

Town of Underhill
Development Review Board Minutes
Chairperson Charles Van Winkle

April 29, 2013

6:00 PM: Site Visit at 310 Irish Settlement Road (IS310) for the Harmeyer Hearing.

Note: The Underhill Development Review Board does not take testimony during a site visit. The purpose of the visit is to afford the Board Members and interested parties the opportunity to familiarize themselves with the existing conditions of the project site. Any discussion, comments or communication made during the site visit is not considered as testimony and is therefore not part of the official record or evidence submitted for consideration.

Board Members Present:

Matt Chapek
Shanie Bartlett
Karen McKnight

Staff/Municipal Representatives Present:

Kari Papelbon, Zoning & Planning Administrator

Also Present:

Don and Patricia Harmeyer, property owners

At the conclusion of the site visit the DRB traveled to 5 Park Street.

6:35 PM: Site Visit at 5 Park Street (PA005) for the Richardson/CCMA (Halley) Conditional Use/Site Plan Review Hearing (see *Note* above).

Board Members Present:

Matt Chapek
Shanie Bartlett
Karen McKnight

Staff/Municipal Representatives Present:

Kari Papelbon, Zoning & Planning Administrator
Brad Holden, Selectboard Chair

Also Present:

Peter Richardson, Applicant; 3 United Church of Underhill Trustees; neighbor

At the conclusion of the site visit the DRB traveled back to the Underhill Town Hall.

Board Members Present:

Charles Van Winkle, Chair
Matt Chapek
Shanie Bartlett
Karen McKnight

Staff/Municipal Representatives Present:

Kari Papelbon, Zoning & Planning Administrator
Brad Holden, Selectboard Chair

7:08 PM: Chairperson Charles Van Winkle called the Richardson/CCMA (Halley) Conditional Use/Site Plan Review hearing to order at the Underhill Town Hall.

Applicant(s) Present:

Peter Richardson
Housing Strategies, Inc.
601 South Beach Rd.
South Burlington, VT 05403

Others(s) Present:

United Church of Underhill Trustees (3)
3 Park Street
Underhill, VT 05489

Jacqueline Weber
10 Park St.
Underhill, VT 05489

Don and Patricia Harmeyer (landowners for next hearing)

Identifier: Contents:

ZA-1	Peter Richardson's Conditional Use/Site Plan Review Hearing Request (dated 3-15-13)
ZA-2	A copy of the signed document from Steve Halley, Champlain Capital Management Associates, consenting to the application (dated 3-21-13)
ZA-3	A copy of the Site Plan (dated 3-22-13)
ZA-4	A copy of the Boundary Line Agreement plat (dated August 2004)
ZA-5	A copy of the Conditional Use Review Standards Findings Checklist

ZA-6	A copy of the Site Plan Review Standards Findings Checklist
ZA-7	A copy of the letter from Peter Richardson (dated 3-22-13)
ZA-8	A copy of the VT-15 Sidewalk Feasibility Study Update alignment sheets (Sheets 1-5 dated 12-28-12)
ZA-9	A copy of the tax map for PA005
ZA-10	A copy of the hearing notice published in <i>Seven Days</i> on April 10, 2013
ZA-11	Staff Report

