJECT SYNOPSIS

The applicants, William W. & Lisa S. Timbers, record owner of the property located at 662 Irish Settlement Road in Underhill, VT, are seeking a subdivision permit to subdivide the abovementioned land into two separate lots. The existing property is located in the Rural Residential and Mt. Mansfield Scenic Preservation districts as defined in Article II, Tables 2.3 & 2.5 of the Underhill Unified Land Use & Development Regulations.

ARTICLE II – ZONING DISTRICTS

A. ARTICLE II, TABLE 2.3 – RURAL RESIDENTIAL DISTRICT

The Board finds that the proposed subdivision and development will occur in both the Rural Residential and Mt. Mansfield Scenic Preservation District. The applicants are proposing a single-family dwelling to be built on the rear lot, which is consistent with the district's requirements under this section, as well as conforms to the purpose of the Rural Residential District.

B. ARTICLE II, TABLE 2.5 – MT. MANSFIELD SCENIC PRESERVATION DISTRICT

The Board finds that the proposed subdivision and development will occur in both the Rural Residential and Mt. Mansfield Scenic Preservation District. The applicants are proposing a single-family dwelling to be built on the rear lot, which is consistent with the district's requirements under this section, as well as conforms to the purpose of the Mt. Mansfield Scenic Preservation District.

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

While the best interpretation of the Town's zoning map illustrates the existing lot in the Soil & Water Conservation District, the applicants provided evidence during the Sketch Plan Review meeting (see Exhibit L from the sketch plan review zoning file) that the existing lot does not contain the Soil & Water Conservation District, and therefore, review under this section is not required.

ARTICLE III – GENERAL REGULATIONS

A. SECTION 3.2 – ACCESS

The Board finds that the applicants obtained a preliminary access permit from the Underhill Selectboard on January 16, 2018 (Access Permit #: A-18-01). The Selectboard advised that the applicants could exceed a 10% slope should the applicants hit ledge during construction. The Board acknowledges that the Selectboard has jurisdiction over access approval. However, the applicant is advised that should the driveway be permitted to exceed a 10% slope, the Underhill-Jericho Fire Department's ability to serve will be significantly impacted, as explicitly stated in the correspondence they provided.

The Board grants a frontage waiver under this Section and Section 8.6.A.2 since the rear lot does not have any frontage along a town highway or development road. The other requirements of this Section have been satisfied. The Board notes that the applicants are required to obtain a final access permit from the Selectboard prior to the issuance of a building permit.

B. SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

The Board finds that the proposed lots and proposed development will meet the requirements of both the Rural Residential and Mt. Mansfield Scenic Preservation zoning districts. One principal use is proposed for each lot, both single-family dwellings, which are permitted per Table 2.3.B.5 & Table 2.5.B.5. Both lots meet the minimum acreage requirement of 10.0 acres, as the acreage that is more restrictive applies when a proposed lot is in multiple zoning districts. The proposed single-family dwelling unit on the rear lot satisfies all of the setback requirements, while the single-family dwelling on the front lot is pre-existing, nonconforming.

The applicants have depicted a building envelope on the rear lot that is smaller than permitted, thus satisfying the requirements of the underlying districts. The Board acknowledges that the size of the building envelope is self-imposed and that there is no policy reason behind the more restrictive building envelope. Therefore, the Board authorizes the Zoning Administrator to subsequently modify the building envelope in the future should the applicants, or future applicant(s), wish to enlarge the building envelope - as long as the modification is consistent with this decision and the zoning regulations in effect at the time of the application.

In addition, during the site visit the Board identified a cabin-like structure located on the existing property. The Board finds that this structure should not be used for dwelling purposes, including camp-like purposes, unless the applicant(s) obtains approval from the Development Review Board beforehand.

C. SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

The Board finds that there is sufficient evidence to believe that the applicants will meet the parking requirement of two spaces as required per Table 3.1.

D. SECTION 3.17 – SOURCE PROTECTION AREAS

The Board finds the existing property is not within any source protection areas, and therefore, review 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 applicants have identified a building envelope that allows development to be constructed outside of these areas, and therefore, there will be a *de minimis* impact on the areas of steep slopes.

