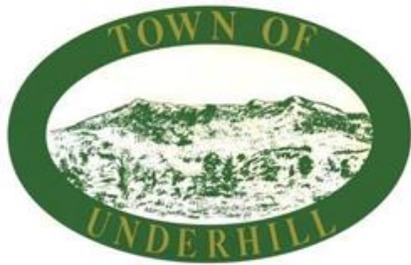


APPLICATION OVERVIEW

CONDITIONAL USE REVIEW (§ 5.4) & SITE PLAN REVIEW (§ 5.3)

| | |
|---|--------------------------------------|
| DRB DOCKET #: | DRB-20-04 |
| APPLICANT(S): | Lynn & Brian McLaughlin |
| CONSULTANT(S): | Brad Holden (Surveyor) Re: Exhibit H |
| PROPERTY ADDRESS (PARCEL ID CODE): | 414 Cilley Hill Road – CH414 |
| ZONING DISTRICT(S): | Rural Residential |
| INITIAL FILING DATE: | February 11, 2020 |
| APPLICATION COMPLETION DATE: | February 27, 2020 |
| SCHEDULED HEARING DATE: | Monday April 6, 2020 |

| | |
|---|--|
| PROJECT DESCRIPTION: | The Applicants are seeking an after-the-fact dimensional waiver approval for, and an after-the-fact zoning permit for, the construction of an accessory structure (a barn) within the property's front setback requirement and within a floodplain. |
| MOST RELEVANT ULUDR SECTIONS: | Table 2.4 (Rural Residential); § 5.3 (Site Plan Review); § 5.4 (Conditional Use Review; § 5.5 (Waivers & Variances); and Article VI. |
| REASON FOR CONDITIONAL USE REVIEW: | <ul style="list-style-type: none"> • The construction of a structure within the front yard setback necessitates dimensional waiver (§ 5.5.B). • The construction of a structure within a mapped floodplain necessitates Flood Hazard Area Review (Article VI). |
| APPLICABILITY OF ROAD ORDINANCE: | The 2015 Road Ordinance, as amended December 18, 2018 DOES NOT APPLY. |
| STATE PERMIT INFORMATION: | <ul style="list-style-type: none"> • Staff does not believe that any State permits are required. |
| COMMENTS/NOTABLE ISSUES: | <ul style="list-style-type: none"> • The Board should determine if any mitigation measures need to be taken in regard to stormwater management and erosion control. • The Board should evaluate if any additional mitigation measures are required as a result of the completed construction. • Staff has not referred the Application to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources due to the COVID-19 circumstances and will do so once the application can be scanned at the Town Offices. Upon hearing from the NFIP Coordinator, those comments will be forwarded to the Board. |



TOWN OF UNDERHILL

Development Review Board

BRIAN & LYNN MCLAUGHLIN

CONDITIONAL USE

Docket #: DRB-20-04

| | |
|----------------------|--|
| Applicant(s): | Brian & Lynn McLaughlin |
| Consultant: | Brad Holden (Surveyor) |
| Property Location: | 414 Cilley Hill Road (CH414) re: Exhibit H |
| Acreage: | ±3.04 Acres (VCGI Parcel Viewer) / ±3.04 Acres (Grand List) |
| Zoning District(s): | Rural Residential |
| Project Information: | The Applicants are seeking an after-the-fact dimensional waiver approval for, and an after-the-fact zoning permit for, the construction of an accessory structure (a barn) within the property's front setback requirement and within in a floodplain. |

2018 UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS RELEVANT REGULATIONS:

- Article II, Table 2.4 – Rural Residential District (pg. 15)
- Article II, Table 2.8 – Flood Hazard Overlay District (pg. 27)
- Article III, Section 3.2 – Access (pg. 30)
- Article III, Section 3.7 – Lot, Yard & Setback Requirements (pg. 38)
- Article III, Section 3.9 – Nonconforming Structures (pg. 40)
- Article III, Section 3.11 – Outdoor Lighting (pg. 41)
- Article III, Section 3.13 – Parking, Loading & Service Areas (pg. 44)
- Article III, Section 3.14 – Performance Standards (pg. 46)
- Article III, Section 3.17 – Source Protection Areas (pg. 55)
- Article III, Section 3.18 – Steep Slopes (pg. 56)
- Article III, Section 3.19 – Surface Waters & Wetlands (pg. 63)
- Article III, Section 3.23 – Water Supply & Wastewater Systems (pg. 68)
- Article V, Section 5.1 – Applicability (pg. 112)
- Article V, Section 5.3 – Site Plan Review (pg. 115)
- Article V, Section 5.4 – Conditional Use Review (pg. 120)
- Article V, Section 5.5 – Waivers & Variances (pg. 123)
- Article VI – Flood Hazard Area Review (pg. 127)
- Appendix A – *Underhill Road, Driveway, Trail Ordinance*

CONTENTS:

- a. Exhibit A - McLaughlin Conditional Use Review Staff Report
- b. Exhibit B - McLaughlin (CH414) Conditional Use Review Hearing Procedures
- c. Exhibit C - Development Review Application
- d. Exhibit D - Zoning Permit Application (B-20-07)

- e. Exhibit E - Project Information
- f. Exhibit F - Certificate of Service
- g. Exhibit G - BFP Notice
- h. Exhibit H - Site Plan
- i. Exhibit I - Barn Floor Plan
- j. Exhibit J - Pictures of Barn
- k. Exhibit K - Pictures of Cilley Hill Road During Flood
- l. Exhibit L - Pictures of Barn During Flood
- m. Exhibit M - 4-H Information
- n. Exhibit N - Correspondence from Brad Holden

COMMENTS/QUESTIONS

UNIFIED LAND USE & DEVELOPMENT REGULATIONS

1. **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS & SECTION 5.5.A – APPLICATIONS & REVIEW STANDARDS:** The accessory structure at issue encroaches into the 30 ft. setback by 8 ft. (22 ft. from the front property line).
2. **SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS:** District dimensional standards may be waived in accordance with Sections 3.9 and 5.5.
3. **SECTION 3.9 – NONCONFORMING STRUCTURES:** The structure at issue was constructed without the proper permitting, and was subject to an appeal with this Board in 2018 (DRB Docket #: DRB-18-02), and is therefore, seeking after-the-fact approval.
 - a. **TABLE 2.4 – RURAL RESIDENTIAL DISTRICT:** While the subject structure is a nonconforming structure (see Section 3.9); however, it is not pre-existing.
4. **SECTION 3.11 – OUTDOOR LIGHTING:** The Board should inquire if the structure at issue has any outdoor lighting, and if so, the Board should ensure that the outdoor lighting is downcast and shielded.
5. **SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS:** The Board should inquire with the Applicants about whether a Wastewater System & Potable Water Supply Permit is required from the State of Vermont, Department of Environmental Conservation.
6. **SECTION 5.3.B.8 – STORMWATER MANAGEMENT AND EROSION CONTROL:** The Board should determine if any mitigation measures need to be taken in regard to stormwater management and erosion control.
7. **SECTION 5.4.B – GENERAL STANDARDS:** Staff did not solicit input from UJFD or MMU, but can do so should the Board desire more information relating to emergency services or the school system.
8. **SECTION 5.4.B – GENERAL STANDARDS:** Staff can consult the Road Foreman should the Board desire more information relating to access way and drainage issues.
9. **SECTION 5.5.B.4 – WAIVER REQUEST ELEMENTS – ELEMENT 4:** The Board should evaluate if any mitigation measures are required as a result of the completed construction.
 - a. **SECTION 5.3.B.6 – LANDSCAPING & SCREENING:** The Board should inquire if the Applicants are proposing any additional landscape to what currently exists.
10. **ARTICLE VI & SECTION 5.3.B.1 – EXISTING SITE FEATURES:** The completed structure encroaches into a Special Flood Hazard Area – Zone A, which indicates a 1% annual chance of flooding determined without field-verified elevations (§ 5.3.B.1.v).

11. **SECTION 6.5.A – DEVELOPMENT APPLICATIONS:** No certifications were provided as required by this Section.
12. **SECTION 6.5.A – DEVELOPMENT APPLICATIONS:** A Project Review Sheet from the Agency of Natural Resources was not submitted as required by this Section.
13. **SECTION 6.5.C – APPLICATION REFERRALS:** Staff has not referred the Application to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources due to the COVID-19 circumstances and will do so once the application can be scanned at the Town Offices. Upon hearing from the NFIP Coordinator, those comments will be forwarded to the Board.
14. **SECTION 6.6.C – PERMIT REQUIREMENTS:** The Board should inquire on how the structure conforms with Section 6.6.C.4.

APPENDIX A – ROAD ORDINANCE

1. **APPENDIX A – ROAD & DRIVEWAY STANDARDS:** The Applicants are not proposing to make any modifications to the existing curb cut or existing driveway, and therefore, at the recommendation of Staff, the Applicants did not submit an access permit, thus not requiring review under the Town’s road & driveway standards at this time.
 2. **APPENDIX A – ROAD & DRIVEWAY STANDARDS:** Should the Board determine that review under this Appendix is required, additional information will be solicited and a more thorough review will be performed.
-

STAFF FINDINGS OF RELEVANT SECTIONS

ARTICLE II – ZONING DISTRICTS

| Zoning Districts | |
|--|--|
| ■ | Underhill Flats Village Center (1.0 Acres) |
| ■ | Underhill Center Village (1.5 Acres) |
| ■ | Rural Residential (3 Acres) |
| ■ | Water Conservation (5.0 Acres) |
| ■ | Scenic Preservation (10 Acres) |
| ■ | Soil and Water Conservation (15 Acres) |



| | Rural Residential | | Existing Accessory Structure |
|--------------------------------|-------------------|-----------|------------------------------|
| Lot Size: | 3.00 Acres | | 3.04 |
| Frontage: | 250 ft. | | ±540 ft. |
| Setbacks: | Principal | Accessory | Source: ArcMap & ANR |
| • Front North | 30 ft. | 30 ft. | ±22 ft. |
| • Side 1 West | 50 ft. | 20 ft. | ±138 ft. |
| • Side 2 East | 50 ft. | 20 ft. | ±340 ft. |
| • Rear South | 50 ft. | 20 ft. | ±221 ft. |
| Max. Building Coverage: | 25% | | Assumed Met |
| Max. Lot Coverage: | 50% | | Assumed Met |
| Maximum Height: | 35 ft. | | Assumed Met |

TABLE 2.4 – RURAL RESIDENTIAL DISTRICT

Purpose Statement: The purpose of the Rural Residential District is to accommodate medium density development on land that has access to public roads where traditional development has taken place, where cover is thicker than on the hillside. The Rural Residential District allows for the continuation of existing commercial, residential, and public uses and to encourage future development, particularly along Route 15, Poker Hill Road and Irish Settlement Road that is compatible with these historic uses.

