

**Town of Underhill**  
**Development Review Board Minutes**  
**January 5, 2015**

**Board Members Present:**

Charles Van Winkle  
Penny Miller  
Jim Gilmartin  
Mark Hamelin  
Matt Chapek

**Others Present:**

Kassandra Bean (392 Vt. Rt. 15- Jericho)  
Robby Bean (392 Vt. Rt. 15- Jericho)  
Mike Rainville (195 Nashville Rd., Jericho)  
Kevin McKegey (195 Nashville Rd., Jericho)  
Chris Haggerty (20 Kimball Ave., Ste. 203N, S. Burlington)  
Tyler Main (8 Dumas Rd.)  
Jen Phalen (8 Dumas Rd.)  
Joe Flynn (272 Vt. Rt. 15, Jericho)  
Steve Diglio (183 Thatcher Road, Bolton)  
Patricia Grey (12 Dumas Rd.)

**Staff/ Municipal Representatives Present:**

Sarah McShane, PZA

**6:30 PM- 1/5/2015 DRB Public Hearing**

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- DRB members convened at Town Hall at 6:30 PM. Chair Van Winkle called the meeting to order at 6:30 PM.
- Chair Van Winkle asked for public comment. There were no public comments.

**6:35 PM- (DRB 14-16) Appeal of ZA's Decision, 10 Dumas Road**

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- Chair Van Winkle began the hearing by explaining the procedure for appeal hearings and the definition of interested party.
- Chair Van Winkle swore in hearing participants and exhibits and asked if any board members had a conflict of interest or ex parte communications. There were no conflicts of interest or ex parte communications. PZA Sarah McShane added a copy of a letter from Hogg Hill Design LLC dated 1/2/2015 and topographic maps of the lot with pre-existing and as-built elevations to the list of exhibits and provided copies to participants.
- The hearing is in regards to the Zoning Administrator's decision to issue a Certificate of Occupancy for a newly constructed dwelling on Dumas Road. The Appellants claim a discrepancy in the permitted finished floor elevation and the as-built finished floor elevation.
- Appellant Jen Phalen began by voicing her concerns that the elevation of the finished floor is higher than what was permitted, and concerns regarding the on-going maintenance of the driveway and stormwater features. She stated that she would like an engineered grading plan prepared for the lot and for future owners to be required to maintain the stormwater features.
- Chair Van Winkle asked appellant Jen Phalen if she realized that the existing drainage pattern directed water over her property at 8 Dumas Road, and that an engineered grading plan would likely do the same. She confirmed this to be her understanding.
- Participants and Board members discussed the existing drainage patterns and the drainage in the rear of the property located at 8 Dumas Road.
- Appellant Jen Phalen also stated that she is concerned with the vehicles that are parking on the triangular lot across the street and that her septic line was damaged during construction.