The applicants have asked that the Development Review Board waive the requirement under Section 3.18.C.3.b, which stipulates that a site plan be prepared by a licensed professional engineer or surveyor illustrating the general location and density of existing vegetation and a tabulation of the type, area and location of vegetation to be removed. This requirement is waived by the Board per Section 3.18.B.3.

F. SECTION 3.19 – SURFACE WATERS & WETLANDS

The Board finds that there is no evidence of wetlands, streams, or other surface waters on the existing lot, and therefore, review under this section is not required.

G. SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS

The Board finds that the applicants are expecting to submit a Wastewater System and Potable Water Supply Permit to the Agency of Natural Resources upon obtaining approval of their subdivision application. The Board finds that the applicants shall submit a copy of the approved

permit to the Town upon issuance and prior to obtaining a building permit. The issuance of this permit satisfies the presumption that the project has adequate water and wastewater disposal capabilities, and will not pollute or contaminate nearby soils, groundwater and surface waters.

ARTICLE VI – FLOOD HAZARD AREA REVIEW

The Board finds that there is no evidence of flood plains on the existing lot, and therefore, review under this Article is not required.

ARTICLE VII – SUBDIVISION REVIEW

A. SECTION 7.2 – APPLICABILITY

The Board finds that the applicants' proposed subdivision is subject to the requirements of the Underhill Unified Land Use & Development Regulations per § 7.2, and was classified as a "minor subdivision" during the sketch plan review meeting and in the decision letter issued on October 2, 2017. The Board finds that the lot being subdivided is Lot 1 of a previous 2-lot subdivision. The current application for this 2-lot subdivision will result in Lot 1 and Lot 3, with Lot 1 retaining the existing house and 10 +/- acres and Lot 3 becoming a 15.7 +/- acre lot for a proposed single-family home.

B. SECTION 7.3 – SKETCH PLAN REVIEW

The Board finds that the applicants have adequately satisfied the conditions of approval provided in the Sketch Plan Review Letter issued on October 2, 2017, as explained directly below.

C. SECTION 7.5 – PRELIMINARY SUBDIVISION REVIEW

The Board finds that it waived preliminary subdivision review upon request during the sketch plan review meeting on September 18, 2017. The applicants were permitted to proceed with a combined preliminary & final subdivision review application, which was submitted on January 31, 2018. While a preliminary subdivision review was waived, the Board finds that the applicants submitted an application that addressed many of the application requirements of the preliminary subdivision review, in addition to the final subdivision review application requirements.

D. SECTION 7.6 – FINAL SUBDIVISION REVIEW

As part of the combined preliminary & final subdivision review application, the applicants generally addressed many of the comments and concerns identified in the sketch plan review decision. Therefore, the Board finds that the applicants satisfied the intent of this section and provided the necessary materials to make a determination on the final subdivision review application.

ARTICLE VIII – SUBDIVISION STANDARDS

A. SECTION 8.1 – APPLICABILITY

The Board finds that no technical review is needed for this proposed project. The Board also finds that the applicants have requested two waivers:

1. A waiver under Sections 3.2.A and 8.6.A.2, waiving the frontage requirement for Lot 3, the rear lot; and
2. A waiver under Section 3.18.B.3 for the requirements under Section 3.18.C.3.b, waiving the creation of a site plan prepared by a licensed professional engineer or surveyor illustrating the general location and density of existing vegetation and a tabulation of the type, area and location of vegetation to be removed on steep slopes.

B. GENERAL STANDARDS, SECTION 8.2

SECTION 8.2.A – DEVELOPMENT SUITABILITY

The Board finds that if the applicants construct a driveway that exceeds a 10% slope, as permitted under the preliminary access permit if they encounter ledge, there are potential foreseen undue adverse impacts to the public health and safety, specifically the owners of, and visitors to, the newly created rear lot, Lot 3. While the applicants have submitted plans showing a driveway profile that does not exceed 10%, they have communicated an anticipation of exceeding this threshold because of a pocket of ledge where the proposed driveway is to be constructed. As a result, the increased slope will significantly impact the Underhill-Jericho Fire Department ability to serve, thus causing potential safety concerns. The Board encourages the applicants to not exceed the 10% slope threshold for the reasons stated above.