- Accessory structures and uses are permitted in the Rural Residential zoning district.
- The accessory structure seemingly conforms with the purpose statement of this zoning district.
 - Accessory structures are common within the area affected.
- The existing structure does not conform to the dimensional setback requirements (see Table above), specifically the front setback requirement, and was also constructed with a floodplain.
 - The subject structure is a nonconforming structure (see Section 3.9); however, it is not pre-existing.
 - The subject structure is ±22 ft. from the Cilley Hill Road right-of-way (the assumed property line – see Exhibits H & N), and therefore encroaches into the front setback by 8 ft.

TABLE 2.4 – FLOOD HAZARD OVERLAY DISTRICT

PG. 15

Purpose Statement: The Flood Hazard Overlay District includes all Special Hazard Areas (SFHAs) 100-year floodplains – identified in and on the most current Flood Insurance Study and Flood Insurance Rate Maps for the Town of Underhill. The purpose of this district and associated regulations under Article VI are to: [see Table 2.8].

- See Article VI – Flood Hazard Area Review

ARTICLE III – GENERAL REGULATIONS

SECTION 3.2 – ACCESS

PG. 30

- The subject lot accesses Cilley Hill Road, a Class III Town Highway, via one curb cut.
- The Applicants are not proposing to make any modifications to the existing curb cut or existing driveway.
- In accordance with Section 3.2.B.3, the Board has the authority, in consultation with Town Highway officials, to eliminate, consolidate and/or relocate the existing access ways.
 - Staff does not recommend the elimination, consolidations or relocations of the existing access way.
- At the recommendation of Staff, the Applicants did not submit an access permit for the reasons stated directly above.
- The Board has the authority to require the Applicant to bring the driveway up to AOT B-71 Standards.

SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

PG. 38

- The existing lot will continue to have one principal use, a single-family dwelling.
- The structure at issue is an accessory structure and does not meet the front setback requirement.
 - The accessory structure at issue encroaches into the 30 ft. setback by 8 ft. (22 ft. from the front property line).
- The existing lot satisfies the 250 ft. frontage required, as it currently measures ±540 ft.
- District dimensional standards may be waived in accordance with Sections 3.9 and 5.5.
- A dimensional standard may be waived if the “structure can be mitigated through screen, design or other remedy, and the waiver is necessary for structures that provide for: (a) disability access, fire safety”
 - The structure is currently screened via forested vegetation between Cilley Hill Road and the structure; and
 - The Applicants have provided rationale that the structure is required to be in the location that it is for safety purposes (see Exhibit E).

SECTION 3.9 – NONCONFORMING STRUCTURES

PG. 40

- The structure at issue was constructed without the proper permitting, and was subject to an appeal with this Board in 2018 (DRB Docket #: DRB-18-02), and is therefore, seeking after-the-fact approval.
- The structure is located ±22 ft. from the front property line, thus encroaching into the 30 ft. front setback requirement by ±8 ft.
- The Board may grant a dimensional waiver for a nonconforming structure in accordance with Sections 5.4 and 5.5.
- Nonconforming structures within a Flood Hazard Overlay District must also meet the requirements of Section 6.6.

SECTION 3.11 – OUTDOOR LIGHTING

PG. 41

- The Board should inquire if the structure at issue has any outdoor lighting.
 - If so, the Board should ensure that the outdoor lighting is downcast and shielded.

SECTION 3.13 – PARKING, LOADING & SERVICE AREAS

PG. 44

- The accessory structure at issue is not an identified use in Table 3.1; however, the use of the structure is not one that requires additional parking in addition to the two parking spaces required for a single-family dwelling.
- The Board retains the right to waive appropriate parking requirements (see § 3.13.C).

SECTION 3.14 – PERFORMANCE STANDARDS

PG. 46

- Staff does not anticipate that the subject accessory structure and use will create any of the situations enumerated within this Section.
- Should the project create one of the enumerated situations within, enforcement action by the Zoning Administrator shall ensue.

SECTION 3.17 – SOURCE PROTECTION AREAS

PG. 55

- The subject lot is not located within a Groundwater Source Protection Area, nor is the subject lot located within the vicinity of the any applicable public water sources.

SECTION 3.18 – STEEP SLOPES

PG. 56

- The ANR Atlas does not depict any areas of steep slopes (15%-25%) or very steep slopes (>25%) on the lot (see directly to the right).



SECTION 3.19 – SURFACE WATERS & WETLANDS

PG. 63

- The ANR Atlas depicts Class II Wetlands directly to the south of the property:
 - The subject structure is ±337 ft. to the north of the depicted Class II Wetlands, which satisfies the 50 ft. setback requirement.
- The ANR Atlas depicts an unnamed stream to the north of the property, directly across Cilley Hill Road.
 - The subject structure is ±110 ft. to the south of the unnamed stream, which satisfies the 25 ft. setback requirement.



SECTION 3.23 – WATER SUPPLY & WASTEWATER SYSTEMS

PG. 68

- Staff is not anticipating that the proposed structure and/or use requires a Wastewater System & Potable Water Supply Permit.
 - The Board should inquire with the Applicants about whether a Wastewater System & Potable Water Supply Permit is required from the State of Vermont, Department of Environmental Conservation.

ARTICLE V – DEVELOPMENT REVIEW

SECTION 5.1 – APPLICABILITY

SECTION 5.1.A – TYPE OF REVIEW REQUIRED

PG. 112

- Conditional use review is required in accordance with Sections 3.7.E.1 and 3.9.

SECTION 5.1.B – COORDINATION OF REVIEW

PG. 112

- Does not apply.

SECTION 5.3 – SITE PLAN REVIEW

SECTION 5.3.A – PURPOSE

PG. 115

- Site plan review is required per § 5.4.C when reviewing a conditional use review application.

SECTION 5.3.B – STANDARDS *(the Board may wish to consider and impose appropriate safeguards, modifications and conditions relating to any of the following standards:)*

SECTION 5.3.B.1 – EXISTING SITE FEATURES

PG. 115

- The completed structure encroaches into a Special Flood Hazard Area – Zone A, which indicates a 1% annual chance of flooding determined without field-verified elevations (§ 5.3.B.1.v).
- According to the ANR Biofinder, the following features will be impacted (§ 5.3.B.1.vi):
 - A Terrestrial Wildlife Road Crossing (along Cilley Hill Road);
 - A Riparian Wildlife Road Crossing (along Cilley Hill Road);
 - A Surface Water and Riparian Area (almost the entire lot);
 - A Riparian Wildlife Connectivity Area (along Cilley Hill Road); and

- Representative Physical Landscape Diveristy (almost the entire lot).
- In regards to the other resources listed, the project appears to avoid, or conforms with, the requirements/resources therein.
- Should the Board discover any impacts to the resources identified under Section 5.3.A.1, they have the ability to require one or more of the mitigation techniques:
 - Increased setback distances or undisturbed buffer areas between proposed development and identified resources.
 - The designation of building envelopes sited to exclude identified resource areas, and to limit the extent of site clearing and disturbance.
 - Permanent protection of identified resource areas as designated open space.
 - The screening of development as viewed from public vantage points.
 - The preparation and implementation of management plans for identified resources.

SECTION 5.3.B.2 – SITE LAYOUT & DESIGN

PG. 115

Rural Residential and Water Conservation Districts. Site design and layout shall reinforce the rural character and traditional working landscape of these districts, characterized by wooded hillsides, open fields, and a visual and functional relationship of structures to the surrounding landscape. Buildings shall be sited to minimize, to the extent physically feasible, encroachments on open fields and prominent ridgelines or hilltops, and be oriented and designed in a manner that is compatible with the residential character and scale of adjoining development within these districts.

- The structure, as constructed, seemingly satisfies the intent of this requirement.
- The structure is an agriculturally focused building, which conforms with the surrounding area, specifically the lot directly to the south, which is an agricultural establishment.
- The area affected contains many principal structures with accessory structures, as is the situation with the subject property.

SECTION 5.3.B.3 – VEHICLE ACCESS

PG. 116

- The property is currently accessed by one curb-cut via Cilley Hill Road.
- No modifications to driveway and curb-cut are proposed, nor does the intended use of the accessory structure require modifications.
- The Board has the authority to require modifications, such as eliminating one of the curb cuts (see Section 3.2 above).

SECTION 5.3.B.4 – PARKING, LOADING & SERVICE AREAS

PG. 117

- See Section 3.13 above.

SECTION 5.3.B.5 – SITE CIRCULATION

PG. 117

- The site circulation of the property is expected to be consistent with site circulation patterns commonly associated with residential and agricultural development.

SECTION 5.3.B.6 – LANDSCAPING & SCREENING

PG. 118

- The Board should inquire if the Applicants are proposing any additional landscape to what currently exists.
 - The structure is currently screened via forested vegetation between Cilley Hill Road and the structure.

- Refer to this section of the *Land Use & Development Regulations* for landscaping techniques.

SECTION 5.3.B.7 – OUTDOOR LIGHTING

PG. 119

- See Section 3.11 above.

SECTION 5.3.B.8 – STORMWATER MANAGEMENT AND EROSION CONTROL

PG. 119

- The Board typically requires as a condition of approval that applicants adhere to the guidelines set out in the Vermont DEC Low Risk Site Handbook for Erosion Prevention and Sediment Control; however, since the structure is already built, requesting compliance with these guidelines is likely moot.
- The Board should determine if any mitigation measures need to be taken in regard to stormwater management and erosion control.

SECTION 5.4 – CONDITIONAL USE REVIEW

SECTION 5.4.A – PURPOSE *(the standards and conditions should relate to the identification, avoidance and/or mitigation of potential impacts:)*

PG. 120

- Board approval is required for development that is proposed to occur in the property's setbacks per Sections 3.7.E.1 and 3.9.
- Board approval is required for any construction that is to occur within a Special Flood Hazard Area (Article VI).