- Chairperson Van Winkle began the meeting by explaining the procedure for the hearing, which comes under the 2012 Unified Land Use and Development Regulations. He then swore in interested parties present, asked if there were conflicts of interest, and entered the above items into record.
- Peter Richardson, Applicant, provided an overview of his application. The request is for a Conditional Use Permit for a 5th unit within the existing storage space. There are some issues pointed out at the site visit that will need to be resolved: the septic system needs to be replaced (seller responsibility), the northern boundary line affects the existing parking and an agreement needs to be made with the Church to allow the parking to remain (discussion ongoing). Mr. Richardson further explained that the building needs repairs as the building has not been maintained over the years, and his interest is in purchasing and renovating old, historic buildings for visual and tenant benefits. Mr. Richardson's background is primarily in affordable housing and he feels the housing at 5 Park Street is appropriate for working people. He added that he wants to fix the building while retaining the existing tenants.
- Chairperson Van Winkle asked whether a lot coverage calculation had been conducted. Mr. Richardson stated that he had not calculated lot coverage because the maximum of 75% is quite large.
- Chairperson Van Winkle asked if Mr. Richardson could confirm municipal water serves the apartment building, to which Mr. Richardson replied that there is municipal water serving the apartment but an existing connection is undersized and needs to be replaced per the Jericho Underhill Water System.
- Chairperson Van Winkle asked whether VT Gas currently serves the apartment building or whether that remains to be done. Mr. Richardson replied that natural gas has not yet been installed.
- Chairperson Van Winkle asked Mr. Richardson to explain his concern with the septic. Mr. Richardson stated that he wants to be sure that a replacement system can fit on the site, and added that he is concerned for the maple tree and outbuilding on the property, which he wants to retain. Chairperson Van Winkle explained that the DRB usually relies on submission of a State Wastewater Permit to fulfill application requirements and that such is typically a condition of approval.
- ZA/PA Papelbon provided her staff report, which was contained within the hearing information packet.

- Chairperson Van Winkle asked where trash is stored onsite. Mr. Richardson stated that there is a dumpster on the property. Chairperson Van Winkle asked whether recycling is also onsite, to which Mr. Richardson responded there are other containers on the site.
- ZA/PA Papelbon continued with her staff report. She also mentioned that Mr. Richardson had spoken to several agencies regarding handicap parking spaces and that there are differing responses based on the agency (ADA, Fair Housing, Fire, etc.). She explained that local regulations require compliance with State and Federal ADA requirements, and that the Fire Marshall may have additional input for compliance. Mr. Richardson added that HUD, Fair Housing, and ADA requirements do not agree, and advocates such as the Center for Independent Living have different suggestions. Reasonable accommodation for those that require handicap parking must be made.
- Chair Van Winkle asked about the existing plans for municipal sidewalk improvements in the area. ZA/PA Papelbon explained that there is a proposal for putting sidewalks in the Flats that would begin roughly at the corner of the property in question within the Town right-of-way. The sidewalk is proposed to be a 5-foot wide asphalt path, and there is a significant delay in the project due to funding. ZA/PA Papelbon added that the plans are mentioned for the DRB's information, and that the impact to the property would most likely be in the area of the existing curb cut, where a delineation between the sidewalk and driveway would most likely be required. Meetings with property owners along the proposed path will occur during the project planning phases.
- Chair Van Winkle summarized the DRB Considerations for the Conditional Use/Site Plan Review application – landscaping, screening, etc. within Section 3.13. ZA/PA Papelbon added that Conditional Use and Site Plan Review Standards the DRB determines are not applicable could also be waived.

7:20 PM: Chairperson Van Winkle asked for public comment.

- Paul Sisson, Chair of the United Church of Underhill Board of Trustees:
 - The Trustees met with Mr. Richardson and one of the current landowners to discuss the existing issue with the parking and property boundary. After the meeting, a letter was sent stating that the Church was not prepared to make a decision. Discussions are ongoing.
 - One option should be that the parking must be fully contained on the apartment building property.
- Chair Van Winkle explained the decision process.
- Board Member Karen McKnight asked how many spaces would be lost if the parking had to be fully contained on the apartment property. Mr. Richardson stated that if an agreement with the Church could not be reached there would not be reasonable parking onsite and the access to the parking lot would be diminished. Mr. Richardson stated that his personal interest in the site would be eliminated in that event.