Otherwise, the Board finds no other foreseen undue adverse impacts to the public health and safety, nor foreseen undue adverse impacts on neighboring properties and uses or on the character of the area in which the proposed development is located. No land has been set aside as open space that would exclude periodic flooding, poor drainage, very steep slopes (>25%), or other known hazards, or that is otherwise not suitable to support structures or infrastructure. Furthermore, the Board finds that there is no evidence there would be a significant undue adverse impact to the natural environment, specifically, a priority wildlife crossing as shown in Exhibit K (submitted as part of the application materials for the combined preliminary & final subdivision review hearing).

SECTION 8.2.B – DEVELOPMENT DENSITY

The Board finds that the proposed subdivision meets the density requirements of the Rural Residential & Mt. Mansfield Scenic Preservation zoning districts.

SECTION 8.2.C – EXISTING CONDITIONS

The Board finds that the proposed layout of the development will likely have a minimal impact on the natural environment, existing site features, and natural amenities. While the Board finds that there are prime agriculture soils and forestland present on Lot 3, the rear lot, the proposed development will marginally affect these areas and will not cause significant fragmentation or reduction in forestland. The Board notes that some trees will be removed in order to construct the single-family dwelling and the driveway.

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, as the subdivision and development are to be configured in a way that reinforces the rural character and historic working landscape of the districts the project is proposed in.

SECTION 8.2.F – LOT LAYOUT

With the granting of the frontage waiver under Section 8.6.A.2, the Board finds that the proposed subdivision meets the requirements of this subsection.

SECTION 8.2.G – BUILDING ENVELOPE

The Board finds that the applicants have depicted a building envelope on the rear lot that is smaller than permitted, thus satisfying the requirements of the underlying districts. The self-imposed reduction is by design from the applicant in order to minimize the impact of development on wooded areas and habitat. The Board acknowledges that the reduced building envelope is self-imposed, and that the Board has not explicitly advised of a policy reason for the more restrictive building envelope. Therefore, the Board authorizes the Zoning Administrator to subsequently modify the building envelope in the future should the applicant, or a future applicant, wish to enlarge the building envelope as long as the modification is consistent with this decision and the zoning regulations in effect at the time of the application, and remains outside of any steep slopes.

SECTION 8.2.H – SURVEY MONUMENTS

The Board finds that proposed property monumentation shall be installed as defined in the recordable mylar.

SECTION 8.2.I – LANDSCAPING & SCREENING

The Board finds that the applicants are attempting to preserve the existing trees, tree lines, and wooded areas by implementing a self-imposed building envelope that is more restrictive than permitted under the Underhill Unified Land Use & Development Regulations. The applicants intend to perform some limited clearing of vegetation to maximize the aesthetic views of the surrounding environment, to allow for optimal solar exposure, and to minimize future damage to structures from tree blowdown as a result of localized high winds. The Board finds that the applicant has agreed to a clearing area limitation of 3 acres and no clearing on slopes over 25%.

SECTION 8.2.J – ENERGY CONSERVATION

The Board finds that the applicants intend to incorporate existing topography as windbreaks and seasonal shade. In addition, the applicants have advised that they intend to incorporate various renewable energy techniques.

C. SECTION 8.3 – NATURAL & CULTURAL RESOURCES

SECTION 8.3.A – RESOURCE IDENTIFICATION & PROTECTION

The Board is unaware of, nor have they or the applicant identified, any cultural or natural resources/features that require protection or preservation.

SECTION 8.3.B – SURFACE WATERS, WETLANDS & FLOODPLAINS

The Board finds that there is no evidence of surface waters, wetlands, or floodplains located on the lot, and therefore, review under this subsection is not required.

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 proposed subdivision boundaries, lot lines and a building envelope that allows development to be constructed outside of these areas, and therefore, there will be a *de minimis* impact on such areas.