SECTION 5.4.B – GENERAL STANDARDS

SECTION 5.4.B.1 – THE CAPACITY OF EXISTING OR PLANNING COMMUNITY SERVICES OR FACILITIES

PG. 121

- The proposed project is not anticipated to have an adverse impact on the existing or planned community services or facilities.
- Staff did not solicit input from UJFD or MMU, but can do so should the Board desire more information relating to emergency services or the school system.
- Staff can consult the Road Foreman should the Board desire more information relating to access way and drainage issues.

SECTION 5.4.B.2 – THE CHARACTER OF THE AREA AFFECTED

PG. 121

- The proposed project is not anticipated to have an adverse impact on the character of the area, as the accessory structure is consistent with other accessory structures and uses in the area. This use is consistent with the existing and proposed Town Plans' desire to promote agricultural endeavors.
 - **Location:** the property is located in the Rural Residential District, a zoning district that provides for accessory structures and uses, as well as agricultural structures and uses.
 - **Scale:** the scale of the structure is comparable to other structures in the area.
 - **Type:** the building at issue is an agricultural-focused structure, accessory to the single-family dwelling – the primary use of the lot. Had the Applicants constructed the structure outside of the front setback requirement and the Special Flood Hazard Area, review by the Board would have not been required. Regardless, the intended use conforms to the intent of existing and proposed Town Plans relating to the underlying zoning district – the Rural Residential District.
 - **Density:** the density will remain the same, as the same number of dwelling units will not alter from the existing one (1).
 - **Intensity:** Staff opines that the completed structure results in a negligible increase in intensity.

SECTION 5.4.B.3 – TRAFFIC ON ROADS & HIGHWAYS IN THE VICINITY **PG. 121**

- The completed structure is not anticipated to impact traffic on the roads and highways in the vicinity.
- The Board has the authority to require a traffic impact analysis if deemed necessary in accordance with Section 5.4.B.3.b – Staff does not recommend that the DRB require a study.

SECTION 5.4.B.4 – BYLAWS IN EFFECT **PG. 122**

- The structure at issue of this application was built without the proper permitting.
- The submission of this application (see Exhibits C & D) is the culmination the Applicants' efforts to resolve the issued zoning violation for the unpermitted structure, which was the subject of an appeal to this Board in 2018 (Docket #: DRB-18-02).

SECTION 5.4.B.5 – THE UTILIZATION OF RENEWABLE ENERGY RESOURCES **PG. 122**

- No findings.

SECTION 5.4.C – SITE PLAN REVIEW STANDARDS **PG. 123**

- See analysis under Section 5.3 above.

SECTION 5.4.D – SPECIFIC STANDARDS *(The Board may consider the following subsections and impose conditions as necessary to reduce or mitigate any identified adverse impacts of a proposed development:)*

SECTION 5.4.D.1 – CONFORMANCE WITH THE TOWN PLAN **PG. 123**

- The completed structure is seemingly consistent with the Town Plan.
 - The existing and proposed Town Plan encourage agricultural activities within Town.

SECTION 5.4.D.2 – ZONING DISTRICT & USE STANDARDS **PG. 123**

- The proposed project will comply with the Rural Residential District's dimensional and use standards should the Board grant the dimensional setback waiver, as well as approving construction of a structure within a Special Flood Hazard Area.

SECTION 5.4.D.3 – PERFORMANCE STANDARDS **PG. 123**

- See Section 3.14 above.

SECTION 5.4.D.4 – LEGAL DOCUMENTATION **PG. 123**

- Does not apply.

SECTION 5.5 – WAIVERS & VARIANCES

SECTION 5.5.A – APPLICATIONS & REVIEW STANDARDS **PG. 123**

- The Applicants have asked for an after-the-fact dimensional waiver for the completed accessory structure within the front yard setback.
 - The existing structure encroaches into the 30 ft. front setback requirement by 8 ft., thus only be setback from the front property line by 22 ft.
- Other waivers may be granted by the Board as they see appropriate.
 - "The Board may waive application requirements and site plan or conditional use review standards under §§ 5.3 and 5.4 that it determines are not relevant to the application."

SECTION 5.5.B – DIMENSIONAL WAIVERS

SECTION 5.5.B.1 – WAIVER REQUEST RATIONALE **PG. 124**

- The Applicants have requested an after-the-fact dimensional waiver for the construction of an accessory structure within the property’s front setback requirement.

SECTION 5.5.B.2 – APPLICABILITY OF WAIVER REQUEST

PG. 124

- The Board may grant a waiver if one of the following is true:
 - To allow for the reasonable development and use of a pre-existing nonconforming lot under Section 3.8.
 - To allow for additions or improvements to a pre-existing nonconforming structure under Section 3.9.
 - Comply with federal or state public health, safety, access and disability standards.
 - Allow for the siting of renewable energy structures.
- Statement 3 above appears to be applicable to the circumstances outlined by the Applicants (see Pages 3-5, Exhibit E).

SECTION 5.5.B.4 – WAIVER REQUEST ELEMENTS

PG. 124

- | | |
|---|---|
| <p>a. <i>Element 1</i> – No reasonable alternative exists for siting the structure, addition or improvement outside of the required setback area.</p> | <ul style="list-style-type: none"> • The barn is required to be in the location it was constructed in order to allow and facilitate easy access for emergency services (see Exhibit E). • The barn needs to be within 100 ft. of the home router to ensure continuous monitoring for safety purposes (see Page 3 of Exhibit E). |
| <p>b. <i>Element 2</i> – The reduced setback is not contrary to public health, safety and welfare, stated objectives and policies of the Underhill Town Plan, or the intent of these regulations.</p> | <ul style="list-style-type: none"> • Staff is unaware of any stated objectives and policies in the Town Plan where the completed construction of the existing accessory structure is contrary to. |
| <p>c. <i>Element 3</i> – The waiver represents the minimum setback reduction necessary to allow for the proposed development.</p> | <ul style="list-style-type: none"> • Since the structure is already constructed, it will not encroach into the front setback any further than it already exists – 8 ft; therefore, the waiver represents the minimum reduction necessary to allow for the development at issue. |
| <p>d. <i>Element 4</i> – Any potential adverse impacts resulting from reduced setbacks on adjoining properties, surface waters or wetlands shall be mitigated through site design, landscaping and screening, other accepted mitigation measures.</p> | <ul style="list-style-type: none"> • The Board should evaluate if any mitigation measures are required as a result of the completed construction. |

ARTICLE VI – FLOOD HAZARD AREA REVIEW

- The completed structures encroaches into a Special Flood Hazard Area – Zone A, which indicates a 1% annual chance of flooding determined without field-verified elevations.
- Staff confirms that discussions with FEMA have been had, as well as proposed amendments to the FIRM Map have been submitted in regards to the depicted floodplain in this area.
 - The likelihood that the depicted floodplain is removed from the subject property appear to be high, though not certain.



SECTION 6.1 – STATUTORY AUTHORIZATION & EFFECT **PG. 125**

- No action or review under this section is required.

SECTION 6.2 – PURPOSE **PG. 126**

- No action or review under this section is required.

SECTION 6.3 – LANDS TO WHICH THESE REGULATIONS APPLY **PG. 126**

- The Special Flood Hazard Area regulations (Article VI) apply.

SECTION 6.4 – PERMIT REQUIREMENTS **PG. 127**

- The constructed structure does not conform to any of the exemptions under Section 6.4.B.
- The constructed structure is not a prohibited use under Section 6.4.C.
- Since the constructed structure (1,200 sq. ft.) is greater than 500 sq. ft., the Zoning Administrator is unable to approve the structure as a permitted use under Section 6.4.D.1, and therefore, conditional use review is required in accordance with Section 6.5.E.
- Section 6.4.F does not apply.

SECTION 6.5 – DEVELOPMENT REVIEW PROCEDURES

SECTION 6.5.A – DEVELOPMENT APPLICATIONS **PG. 129**

- The Applicants have submitted a site plan depicting the structure in relation to the Special Flood Hazard Area (see Exhibit H).
- The Applicants have submitted an analysis of how the structure complies with the Special Flood Hazard Area regulations (see Pages 3-5, Exhibit E); however, no certifications were provided.
- A Project Review Sheet from the Agency of Natural Resources was not submitted; however, the Applicants did provide an overview of their communications with the State of Vermont.

SECTION 6.5.B – SUBDIVISION APPLICATIONS **PG. 129**

- This subsection does not apply.

SECTION 6.5.C – APPLICATION REFERRALS **PG. 129**

- Staff has not referred the Application to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources due to the COVID-19 circumstances and will do so once the application can be scanned at the Town Offices.
 - Upon hearing from the NFIP Coordinator, those comments will be forwarded to the Board.
 - *NOTE:* The Applicants have advised that they have been in touch with the NFIP Coordinator (see Exhibit E).

SECTION 6.5.D – HEARINGS

PG. 130

- The Board has the authority to conduct Flood Hazard Area Review under this Article concurrently with other review applications.

SECTION 6.6 – PERMIT REQUIREMENTS

PG. 130

- Section 6.6.A (see Page 4, Exhibit E)
 - The structure cannot be located outside of the Special Flood Hazard Area or on another lot due to the proximity requirements for monitoring purposes.
- Section 6.6.B (see Page 4, Exhibit E)
 - There is no on-site power panel associated with the structure.
 - Wiring was installed underground and is tied to separate breakers that can be tripped from the garage or the single-family dwelling.
 - Wiring, outlets and switches are all installed 3 ft. above the floor of the barn.
 - Only one single heated hose for the water supply is provided which is installed underground.
 - Shut-offs are installed at the structure, the house and the primary well pump.
 - No septic system, facilities or sinks are associated with the structure.
 - The Applicants already had drainage in place to reduce exposure to flood hazards.
 - Had large rocks and boulders that reinforced existing ditching.
- Section 6.6.C (see Page 4-5, Exhibit E)
 - The structure is anchored to the ground using concrete anchors and pressure-treated base plates.
 - The interior of the structure is lined with plywood that will resist shearing, collapse, and lateral movement.
 - The structure is constructed with pressured treated wood, oak and concrete.
 - The structure was constructed in a manner similar to that of a single-family dwelling (Applicant Brian McLaughlin is a home construction contractor).
 - The Board should inquire on how the structure conforms with Section 6.6.C.4.
- Section 6.6.D (see Page 5, Exhibit E)
 - The Town has corrected the watercourse at various locations along Cilley Hill Road, specifically before and after the structure at issue.
- Section 6.6.E (see Page 5, Exhibit E) – Does not apply.
- Section 6.6.F (see Page 5, Exhibit E) – Does not apply.
- Section 6.6.G (see Page 5, Exhibit E)
 - “The lowest floor of the structure is elevated one foot or more above the base flood elevation by utilizing a base of road fabric, gravel, sand and concrete. There is no data documented through FEMA for elevation certificates on this watercourse.”
- Section 6.6.H – Does not apply as the structure is not an existing residential building
- Section 6.6.I – Does not apply as the structure is not manufactured or mobile home.
- Section 6.6.J – Does not apply as the structure is not an accessory structure to a nonresidential building.