- ZA/PA Papelbon asked if the Church had a significant concern for the parking as it currently exists. Mr. Sisson stated that there is some concern for liability if something were to happen in the parking area.
- Dave Clift, Trustee of the United Church of Underhill
 - The Board of Trustees represents 200 members and they have to exercise their obligations to those members.
 - A lot of “sorting out” needs to be done.
 - The Church may not want to lose the potential area for unforeseen needs.
 - While the parking had been permitted in the past, it may not be permitted forever.
- Mr. Richardson asked what the sense of the Church’s timeframe was, to which Mr. Clift replied that there is no sense of a timeframe. Mr. Clift added that the proposal has imposed the responsibility on a neighboring entity as to whether Mr. Richardson will move forward with his proposal to purchase and rehab the property. Mr. Clift stated that the Church is not in the position to have any assumptions be made around the property line or allowance of the area for parking.
- Board Member McKnight asked how long the parking has been in existence. Mr. Clift stated that such had not been determined. Chair Van Winkle stated that the Boundary Line Agreement plat referenced a 1980 survey by John Marsh. Selectboard Chair Brad Holden added historical context of the boundary dispute and stated that the Court established the line shown on the 2004 survey. Discussion ensued.

7:45 PM: Chairperson Van Winkle asked whether the Board felt they had enough information to make a decision on the application. Board Member Matt Chapek stated that the boundary dispute is still a question. Selectboard Chair Brad Holden clarified that the boundary is not in dispute, but that the guardrail and parking location are in dispute. Board Member Karen McKnight stated that it does not look like many spaces would be lost and she wonders how many would be lost should there be no agreement with the Church. ZA/PA Papelbon asked Selectboard Chair Brad Holden what the area is between the boundary line and the guardrail/parking area. Discussion ensued. Board Member Chapek asked who put the guardrail in. It was stated that the Church installed the guardrail. Jacqueline Weber asked whether the outbuilding could be taken down and the space used for parking. Chairperson Van Winkle stated that the answer is probably “yes,” but that such was not included as part of the application.

Chairperson Van Winkle summarized the application and testimony. Selectboard Chair Holden stated that the area between the boundary and guardrail is probably less than 700 square feet. Discussion ensued. Mr. Richardson stated that each of the existing parking spaces would be affected by the loss of the existing configuration because the stalls would get shorter. The first 4-5 spaces would be affected to the extent that there would be insufficient area for circulation in the existing location. Mr. Richardson continued to state that there could be some site reconfigurations that would allow the

maintenance of about 8 spaces, but he believed the site would suffer. Mr. Richardson concluded that the problem is probably solvable, but not ideal.

7:52 PM: Chairperson Van Winkle asked whether the Board felt they had enough information to make a decision on the application. The Board stated that they did. Chairperson Van Winkle asked whether the Board would like to discuss the application in open or closed session. Board Member Matt Chapek made a motion, seconded by Board Member Karen McKnight, to enter a deliberative session. The motion was passed by all Board Members present.

Chairperson Van Winkle provided a brief overview of the decision process for the hearing attendees. Mr. Richardson, the United Church of Underhill Trustees, neighbor Jacqueline Weber, and Selectboard Chair Brad Holden departed.

7:55 PM: Chairperson Charles Van Winkle called the Harmeyer hearing to order at the Underhill Town Hall.

Applicant(s) Present:

Don and Patricia Harmeyer
310 Irish Settlement Rd.
Underhill, VT 05489

Identifier: Contents:

ZA-1	A copy of the site plan for Don and Patricia Harmeyer, prepared by Nicholas Nowlan of McCain Consulting, Inc. (revised 1-25-13)
ZA-2	A copy of the letter to Don and Patricia Harmeyer from Christine Murphy (dated 9-27-06)
ZA-3	A copy of the approved Application for Access (dated 6-21-05)
ZA-4	A copy of the letter to Lyn DuMoulin from Planning Commission Chair Richard Albertini (dated 11-17-04)
ZA-5	A copy of the site plan for Lyn DuMoulin, prepared by Nicholas Nowlan of McCain Consulting, Inc. (dated 10-19-04)
ZA-6	A copy of the survey for Lyn DuMoulin, prepared by McCain Consulting, Inc. (revised 11-15-04 and signed by the Planning Commission on 11-9-04)
ZA-7	A copy of the hearing notice published in <i>The Burlington Free Press</i> on April 13, 2013
ZA-8	Staff Report

- Chairperson Van Winkle began the meeting by explaining the procedure for the hearing, which comes under the 2012 Unified Land Use and Development Regulations. He then swore in interested parties present, asked if there were conflicts of interest, and entered the above items into record.