SECTION 8.3.D – NATURAL AREAS & WILDLIFE HABITAT

The Board finds that a wintering deer yard and priority level 6/7 habitat block are located on the existing property, and will fully encompass Lot 3, the rear lot. The Board finds that it is inevitable that these areas will be impacted and/or fragmented.

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 proposed development on Lot 3 the rear lot, will likely disturb areas of prime agricultural soils. Due to other site constraints, such as steep slopes, locating the building envelope outside of the prime agricultural soils is impractical. Since the location of the proposed development (single-family dwelling) is located on the edge of the designation, significant fragmentation of prime agricultural soils is not likely to occur.

SECTION 8.3.G – FORESTLAND

The Board finds that the applicants will be disturbing a portion of the forestland that currently exists on the property; however, they propose development that is contained to a more restrictive, self-imposed building envelope, and therefore, a significant impact to forestland is less likely.

D. SECTION 8.4 – OPEN SPACE & COMMON LAND

SECTION 8.4.A – OPEN SPACE

The Board finds that the applicants have not proposed to designate any land as open space.

SECTION 8.4.B – COMMON LAND

The Board finds that the applicants have 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 applicants have 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 applicants 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. The Board also finds that the proposed development shall have a minimal impact on stormwater runoff and does not require an additional treatment plan.

The Board finds that the neighboring property owned by David Baker (646 Irish Settlement Road) has domestic water supplied by a shallow well located downhill from the proposed driveway for Lot 3. The applicants' engineer expressed confidence that the construction and maintenance of the driveway for Lot 3 should have no impact on Mr. Baker's well, but advised that a pre-construction well water test by Mr. Baker would be a prudent step.

F. SECTION 8.6 – TRANSPORTATION FACILITIES

SECTION 8.6.A – ACCESS & DRIVEWAYS

The Board finds that the applicants obtained a preliminary access permit from the Selectboard on January 16, 2018 (Access Permit #: A-18-01) with conditions. The applicants propose that Lot 3, the rear lot, be serviced by a shared driveway – the driveway currently servicing 654 Irish Settlement Road - Lot 2 of the previous subdivision. Since the driveway will only be

serving two lots at this time, only the standards of Sections 3.2 & 8.6.A apply. The Board has approved a frontage waiver under Section 8.6.A.2 for Lot 3, the rear lot. For more information about the driveway serving the rear lot, see Section 3.2, 3.18 and 8.2.A above.

SECTION 8.6.B – DEVELOPMENT ROADS

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

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 this section does not apply, and therefore, 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 there will be no adverse impact on the school district.

SECTION 8.7.B – FIRE PROTECTION

The Board finds that there will be an undue burden on the ability of the Underhill-Jericho Fire Department to provide fire protection services should the applicants' driveway exceed a slope of 10%. The Board encourages the applicants to construct a driveway that does not exceed 10%, thus allowing the Fire Department to provide adequate service to Lot 3, the rear lot.

SECTION 8.7.C – WATER SYSTEMS

The Board finds that the applicants are proposing a private drilled well for Lot 3, the rear lot; however, the requisite State permits have not been obtained at this time. The applicants were waiting to obtain approval from this Board before submitting a Wastewater System & Potable Water Supply Permit application. Prior to obtaining a building permit to construct the single-family dwelling on the rear lot, the applicants shall submit for recordation the approved State permit.

SECTION 8.7.D – WASTEWATER SYSTEMS

The Board finds that the applicants are proposing an on-site septic system for Lot 3, the rear lot; however, the requisite State permits have not been obtained at this time. The applicants were waiting to obtain approval from this Board before submitting a Wastewater System & Potable Water Supply Permit application. Prior to obtaining a building permit to construct the single-family dwelling on the rear lot, the applicants shall submit for recordation the approved State permit.

SECTION 8.7.E – UTILITIES

The Board finds the applicants have not illustrated the location of the electrical, communications, and media utilities since these utilities are placed at the direction of the overseeing entity. Therefore, upon installation, the applicant(s), or future applicant(s), shall submit an updated site plan illustrating the location of those utilities. In addition, those utilities shall be installed underground in accordance with Section 8.7.E.