- Section 6.6.K – Staff makes no finding.
- Section 6.6.L – Does not apply as the structure is not a Recreational Vehicle.
- Section 6.6.M – Does not apply as the structure is not smaller than 500 sq. ft.
- Section 6.6.N – Does not apply as the application does not pertain to a subdivision or planned unit development.

SECTION 6.7 – PERMIT REQUIREMENTS

PG. 133

- The subject structure does not relate to a pre-existing structure that is being repaired, englanded, replaced or relocated within the Special Flood Hazard Area, nor is the structure a pre-existing structure already in a Special Flood Hazard Area that was substantially damaged or destroy, nor is the structure a vacated manufactured or mobile home; therefore, this Section does not apply.

SECTION 6.8 – VARIANCES

PG. 133

- The subject application does not pertain to a variance request relating to the regulations enumerated within the *Land Use & Development Regulations*, but rather a dimensional waiver request; therefore, Staff believes that this Section does not apply.
- The Applicants have not requested a variance from the Flood Hazard Area Regulations (Article VI), as the project, in Staff’s opinion, conforms with Section 6.5.E.
 - *Note:* Should the Board opine that this section applies, the Applicants have provide analysis on Page 5, Exhibit E. Further analysis can be provided during the hearing if required.

SECTION 6.9 – ADMINISTRATION & ENFORCEMENT

PG. 134

- A Certification of Occupancy Permit will need to be issued in accordance with Section 6.9.A should the Board approve the after-the-fact zoning permit.
- Section 6.9.B does not apply.
- Section 6.9.C is an administrative function and does not apply.

APPENDIX A – ROAD & DRIVEWAY STANDARDS

- The Applicants are not proposing to make any modifications to the existing curb cut or existing driveway, and therefore, at the recommendation of Staff, the Applicants did not submit an access permit, thus not requiring review under the Town’s road & driveway standards at this time.
 - Should the Board determine that review under this Appendix is required, additional information will be solicited and a more thorough review will be performed.



UNDERHILL DEVELOPMENT REVIEW BOARD

CONDITIONAL USE REVIEW
HEARING PROCEDURES
Monday, May 4, 2019

Applicant(s): Brian & Lynn McLaughlin
Docket #: DRB-20-04

State the following:

1. This is a continued hearing pertaining to the conditional use review on the application of Brian & Lynn McLaughlin for the approval of an after-the-fact dimensional waiver request, as well as for an after-the-fact zoning permit for, the construction of an accessory structure (a barn) with the property's front setback requirement and within in a floodplain on land they own at 414 Cilley Hill Road (CH414) in Underhill, Vermont.

This application is subject to review under the 2011 *Unified Land Use & Development Regulations*, as amended March 3, 2020 and the 2015 *Road, Driveway and Trail Ordinance*, as amended December 18, 2018.

Conditional use review is intended to ensure compliance with standards addressing the potential impacts of development on adjoining properties, the neighborhood, and/or zoning district in which the development is located, and the community at large. Typically, land uses are subject to conditional use review because their scale, intensity and potential for off-site impacts warrant more careful scrutiny by the Development Review Board (DRB). Standards and conditions to be impose relate to the identification, avoidance and/or mitigation of potential impacts. Should additional information be required, the Board reserves the option to continue the hearing to a time and date certain in order for that information to be submitted and reviewed by this Board.

2. Copies of the Rules of Procedure that the Board follows are available for review at the front counter, and can be obtained from the Planning & Zoning Administrator.
3. The order of speakers tonight will be:
 - a. We will hear from, and ask questions of, the applicant(s) and his or her representative(s);
 - b. Then we will hear and ask questions of the Planning & Zoning Administrator;
 - c. Then we will give other persons in the room a chance to speak. Under our Rules of Procedure, each speaker is limited to five minutes; however, that time can be extended upon request to the Board and majority consent of the Board; then
 - d. The applicant(s) and/or their representative(s) will have an opportunity to respond; then;
 - e. Final comments will be solicited from all parties.

All speakers should address their comments to the Board, not to other parties present at the hearing. Board Members may feel free to ask questions of any speaker.

4. Are any state or municipal representatives present, and acting in their representative capacities?
5. An Interested Parties Info Sheet is available to all attendees at the front counter or from the Planning & Zoning Administrator. Please review it for further information.

Then state:

Only those interested persons who have participated, either orally or through written statements in a DRB proceeding may appeal a decision rendered in that proceeding to the Environmental Division of Superior Court.

6. If you are an applicant, representative of the applicant(s), or an interested party who wants to participate in the hearing, we will have you come up to the witness chair and clearly state your name, residential address, and mailing address if it differs.
7. I am now going to swear in all those present who wish to speak tonight. All individuals who plan to testify must take the following oath by responding "I do" at the end: ***"Do you hereby swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth under pains and penalties of perjury?"***
8. Are there any conflicts of interest or have there been any ex parte communications on the part of the Board Members?
9. At this point I am going to enter into the record the information package that was sent by the Planning & Zoning Administrator prior to the hearing. The information included in this package relevant to this hearing is:

Exhibit A - McLaughlin Conditional Use Review Staff Report
Exhibit B - McLaughlin (CH414) Conditional Use Review Hearing Procedures
Exhibit C - Development Review Application
Exhibit D - Zoning Permit Application (B-20-07)
Exhibit E - Project Information
Exhibit F - Certificate of Service
Exhibit G - BFP Notice
Exhibit H - Site Plan
Exhibit I - Barn Floor Plan
Exhibit J - Pictures of Barn
Exhibit K - Pictures of Cilley Hill Road During Flood
Exhibit L - Pictures of Barn During Flood
Exhibit M - 4-H Information
Exhibit N - Correspondence from Brad Holden

These exhibits are available in the McLaughlin conditional use review file (DRB-20-04 / CH414) at the Underhill Zoning & Planning Office and on the Town's website.

10. We'll begin testimony, and hear from the applicant(s) and/or their representative(s).
11. Next we will hear from the Planning & Zoning Administrator.

12. Are there members of the public who would like to speak?
13. Any final comments from the Board or applicant(s) and/or their representative(s)?
14. Does the Board feel that they have enough information at this time to make a decision on the application?
 - a. *If more information is needed to make a decision on the application, continue the hearing to a date and time certain, and outline for the Applicant(s) what is required at that continued hearing; or*
 - b. *If, by consensus, enough information has been presented to make a decision on the application, ask for a motion to close the evidentiary portion of the hearing.*
15. Ask for a motion to approve or deny the application, as well as asking the Board if they wish to discuss the application in open or closed deliberation? (After the ruling, continue with the info below.)

“Within 45 days from this hearing, the Planning & Zoning Administrator, on behalf of the Board, will send a copy of the decision to the Applicant(s), their representative(s), and those who have participated in tonight’s hearing. A 30-day appeal period will begin on the date the decision is signed. The letter will outline the next steps in the process. If there are no other comments or questions we will close this portion of the meeting.”



TOWN OF UNDERHILL

DEVELOPMENT REVIEW (ART. V) APPLICATION

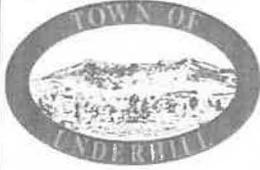
| | | |
|--|---|---|
| <p>OFFICE USE ONLY</p> <p>PROPERTY CODE: <u>CH414</u></p> <p>PROPERTY ADDRESS: <u>414 Cillely Hill Road</u></p> | <p>ZONING DISTRICT(S):</p> <p><input type="checkbox"/> Underhill Flats Village Center</p> <p><input type="checkbox"/> Underhill Center Village</p> <p><input checked="" type="checkbox"/> Rural Residential</p> <p><input type="checkbox"/> Water Conservation</p> <p><input type="checkbox"/> Mt. Mansfield Scenic Preservation</p> <p><input type="checkbox"/> Soil & Water Conservation</p> | <p>DRB Docket #: <u>DRB-20-04</u></p> <p>Received Date: <u>February 11, 2020</u></p> <p>Hearing Date: <u>April 6, 2020</u></p> <p>Application Completion Date: <u>February 27, 2020</u></p> <p style="text-align: right;"><i>(See Requirements Below)</i></p> |
|--|---|---|