- Chairman Van Winkle asked if the line had been repaired, and appellant Phalen indicated it was repaired but was improperly installed. Van Winkle asked if she was an expert or was familiar with design or construction techniques in septic field construction, force main construction or pressurized pipe construction or installation practices. Appellant Phalen stated she had no expertise in these matters.
- Board member Penny Miller re-iterated the Appellants concern regarding a request for an engineered grading plan to reflect the new higher elevations.
- Joe Flynn, the Appellants consultant, reviewed the as-built grading plans that were submitted by the property owner and stated that the as-built grading is not far off the pre-existing drainage pattern.
- Planning & Zoning Administrator Sarah McShane provided comments. She stated that she received a completed application which included as-built drawings, septic certification, energy certificate, and an engineer's certification that the driveway improvements were made according to the approved plans. She stated that she conducted a site visit to verify that the project was within the scope that was permitted and that everything she received indicated that the project was in conformance with the permit, including the finished floor elevation. She stated that she felt the grading was within the allowed exemption and that although there are a lot of concerns, the reason for the hearing is to review whether or not the Certificate of Occupancy should have been issued.
- Property owner of 10 Dumas Road, Michael Rainville provided an overview of the project. He stated that he believed that the project was built in conformance with the approved permit. He provided paper copies of as-built and pre-construction elevations, photographs indicating the stormwater swale that was constructed to divert stormwater away from the driveway towards the rear yard, and plan notes from his septic plans for inclusion in the public record. He stated they added 14 yards of sure-pack crushed stone to the driveway. He discussed the discrepancy between the finished floor elevations on the septic plan and the as-built finished floor elevation. He stated that the septic benchmark and the construction benchmark are different. He also responded to the Appellants concerns regarding parking on the triangular lot and stated that extra fill had been dispersed over the lot and it is not intended for parking. He continued to state that the appeal has been a hardship on everyone involved and stated he had reached out to the neighbors to try to resolve the issues outside of a public appeal hearing. He stated that he hoped the Appellants would consider rescinding their appeal application.
- Board member Penny Miller stated that the procedure for the hearing was to review whether or not the Certificate of Occupancy should have been issued, not to resolve all of the concerns.
- Property owner Michael Rainville stated that the finished floor elevations that appear on page 1 of 4 of the septic plans were only intended for use for the design of the septic system.
- Board member Matt Chapek asked if the driveway had changed since the Appellants bought their home.
- Property owner Michael Rainville stated 14 yards of sure-pack was used to create a berm to direct water away from the driveways and that corrects an existing drainage problem.
- Steve Diglio, Civil Engineer for the property owner, stated that the drainage was a pre-existing issue that was improved upon and that the swale will direct rainwater towards the back of the property located at 8 Dumas Road.
- Property owner Michael Rainville stated that he hired multiple consultants to ensure that he didn't make a pre-existing problem worse and was trying to be a good neighbor.
- Chair Charles Van Winkle asked for further comments and if there were any members of the public that would like to provide comments.

- Patricia Grey (12 Dumas Road) stated that the sump pump from the footing drain of the newly constructed dwelling is draining into her front yard and she has concerns regarding drainage on her property and possible flooding issues. She submitted a photograph to Board members.
- Kassandra Bean (392 Vt. Rt. 15, Jericho) stated that she is the prospective buyer of the newly constructed dwelling at 10 Dumas Road. She stated that she lives in the area and is well aware of the past flooding issues. She stated that she and her family are trying to be friendly neighbors and that the situation has been agonizing and stressful.
- Chair Charles Van Winkle asked if Board members had any questions or if anyone had any last comments.
- Appellant Jen Phalen voiced her concerns over parking on the triangular lot and stated that her deed restricts any development on the lot.
- Property owner Michael Rainville stated that they spread remaining fill over the triangular lot and that it was not intended to be a parking area.
- Joe Flynn, consultant for the Appellants, stated that the Appellants would like assurance that the newly constructed swale will be maintained in the future. He stated that maybe the parties could agree to a maintenance agreement.
- Property owner Michael Rainville asked the Appellants to rescind their appeal and if so, he'll hire a lawyer to draft maintenance language for inclusion in the deed so that the future owners of 10 Dumas Road will be responsible for maintaining the stormwater swale.
- The Appellant Jen Phalen formally rescinded the application for appeal and provided the board with written notice to withdraw her appeal application.
- Chair Charles Van Winkle stated that since the appeal has been withdrawn the Board will not make a formal decision on the application and participants will simply receive a copy of the meeting minutes.
- The hearing concluded at approximately 7:50 PM.

#### **8:00 PM- Old Business**

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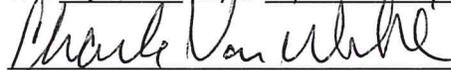
- Board members reviewed and approved the minutes from 12/1/2014 and 12/15/2014.
- Since there are no scheduled applications, Board members agreed to cancel the DRB meeting scheduled for January 19<sup>th</sup>.

Meeting adjourned at 8:30 PM.

Submitted by:  
Penny Miller, DRB Clerk

These minutes of the 1/5/2015 meeting of the DRB were accepted

This 16 day of February, 2015.



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.*