H. SECTION 8.8 – LEGAL REQUIREMENTS

The Board finds that the applicants shall incorporate, or incorporate by reference, all proposed easements into the deeds. Additionally, the Board encourages the applicants to update the driveway agreement with the residents of 654 Irish Settlement Road to incorporate the new lot, which should include issues such as snow removal and maintenance. The Board recognizes that it does not have the authority to require the applicants and their neighbor to update the agreement, but it is strongly encouraged.

Lastly, the Board also encourages the applicants to address the right-of-way easement allowing access to Lot 2 (654 Irish Settlement Road) across Lot 1. As illustrated on the submitted survey and site plan (submitted as part of the combined preliminary & final subdivision review hearing), the driveway serving 654 Irish Settlement is not entirely located within the right-of-way easement. The Board recommends that the applicants update the easement to depict a right-of-way that fully encompasses the driveway.

III. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS

The Board grants the following waivers/modifications:

1. Per Section 10.7.F.5, the Development Review Board may authorize administrative review by the Zoning Administrator to make subsequent changes or amendments to an approved project as outlined in the referenced Section. The Board does not find an overwhelming policy reason for the building envelope to remain as depicted indefinitely, and therefore, authorizes the Zoning Administrator to amend the Lot 3, rear lot, building envelope as long as the change is consistent with this decision and conforms to the regulations in place at the time of the proposed modification, and remains outside of any steep slopes.
2. The Board waives the frontage required for the rear lot under Sections 3.2 & 8.6.A.2 since that lot does not have any frontage along a town highway or development road.
3. The Development Review Board waives the requirement under Section 3.18.C.3.b, which requires a site plan prepared by a licensed professional engineer or surveyor illustrating the general location and density of existing vegetation and a tabulation of the type, area and location of vegetation to be removed.
4. The applicants are not required to come before the Board if they wish to relocate the driveway, or relocate associated parking areas 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.
5. 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 of this structure 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.

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 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) has 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. Survey and Subdivision of the Lands of William and Lisa Timbers (Plan Sheet 1 of 1) Prepared by McCain Consulting, dated 2018, and signed by Keith R. Van Iderstine, L.S. #718, latest revision.
 - b. Site Plan, William & Lisa Timbers, Single Lot Wastewater Design (Plan Sheet 1 of 3) Prepared by McCain Consulting, dated 31 August 2018, latest revision.
4. The Board requires the applicant to record the abovementioned plans (Under Condition 3) as Mylars in the Underhill Land Records:
 - a. The Survey Plat shall be modified to contain the following features:
 - i. Property lines;
 - ii. Any applicable easements;
 - iii. Existing and proposed monumentation;
 - iv. Parcel Codes
 - v. Correct parcel numbering per findings (section 7.2) listed above.
 - b. The Subdivision Site Plan shall contain the following features:
 - i. Property lines;
 - ii. Any applicable easements;
 - iii. Building envelope;
 - iv. Parcel Codes;
 - v. Correct parcel numbering per findings (section 7.2) listed above.
5. The Board requires that abovementioned plans be updated in conformance with this decision, and that to-scale hard copies, in addition to digital copies, be submitted to the Zoning Administrator to be filed in the corresponding zoning files.

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 (April 10, 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. The applicant shall submit a copy of the Wastewater System and Potable Water Supply permit for recordation prior to being issued a building permit for the single-family dwelling on Lot 3, the rear lot.
10. 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 infrastructure improvements identified in the subdivision plans under Condition 3 above, and what is required by this decision, have been constructed according to what was proposed as part of this review.
11. The applicant shall obtain a final access permit from the Selectboard per Section 3.B (iii) of the Underhill Road Ordinance prior to the issuance of a building permit. Any modifications as part of that process may be administratively approved by the Zoning Administrator as long as those changes are not inconsistent with this decision.
12. 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. Except as necessary for driveway construction the applicant shall refrain from clearing very steep (>25%) slopes without approval from this board.
13. New property boundary monumentation referenced on the survey plat shall be installed as a condition of approval.
14. Notwithstanding the conditions above, prior to being issued 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 10th day of APRIL 2018.

Charles Van Winkle

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 **10 MAY 2018**.