SUBJECT PROPERTY ADDRESS:

| Applicant Information | Landowner Information (if Different) |
|---|---|
| NAME(S): Brian & Lynn McLaughlin | NAME(S): - Same - |
| MAILING ADDRESS: 414 Cillely Hill Rd. | MAILING ADDRESS: |
| EMAIL ADDRESS: curiouscow802@gmail.com | EMAIL ADDRESS: |
| PHONE NUMBER: (802) 899-3747 | PHONE NUMBER: |
| Description of Proposed Project | Contractor/Surveyor Information (if Applicable) |
| Barn for: 4H heifers, pet bovine, tractor, feed, tools, etc | NAME(S): Brad Holden |
| | MAILING ADDRESS: |
| | EMAIL ADDRESS: bradholdenvt@gmail.com |
| | PHONE NUMBER: |

| | | |
|---|-------------|-----------------|
| <p>APPLICANT SIGNATURE <u>Lynn McLaughlin</u></p> | <p>DATE</p> | <p>12/10/19</p> |
|---|-------------|-----------------|

| Variance Request | Site Plan Review | Conditional Use Review |
|---|--|---|
| <p>Applicable:</p> <p><input type="checkbox"/> Yes</p> <p style="margin-left: 20px;"><input type="checkbox"/> Concurrent with an Appeal Request</p> <p style="margin-left: 20px;"><input type="checkbox"/> Concurrent with a Site Plan Review or Conditional Use Review App.</p> <p><input type="checkbox"/> No</p> <p>Required Materials</p> <p><input type="checkbox"/> Application (incl. Zoning Permit App.)</p> <p><input type="checkbox"/> Application Fee (\$150.00)</p> <p><input type="checkbox"/> Copies of a Site Plan</p> <p><input type="checkbox"/> State Project Review Sheet</p> <p><input type="checkbox"/> Draft Legal Documents</p> <p><input type="checkbox"/> Other Information Identified by the Zoning Administrator or Checklists (see § 5.2.A.1.e)</p> <p><input type="checkbox"/> Written Waivers/Modifications Requests</p> <p><input type="checkbox"/> Written response to variance requirements (see Page 2)</p> <p style="font-size: small;"><i>Please Checkoff All Submitted Materials</i></p> | <p>Applicable:</p> <p><input type="checkbox"/> Yes</p> <p style="margin-left: 20px;"><input type="checkbox"/> Standalone Site Plan Review App.</p> <p style="margin-left: 20px;"><input type="checkbox"/> Concurrent Conditional Use Review</p> <p><input type="checkbox"/> No</p> <p>Required Materials</p> <p><input type="checkbox"/> Application (incl. Zoning Permit App.)</p> <p><input type="checkbox"/> Application Fee (\$150.00)</p> <p><input type="checkbox"/> Copies of a Site Plan</p> <p><input type="checkbox"/> State Project Review Sheet</p> <p><input type="checkbox"/> Draft Legal Documents</p> <p><input type="checkbox"/> Other Information Identified by the Zoning Administrator or Checklists (see § 5.2.A.1.e)</p> <p><input type="checkbox"/> Written Waivers/Modifications Requests</p> <p><input type="checkbox"/> Written response to site plan review requirements (see Page 2)</p> <p style="font-size: small;"><i>Please Checkoff All Submitted Materials</i></p> | <p>Applicable:</p> <p><input type="checkbox"/> Yes</p> <p style="margin-left: 20px;"><input type="checkbox"/> Other: _____</p> <p style="margin-left: 20px;"><input type="checkbox"/> Floodplain Review</p> <p style="margin-left: 20px;"><input type="checkbox"/> Required for Proposed Use</p> <p style="margin-left: 20px;"><input type="checkbox"/> Steam/Wetland Encroachment</p> <p style="margin-left: 20px;"><input type="checkbox"/> Waiver Request</p> <p><input type="checkbox"/> No</p> <p>Required Materials</p> <p><input type="checkbox"/> Application (incl. Zoning Permit App.)</p> <p><input type="checkbox"/> Application Fee (\$150.00)</p> <p><input type="checkbox"/> Copies of a Site Plan</p> <p><input type="checkbox"/> State Project Review Sheet</p> <p><input type="checkbox"/> Draft Legal Documents</p> <p><input type="checkbox"/> Other Information Identified by the Zoning Administrator or Checklists (see § 5.2.A.1.e)</p> <p><input type="checkbox"/> Written Waivers/Modifications Requests</p> <p><input type="checkbox"/> Written response to conditional use & site plan review requirements (see Page 2)</p> <p style="font-size: small;"><i>Please Checkoff All Submitted Materials</i></p> |



TOWN OF UNDERHILL

DEVELOPMENT REVIEW (ART. V) APPLICATION

In submitting this application, please submit a copy of the zoning permit application (if applicable), two (2) to-scale site plans, twelve (12) 11" x 17" copies of the site plan, in addition to the other requirements provided on page one of this application. Please be advised that separate State permits, include but not limited to, water/wastewater, stormwater, Act 250, and Construction General permits may be required. The applicant bears the responsibility and obligation to contact the State Permit Specialist (802-477-2241) to obtain a Project Review Sheet. A hearing before the Development Review Board will be scheduled by the Zoning Administrator upon determining that the application is complete. Note, that Zoning Administrator may require additional information or supporting documentation in conformance with Section 5.2.A.1.e of *Underhill Unified Land Use & Development Regulations*.

Conditional Use Review Supplemental Questions (Please Answer on a Separate Sheet of Paper)

Applies: Yes or No ?

1. Please advise how the proposed project affects the demand for community services and facilities.
2. Please advise how the proposed project relates to the character of the area. Discuss how project's a) location, b) type, c) density, and d) intensity relate to the character of area. Should the project not conform with any of the abovementioned attributes (location, type, density and intensity), please explain what mitigation measures will be utilized to avoid any undue adverse (negative) impacts to the character of the area.
3. Please specify the projected impact on traffic patterns resulting from the proposed project. The explanation shall address impacts on the following: a) traffic conditions; b) capacity; c) safety; d) efficiency; and e) the use of existing and planning roads, bridges, intersections, and associated highway infrastructure, in the vicinity.
4. Please advise of any aspects of the proposed project that does not comply with any Town regulations or ordinances.
5. Please advise how the proposed will not interfere with the sustainable use of renewable energy resources, including access to, or the direct use or future availability of, such resources.

Site Plan Review Supplemental Questions (Please Answer on a Separate Sheet of Paper)

Applies: Yes or No ?

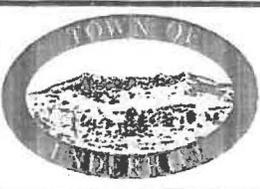
1. Please provide supporting information on how the proposed site layout and design avoids undue adverse impacts to significant natural, historic and scenic resources. These resources include, but are not limited to: a) existing topography and drainage patterns; b) land above 1500 ft. elevation; c) areas of steep and very steep slope; d) surface waters, wetlands, and associate buffers; e) special flood hazard areas; f) delineated source protection areas; g) significant wildlife habitat areas and travel corridors; and h) scenic resources (see § 5.3.B.1.a.viii).
2. Please advise how the proposed location and orientation of structures, and supporting infrastructure on the site, are compatible with their proposed setting and context, as provided by the Town's Plan, zoning district objects, existing site conditions and features, adjoining or facing structures in the vicinity, and other applicable provisions in the *Underhill Unified Land Use & Development Regulations*. See Section 5.3.B.2 for more details.
3. Please advise how the proposed use meets the Town and State access management and design standards. Include an explanation of how the curb cut (s)/access way(s) and road intersection(s) do not create hazards to vehicles, pedestrians or bicyclists onsite or on adjoining roads, sidewalks and pathways.
4. Please advise how the proposed project conforms to the parking, loading & service areas.
5. Please explain how the proposed project provides for adequate and safe onsite vehicular and pedestrian circulation. Site plans shall address the requirements under Sections 5.3.B.5.a & b.
6. Please advise any proposed landscaping and screening modifications anticipated to occur. Any reduction in landscaping or screening, or any significant proposed project shall address the requirements of Section 5.3.B.6.
7. Please advise if the proposed project requires outdoor lighting. If so, please explain how the proposed lighting conforms to the requirements of Section 3.11.
8. Please advise of the proposed temporary and permanent stormwater management and erosion control measures that will be undertaken as part of the proposed project.

Variance Request Supplemental Questions (Please Answer on a Separate Sheet of Paper)

Applies: Yes or No

1. Please Submit a to-scale drawing depicting the following: a) frontage on a public or private road or right-of-way; b) setbacks to the front, rear, and side property lines; c) location of the septic system and well; d) easements or covenants where appropriate to show on the plan; e) any watercourse on the property; and f) abutting neighbors.
2. Please submit a short statement explaining why a variance is being sought. Please address any easements or covenants that may be attached to the property if not shown on the site plan.
3. For a variance to be granted, the Board needs to find that the following conditions are met:
 - a. There are unique physical circumstances or conditions (e.g. lot irregularities, lot narrowness, shallowness of lot size and/or shape, exceptional topography, or other physical conditions peculiar to the particular property) and that an unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the bylaw in the neighborhood or district in which the property is location.
 - b. Because of the physical circumstances or conditions identified above, there is no possibility that the property can be developed in strict conformity with the provisions of the bylaw, and that the authorization of a variance is therefore a necessary to enable the reasonable use of the property.
 - c. The unnecessary hardship has not been created by the appellant.
 - d. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially, or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
 - e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.

In the written statement, required under #2 above, please address each of the preceding conditions (a-e), specifically advising why the proposed project satisfies those conditions.