- Don Harmeyer, 310 Irish Settlement Rd., provided background on the issue. Lyn DuMoulin's original subdivision plan would have sited the building envelope and house on the Harmeyer property within the 100' wetland buffer. Due to this issue, the plan was changed so that the house would be sited to meet the setback requirement. Mr. Harmeyer continued to say that the site plan dated 8-29-05 approved by the DRB is identical to the 1-25-13 plan submitted by McCain Consulting, which shows existing conditions. A letter dated 9-27-06 from Christine Murphy stated that a Mylar needed to be recorded with the Town. Mr. Harmeyer stated that fees were submitted to both the Town and McCain Consulting for the Mylar. A letter dated October 12, 2006 from Christine Murphy clarified the extension of the building permit, submission of Mylar recording fees, and an as-built drawing that needed to be on Mylar. Mr. Harmeyer stated that when he and his wife decided to sell their house, they realized that the site plan showed "proposed." After some clarification of items on the Mylar and submission requirements, the Mylar was submitted for DRB approval.
- Chairperson Van Winkle provided his recollection of the DuMoulin subdivision and revision history.
- ZA/PA Papelbon returned the original check for Mylar recording fees that had been in the file since 2006. She explained that the additional building permit was required because the building permit from 2006 did not include the wood shed. A neighbor had some questions, but did not have any comments on the hearing. ZA/PA Papelbon then stated that the hearing fees had been waived by the Selectboard, so the only additional fees for the hearing were the previously-submitted Mylar recording fees. She then explained that part of the issue was with a lack of recordkeeping - other than the letter dated 9-27-06, there is no decision or minutes for a hearing held on September 18, 2006. This hearing is required to fulfill whatever conditions of approval may have been imposed in 2006. ZA/PA Papelbon thanked the Harmeyers for their participation and patience with the process.
- Chairperson Van Winkle asked if there were further questions. There were none.

8:10 PM: Chairperson Van Winkle asked whether the Board felt they had enough information to make a decision. The Board stated that they did. Chairperson Van Winkle asked whether the Board would like to discuss the application in open or closed session. Board Member Matt Chapek made a motion, seconded by Board Member Karen McKnight, to discuss the application in open session. The motion was passed by all Board Members present.

Chairperson Van Winkle stated that the evidentiary portion of the hearing was closed. ZA/PA Papelbon asked if Chairperson Van Winkle could enter the October 12, 2006 letter into evidence prior to closing the evidentiary portion of the hearing. Chairperson

Van Winkle entered the letter into evidence and closed the evidentiary portion of the hearing.

8:12 PM: Board Member Matt Chapek made a motion, seconded by Board Shanie Bartlett, to approve the Mylar as submitted. The motion was passed by all Board Members present. Chairperson Van Winkle signed the submitted Mylar.

End of hearing.

ZA/PA Papelbon explained that the Harmeyers will receive a copy of the decision and minutes, the Mylar will be recorded, and that while there is a 30-day appeal period only the Harmeyers participated in the hearing.

Harmeyers depart. The Board began closed deliberations on the Richardson/CCMA application.

These minutes of the 4-29-13 meeting of the DRB were accepted

This 10 day of May, 2013.



Charles Van Winkle, Chairperson

These minutes are subject to correction by the Underhill Development Review Board. Changes, if any, will be recorded in the minutes of the meeting of the DRB.