TOWN OF UNDERHILL

ZONING PERMIT APPLICATION

| | |
|---|---|
| <p>OFFICE USE ONLY</p> <p>APPLICATION #: <u>B-20-07</u></p> <p>PROPERTY CODE: <u>CH414</u></p> | <p>ZONING DISTRICT(S):</p> <p><input type="checkbox"/> Underhill Flats Village Center</p> <p><input type="checkbox"/> Underhill Center Village</p> <p><input checked="" type="checkbox"/> Rural Residential</p> <p><input type="checkbox"/> Water Conservation</p> <p><input type="checkbox"/> Mt. Mansfield Scenic Preservation</p> <p><input type="checkbox"/> Soil & Water Conservation</p> |
| <p>APPLICANT: Brian & Lynn McLaughlin</p> | <p style="text-align: center;">Section A</p> <p>Zoning Permit Application Type:</p> <p><input type="checkbox"/> Agricultural Exemption (Requires VT Review)</p> <p><input type="checkbox"/> Boundary Line Adjustment Permit (see Supp. Form)</p> <p><input type="checkbox"/> Building Permit (see Section B)</p> <p><input checked="" type="checkbox"/> After-the-Fact Building Permit (see Section B)</p> <p><input type="checkbox"/> Conversion/Change of Use Permit (see Section C)</p> <p><input type="checkbox"/> Home Occupation Permit (see Supplemental Form)</p> <p><input type="checkbox"/> Sign Permit (see Supplement Form)</p> <p><input type="checkbox"/> Temporary Structure Permit</p> <p><input type="checkbox"/> Temporary Use Permit</p> <p><input type="checkbox"/> General/Other: _____</p> |
| <p>PROPERTY LOCATION: 414 Cilley Hill Rd.</p> | <p style="text-align: center;">Section B</p> <p>Building Permit Application Information:</p> <p><input type="checkbox"/> Accessory Dwelling (see Section D)</p> <p><input checked="" type="checkbox"/> Accessory Structure(s) (e.g. barn, garage, shed, etc.)</p> <p><input type="checkbox"/> Addition: Number of Bedrooms (if applicable): _____ Number of Bathrooms (if applicable): _____</p> <p><input type="checkbox"/> Single-Family Dwelling: Number of Bedrooms: _____ Number of Bathrooms: _____</p> <p><input type="checkbox"/> Two-Family Dwelling: Dwelling 1 - Number of Bedrooms: _____ Dwelling 1 - Number of Bathrooms: _____ Dwelling 2 - Number of Bedrooms: _____ Dwelling 2 - Number of Bathrooms: _____</p> <p><input type="checkbox"/> Multi-Family Dwelling: Number of Units: _____ Total Number of Bedrooms: _____ Total Number of Bathrooms: _____</p> <p><input type="checkbox"/> Commercial/Industry</p> <p><input type="checkbox"/> Carport</p> <p><input type="checkbox"/> Porch/Deck/Fence</p> <p><input type="checkbox"/> In-Ground Pool</p> |
| <p>MAILING ADDRESS: -Same-</p> | <p style="text-align: center;">Section D</p> <p>Accessory Dwelling Application Information:</p> <p><input type="checkbox"/> Attached Accessory Dwelling, or</p> <p><input type="checkbox"/> Detached Accessory Dwelling</p> <p>Square Footage of Principal Dwelling: _____ sq. ft.</p> <p>Square Footage of Proposed Accessory Dwelling: _____ sq. ft.</p> <p>Number of Bedrooms (in Accessory Dwelling): _____</p> <p>Number of Bathrooms (in Accessory Dwelling): _____</p> |
| <p>EMAIL ADDRESS: curiouscow802@gmail.com</p> | <p style="text-align: center;">Section C*</p> <p>Conversion/Change of Use Application Information:</p> <p>Existing Use: _____</p> <p>Proposed Use: _____</p> <p># of Bedrooms Added (if applicable): _____</p> <p># of Bathrooms Added (if applicable): _____</p> <p><small>*Please fill out this section if the project includes the conversion of unfinished living space to living space.</small></p> |
| <p>PHONE NUMBER: H: (802)899-3747 C: (802) 557-7579</p> | |
| <p>LANDOWNER (IF DIFFERENT FROM APPLICANT):</p> | |
| <p>LANDOWNER'S CONTACT INFORMATION:</p> | |
| <p>CONTRACTOR: -None-</p> | |
| <p>CONTRACTOR'S CONTACT INFORMATION:</p> | |
| <p>PROJECT DESCRIPTION: Barn for: 4H heifers, pet bovine, tractor, feed, tools, etc</p> | |

All construction is to be completed in accordance with the Town of Underhill Unified Land Use & Development Regulations, as amended, and any & all federal and/or State regulations currently in effect. Once approved, notice of the permit is required to be posted in a conspicuous location on the property during the appeal period. The Town recommends that that notice be posted during the duration of the construction period. The applicant and/or landowner is required to contact the necessary State agencies to obtain permits: (802) 477-2241 (permit specialist). Interest persons have the right to appeal the approval of a permit to the Development Review Board within fifteen days (15) from the date of issuance.



TOWN OF UNDERHILL

ZONING PERMIT APPLICATION

Dimensions of ALL Proposed Construction

| Proposed Structure(s) | Front | Side | Side | Rear | Height (Max. 35 ft.) | Square Feet Added |
|-----------------------|-------|------|------|------|-------------------------|----------------------|
| Barn | 30' | 40' | 40' | 30' | 14' | 1,200 |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

➔
 Acreage: .028 Frontage: 0 Estimated Value/Cost of Construction: \$ 3,000
➔

FOR OFFICE USE ONLY

Setbacks: To be measured as the closest part of ALL NEW CONSTRUCTION to the subject lot line and natural features.

| Proposed Structure(s) | Front | Side | Side | Rear | River, Stream, or Ponds | Wetland |
|-----------------------|-------|------|------|------|----------------------------|---------|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

| Site Constraints | Building & Lot Coverage Information | | | | | | | | | | | | | | | | |
|---|--|----------------------|---------|--|---------|---|---------|---|---------|--|---------|---|---|--|---------|---|---|
| <input type="checkbox"/> Class II Wetland <input type="checkbox"/> Class III Wetland <input type="checkbox"/> Wetland Buffers <input type="checkbox"/> Deer Wintering Yard <input type="checkbox"/> Floodplain: Zone _____ <input type="checkbox"/> Named River(s) Named River 1: _____ Named River 2: _____ <input type="checkbox"/> Prime Agricultural Soils <input type="checkbox"/> Unnamed Stream <input type="checkbox"/> Source Protection Area <input type="checkbox"/> Steep Slopes <input type="checkbox"/> Very Steep Slopes | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">a. Total # of Acres:</td> <td style="width: 20%; text-align: right;">acre(s)</td> </tr> <tr> <td>b. Total Lot Area (1 Acre = 43,560 sq. ft.):</td> <td style="text-align: right;">sq. ft.</td> </tr> <tr> <td>c. Footprint of Proposed Project (sq. ft.):</td> <td style="text-align: right;">sq. ft.</td> </tr> <tr> <td>d. Footprint of Existing Buildings (sq. ft.):</td> <td style="text-align: right;">sq. ft.</td> </tr> <tr> <td>e. Footprint of Proposed & Existing Buildings (sq. ft.):</td> <td style="text-align: right;">sq. ft.</td> </tr> <tr> <td>f. Total Building Coverage (line e / line b * 100):</td> <td style="text-align: right;">%</td> </tr> <tr> <td>g. Total Impervious Service (sq. ft.):</td> <td style="text-align: right;">sq. ft.</td> </tr> <tr> <td>h. Total Lot Coverage (lines e + g / line b * 100):</td> <td style="text-align: right;">%</td> </tr> </table> | a. Total # of Acres: | acre(s) | b. Total Lot Area (1 Acre = 43,560 sq. ft.): | sq. ft. | c. Footprint of Proposed Project (sq. ft.): | sq. ft. | d. Footprint of Existing Buildings (sq. ft.): | sq. ft. | e. Footprint of Proposed & Existing Buildings (sq. ft.): | sq. ft. | f. Total Building Coverage (line e / line b * 100): | % | g. Total Impervious Service (sq. ft.): | sq. ft. | h. Total Lot Coverage (lines e + g / line b * 100): | % |
| a. Total # of Acres: | acre(s) | | | | | | | | | | | | | | | | |
| b. Total Lot Area (1 Acre = 43,560 sq. ft.): | sq. ft. | | | | | | | | | | | | | | | | |
| c. Footprint of Proposed Project (sq. ft.): | sq. ft. | | | | | | | | | | | | | | | | |
| d. Footprint of Existing Buildings (sq. ft.): | sq. ft. | | | | | | | | | | | | | | | | |
| e. Footprint of Proposed & Existing Buildings (sq. ft.): | sq. ft. | | | | | | | | | | | | | | | | |
| f. Total Building Coverage (line e / line b * 100): | % | | | | | | | | | | | | | | | | |
| g. Total Impervious Service (sq. ft.): | sq. ft. | | | | | | | | | | | | | | | | |
| h. Total Lot Coverage (lines e + g / line b * 100): | % | | | | | | | | | | | | | | | | |

All construction is to be completed in accordance with the Town of Underhill Unified Land Use & Development Regulations, as amended, and any & all federal and/or State regulations currently in effect. Once approved, notice of the permit is required to be posted in a conspicuous location on the property during the appeal period. The Town recommends that that notice be posted during the duration of the construction period. The applicant and/or landowner is required to contact the necessary State agencies to obtain permits: (802) 477-2241 (permit specialist). Interest persons have the right to appeal the approval of a permit to the Development Review Board within fifteen days (15) from the date of issuance.



TOWN OF UNDERHILL

ZONING PERMIT APPLICATION

INSTRUCTIONS: Provide a sketch showing dimensions of the proposed construction. You may use another sheet, or the space below.

SEE ATTACHED

Please Accurately Depict the Following (Checklist):

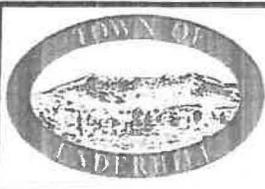
Required Features to Depict

Required Features to Depict if Applicable

- Location of Existing Property Boundaries
- Dimensions of Property's Boundaries
- Location & Footprints of Existing Structure(s)
- Location & Footprints of Proposed Structure(s)
- Location & Footprints of Existing Access Ways
- Location & Footprints of Proposed Access Ways
- Dimensions of Existing/Proposed Access Ways
- Setbacks from Property Boundaries
- Floor Plan of Proposed Structure(s)
- Height of Proposed Structure(s)

- Location of Existing/Proposed Easements
- Location of Existing/Proposed Rights-of-Way
- Location of Existing/Proposed Utilities
- Setbacks from Road Rights-of-Way
- Setbacks from Surface Waters & Wetlands
- Location of Existing/Proposed Water System (Well)
- Location of Existing/Proposed Wastewater Systems
- Other: _____

All construction is to be completed in accordance with the Town of Underhill Unified Land Use & Development Regulations, as amended, and any & all federal and/or State regulations currently in effect. Once approved, notice of the permit is required to be posted in a conspicuous location on the property during the appeal period. The Town recommends that that notice be posted during the duration of the construction period. The applicant and/or landowner is required to contact the necessary State agencies to obtain permits: (802) 477-2241 (permit specialist). Interest persons have the right to appeal the approval of a permit to the Development Review Board within fifteen days (15) from the date of issuance.



TOWN OF UNDERHILL

ZONING PERMIT APPLICATION

The undersigned hereby requests a Zoning Permit for the construction project described in this application. By signing below, Applicant acknowledges that he/she/they will comply with the requirements of the permit, if granted, and all Town Regulations. **Separate State permits including, but not limited to, water/wastewater, stormwater, Act 250, and Construction General Permits may be required. The applicant bares the responsibility and obligation to contact the State Permit Specialist at 802-477-2241 prior to construction.**

The Zoning Administrator (or representative) may access the subject property for purposes of inspections before, during, and upon completion of the project. Upon approval, a Permit Notice sign will be supplied to the Applicant to be posted within view of a Town Highway until the 15-day appeal period expires. Interested parties may exercise their appeal rights pursuant to 24 VSA §4465.

Applicant and/or their consultant(s) should check with the Road Foreman for any posted road restrictions. Failure to substantially commence construction by the permit expiration date will require a new permit from the Zoning Administrator. Upon completion of construction, Applicant must contact the Listers' office and the Zoning Administrator to obtain a Certificate of Occupancy (where applicable).

Lynn McLaughlin

12/10/19

Applicant Signature

Date

-Same-

Landowner Signature

Date

OFFICE USE ONLY

RECEIVED: Date February 11, 2020
 DEVELOPMENT REVIEW BOARD REVIEW (IF APPLICABLE):

Required Not Required

Date: February 11, 2020

Conditional Use Review
 Site Plan Review
 Variance Request

| | |
|----------------------------------|-------------------------------|
| Permit Fee | \$ |
| Posting Fee | \$ 15.00 |
| Recording Fee | \$ 15.00 |
| TOTAL FEE | \$ |
| <input type="checkbox"/> Check # | <input type="checkbox"/> Cash |

APPROVED: Date _____
Effective Date _____
Expiration Date _____

REFERRED (IF APPLICABLE):
To: _____
Date: _____
To: _____
Date: _____

REJECTED: Date _____

Comments/Conditions:

Zoning Administrator

Date

All construction is to be completed in accordance with the Town of Underhill Unified Land Use & Development Regulations, as amended, and any & all federal and/or State regulations currently in effect. Once approved, notice of the permit is required to be posted in a conspicuous location on the property during the appeal period. The Town recommends that that notice be posted during the duration of the construction period. The applicant and/or landowner is required to contact the necessary State agencies to obtain permits: (802) 477-2241 (permit specialist). Interest persons have the right to appeal the approval of a permit to the Development Review Board within fifteen days (15) from the date of issuance.

12/10/19

Name and address of applicant:

Lynn & Brian McLaughlin

414 Cilley Hill Rd. Underhill, VT 05489

802-899-3747 Road Code: CH414

Brief description of property and structure for development review and zoning:

-CH414 is a 3.04-acre piece of land in the rural residential zoning district. It has 542 feet roadside frontage along Cilley Hill Rd in Underhill VT. It was created in 2003 through a subdivision of the land of Burton and Bonnie Rawson who are Brian's aunt and uncle. On this piece of land is a single-family home occupied by Brian & Lynn McLaughlin and their three children Colby, Riley, and Brody.

- The history of pertinent information that has brought us to this process of appeal is as follows.

In 2003 we moved to Underhill to build a house and raise our family near relatives. As our daughter neared school age, she was diagnosed with PVNH (periventricular nodular heterotopia). This is a very rare brain deformity that is even rarer among children. PVNH causes intractable epilepsy, frequent infections, learning disorders and delays, brain processing delays, the inability to read body language and social cues, social delays, and the possibility to develop a variety of health issues including the heart, and other parts of the body. PVNH is not well controlled with medications making it necessary to utilize many medications at one-time balancing effects and side effects. PVNH causes the brain to make new pathways to do things that would be processed in the areas that are missing grey matter. Due to these different and varying pathways, you can never know how things will affect her, there is the possibility that even the presence of different light or a lack of a good night's sleep could change the way that she processes and reacts to things. Riley has been a trooper dealing with her disability and has identified herself as a strong country girl who loves animals, farms, and four-wheelers, etc. Due to circumstances beyond our control, and on the advice of Riley's medical team, we needed to establish an area at our home for Riley to move a few of her animals into and have a place for her to safely work with them. They stayed in a fenced area of our yard for the summer with intentions of moving them to a friend's barn. During the last week of September Riley's medical team suggested strongly that they need to stay on-site, and not be moved away. With winter fast approaching and facing a difficult time with distant neighbors that lead to threatening conditions, we had to scramble to make a shelter that would meet the needs of her animals, be safe for Riley, be low cost, and be able to be modified or moved. The process was crazy, fast, and required the help of many. In the process of making the structure a safe place for Riley and her 4H friends, and following the VT RAPs for her animals, we have covered all regulations for a normal building. We are more than willing to work with the town, review board, neighbors, road crew, state, etc. to make any changes that you may need or want.

See attachment 1 & 2 & 3 & 4

Actions requested by the applicant, including a request for a variance:

-We are asking that the Development Review Board grant an after-the-fact dimensional setback waiver.

-We are also asking that the Development Review Board review our information and agree that the structure conforms with the Town's Special Flood Hazard Area Regulations - Article VI of the Underhill Unified Land Use & Development Regulations.

Grounds why such action is believed proper under the circumstances:

If our permit and variance aren't granted then we would be in violation, creating the need for the structure to be disassembled. This would cause extreme hardship, physically, mentally, medically, and monetarily.

- It is likely that we could not find a crew quickly that would help disassemble it. We wouldn't be able to reconstruct it in any other location now that it is winter. We can't afford any other possible barn purchasing options. The animals contained inside would either die from exposure in the case of the younger animals or fall ill possibly dying from exposure in the case of the older calves. To prevent us from having to witness this we would have to ship them out to be slaughtered for beef. This would be catastrophic for Riley who has saved her own money to acquire the animals, worked with them, and bonded with them.

-The 4H program kids in our area would have no place for their animals to go either. My daughter and her friends would not be able to easily participate in the statewide dairy project and heifer showing group through the 4H program. Vermont 4-H offers a wide variety of opportunities that enable teens to develop knowledge, skills, attitudes, and aspirations needed for success in the 21st century. Teens participate in programs focused on **LEADERSHIP, CITIZENSHIP, and LIFE SKILLS** through exploring a variety of topics. Underhill doesn't have a dairy club right now, so we are volunteering, and offering this opportunity, by joining with the Mt. Independence 4H group based out of Orwell VT which also serves the towns of Williston and Richmond. It means a lot of work and commuting but the opportunity made for these children is priceless. We began exploring and getting involved in 4H on Doctors' orders. This involvement was prescribed by Dr. Chris Archangeli as part of an ongoing treatment process by Child Psychiatry in the Center for Children Youth and Families at the UVM Health Center, as well as Laura May Ackley in their full circle wellness therapy center. His intent is to expose Riley to social situations, connecting her with peers who can model appropriate behaviors and give her more exposure to body language and real-life outside of school which is areas that Riley struggles with due to her disability. ■

-Now that Riley is needing to be homeschooled due to her disability a great deal of her curriculum is centered around the barn and animals through a project-based modified curriculum. This incorporates something that she loves into school so that she can make it long periods of time during learning and can retain more skills. We coordinate the common core curriculum through two dairy centers in Wisconsin, Texas A&M vet assistant program, 4H, and the State of Vermont.

We believe that the granting of a permit and variance would be proper for these reasons:

1. In speaking with the FEMA map information exchange they concluded that a LOMA would not be the way to go due to so many variables that would have to be figured. Right before the government shutdown they had suggested either do a LOMR-f or a LOMC. After the shutdown, I re-contacted the ANR and FEMA and they determined that the special flood zone that the structure is in is one of the ones that will be modified or removed. They are not sure how it would be adjusted so they suggested waiting so that we would know which way to go if any. They thought that the process would be fairly quick since they already have the new town culvert info. It is still in process as of 12/10/19. In talking with Brad Holden he commented that there isn't any way to estimate when it would be done since anything they are working on before this zone could delay things.

2. In speaking with the Vermont Agency of Agriculture in September they determined that we can be considered a Small Farm Operation solely due to the fact that we have to file a 1040 form F for a number of years going forward. Our accountant had told us that this type of filing would need to be done due to the carry-over losses from the dairy farm. They referred me to the Floodplain Management Program who confirmed that we qualified, and sent us to the DEC regional Floodplain manager for our area (Rebecca Pfeiffer) to head the process. We reached out to Rebecca Pfeiffer, CFM and the State of VT Floodplain Manager who also agreed that we should email any documents and documents from the town to her. We also contacted the VT State Permit Office (Jeff McMahon) and he said: The Vermont Flood Hazard Area & River Corridor (FHA&RC) Rule (effective 3/1/2015) regulates [activities exempt from municipal regulation](#) in flood hazard areas and river corridors. These activities include: state-owned and operated institutions and facilities; accepted agricultural and silvicultural practices; and, etc. However, he thought that we would still have to get a frontage variance from the town, so we should check in with the review board to determine which direction to go as far as the set-back variance waivers go. He noted that it should be granted due to the fact that the ambulance has to have a level access to areas where Riley could need to be removed from. Also that the building must be within 100ft of home router to ensure continuous camera monitoring in case of seizure. The location of the barn can also not hinder ambulance access to areas in the back of the house. We accessed the town regulations and found Article IV, page 124, section 2, sub section C, line 15. This states that waiver may be granted to comply with federal or state public health, safety, access, and disability standards. He also pointed us in the direction of Rebecca Pfeiffer who would coordinate with Tina Heath if we had any questions about the Ag side of things..

3. While speaking with the Vt Ag dept they had reviewed the list of what we had done previously to ensure that we were in compliance with both FEMA and the Vermont Flood Hazard Area and River Corridor Rule which covers everything needed for a state permit. Their only suggestion was to maybe add an additional surge protector, just in case. However, it wasn't mandatory, just a good idea for camera equipment. We did that right away by adding a power bar that had protection along with emergency lighting.

4. We have done all upgrades necessary to conform with the Town of Underhill Special Flood Hazard Area Regulations (Article VI of the Underhill Unified Land Use & Development Regulations) and are now following up with the Development Review Board. The sub-sections of Article VI that relate to the barn are:

-(VI.6.A) it can't be located outside of this area on the parcel developed, or on another parcel in common ownership that is located outside of this area. It is winter now which would make moving very difficult. It was placed in the current location to allow for live video feed of Riley going from the house to the barn, giving her some freedom to move about without direct supervision and without jeopardizing her health while letting her learn how to manage her disability in a real life situation. It was also placed in this location on the driveway so that it is accessible to ambulances and rescue even during the winter season when Riley is more prone to needing the rescue crew for transfer to the hospital. It was also placed in this location so that it would be within 100 feet of our Comcast router making it easier to run connected ethernet that hooks up to the security system inside of the structure that monitors Riley and her baby cows and their interactions. -(VI.6.B1-3) The structure is safe from flooding due to the steps taken that would prevent catastrophic water damage and negative impacts on the town. We have taken steps to minimize possible flood damage to utilities by having no on-site power panel. We have instead utilized underground wiring that is tied to separate breakers that can be tripped at the garage or at the main house panel. The wiring enters the barn protected and then is only present at levels above 36" measured from the floor of the barn. All outlets and switches are also located above 36". We have taken steps to minimize additional flood damage due to the barn's water supply by having only a single heated hose for a water supply that travels primarily underground. The hose has shut-offs at the structure, as well as where it leaves the house, and at the primary well pump. By doing this there are no water pipes that would be able to fail and add to the already flooding waters. We also have no septic system, facilities, or sinks whatsoever on site. We had already in place adequate drainage to reduce exposure to flood hazards and we have added the presence of some large rocks and boulders that would reinforce already present ditching.

-(VI.6.C.1) The structure is adequately anchored to prevent flotation using concrete anchors and pressure- treated base plates. The interior of the structure is lined with 4'x8' plywood that will resist shearing, collapse, and lateral movement of the structure during any incidence of a base flood.

-(VI.6.C.2) The structure is constructed with pressure treated, oak, and concrete materials which makes it resistant to flood damage. -(VI.6.C.3) The structure was constructed by methods and practices that minimize flood damage and are used in the process of professional home building. Brian

is a home construction contractor. -(VI.6.C.4) The structure was constructed with electrical, heating,

ventilation, and plumbing equipment that is designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding. **-(VI.6.D)** The flood-carrying capacity within the portion of the watercourse has been corrected by the town at the locations of the culverts before and after the barn where the stream crosses roads. The neighbors directly across from the barn are exploring different options to increase or maintain culvert flow capacity and will be maintaining it.

-(VI.6.E) There are no sewer systems. **-(VI.6.F)** There are no on-site waste disposal systems. **-(VI.6.G)**

The lowest floor of the structure is elevated one foot or more above the base flood elevation by utilizing a base of road fabric, gravel, sand, and concrete. There is no data documented through FEMA for elevation certificates on this watercourse. **-(VI.8.A.1)** We have met the requirements in 44 CFR, section 60.6 of the National Flood Insurance Program Regulations, Act [4424(2)€] as well as below. **-(VI.8.A.2)** During any base flood discharge no increase in flood levels would occur since no other water source is nearby, and there is no water source inside the structure that couldn't be shut off at the point of exit from the home or entrance to the structure.

-(VI.8.A.3) The structure is protected by accepted professional home building methods that minimize flood damages during the base flood. **-(VI.8.A.4)** The structure will result in no additional threats to public safety, extraordinary public expense, or nuisances, or fraud or victimization of the public.

-(VI.8.A.5) We believe that this variance is the minimum necessary, considering the flood hazard, to afford relief.

-The structure has already been built using methods of *FEMA WET FLOODPROOFING*, and the *State of VT RAP'S*. We have been certified through NRCS classes and have constructed, in the past, Nutrient Management Plans that were filed with the state. Having this mass of knowledge, to begin with, and keeping in mind the best agricultural stewardship practices, the planning and execution of this structure was sensitive to a variety of regulations that are in place both statewide and nationwide, including those for special flood hazards.

- The structure proved to be perfectly flood proof on 11/1/19. The combination of: torrential downpours, rapid snow melt-off, trees falling to block culverts (the neighbors weren't home), and the beaver dam above giving way created an unusual circumstance where the road actually did flood. At the time we were following our adverse weather protocols. Which are: 1 secure loose tools etc; 2 unplug pellet stove; 3 check cameras to record, 4 monitor in person 24/7; 5 remove animals through side door and around the back of house to go to the garage if danger is present; 6 monitor both barn and animals until cleanup/reorganization is complete; 7 move animals back to barn. Our low level ingress point and egress points and all of our WET FLOODPROOFING really made things go so smoothly ■



Town of Underhill Development Review Board

P.O. Box 120, Underhill, VT 05489
www.underhillvt.gov

Phone: (802) 899-4434, x106
Fax: (802) 899-2137

Certificate of Service

I hereby certify that on this 11 day of March, 2020, a copy of the following documents were delivered to the below recipients and corresponding addresses by United certified mail, return receipt requested.

Documents:

Notice to abutting neighbors regarding a Conditional Use Review -Waiver Request hearing pertaining to an after-the-fact dimensional waiver request for, as well as after-the-fact approval for, the construction of an accessory structure within the property's front setback and within a floodplain on property located at 414 Cilley Hill Road (CH414) in Underhill, Vermont, which is owned by Brian & Lynn McLaughlin.

Recipients and Corresponding Address: \$6.90

414 CILLEY HILL ROAD (CH414)

Brian & Lynn McLaughlin
414 Cilley Hill Road
Underhill, VT 05489

350 CILLEY HILL ROAD (CH350T)

Burton W. & Bonnie M. Rawson Trustees
350 Cilley Hill Road
Underhill, VT 05489

414 CILLEY HILL ROAD (CH414)

Joseph Szela
211 East Avenue
Burlington, VT 05401

Andrew Strniste
Planning Director & Zoning Administrator
12 Pleasant Valley Road
Underhill, VT 05489

Date: 3/11/2020

To: Burlington Free Press
Classifieds/Legals
legals@bfp.burlingtonfreepress.com
860-5329

From: Town of Underhill
Zoning & Planning
P.O. Box 120
Underhill, VT 05489

LEGAL AD

Please e-mail to confirm receipt of this ad.

.....

Release Date: NO LATER THAN 03/14/2020

NOTICE OF PUBLIC MEETING

Town of Underhill Development Review Board (DRB)

Monday, April 6, 2020

At the Underhill Town Hall, 12 Pleasant Valley Road, Underhill, VT

The DRB will hold a hearing on the Conditional Use Review application by Brian & Lynn McLaughlin pertaining to an after-the-fact dimensional waiver request for, as well as after-the-fact approval for, the construction of an accessory structure within the property's front setback and within a floodplain on property they own at 414 Cilley Hill Road (CH414). The subject property is located in the Rural Residential zoning district. The hearing will commence at Underhill Town Hall at 6:35 PM on Monday, April 6, 2020.

Additional information may be obtained at the Underhill Town Hall. The hearing(s) are open to the public. Pursuant to 24 VSA §§4464(a)(1)(C) and 4471(a), participation in this local proceeding is a prerequisite to the right to take any subsequent appeal. If you cannot attend the hearing(s), comments may be made in writing prior to the meeting and mailed to: Andrew Strniste, Planning Director & Zoning Administrator, P.O. Box 120 Underhill, VT 05489 or to astrniste@underhillvt.gov.

Please call Andrew Strniste at the Planning & Zoning Administrator's office at 899-4434 x106 with any questions concerning this ad and to confirm receipt. Please remit bill to: Town of Underhill, RE: 04-06-20 DRB Hearing, P.O. Box 120, Underhill, VT 05489. Thank you.

Attachment 1

EXHIBIT
H



ZONE A
FLOOD AREA

DRAINAGE
AREA

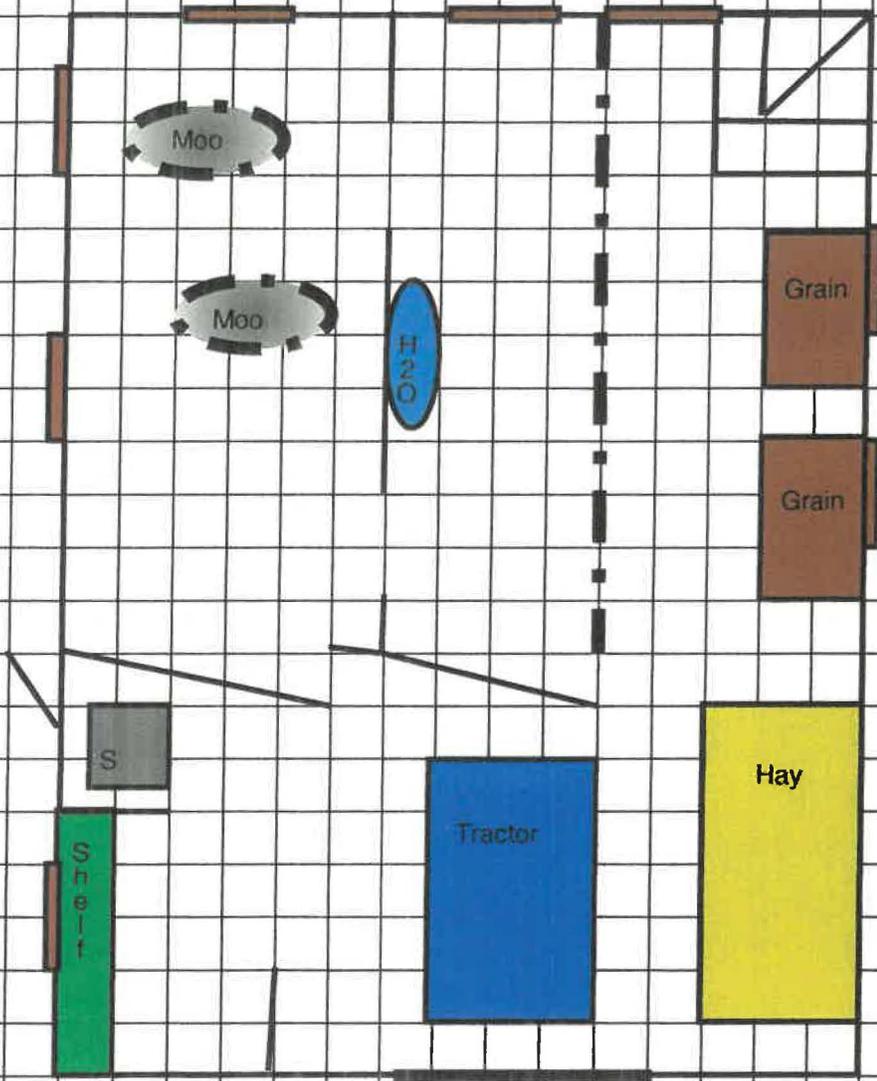
47'

53.5'

414 GILLEY HILL ROAD
UNDERHILL

The Curious Cow Farm

Barn - Interior Layout



No onsite utilities

All Water, Power, and Ethernet run from the main house, with shut-offs at house and at barn

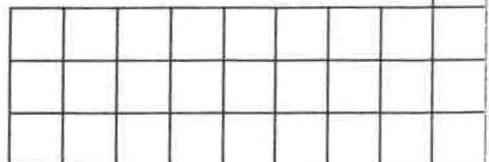
Constructed of:
 Pallets- Potters grade A
 35" H x 40" L
 Wall - 2.5 pallets high 87.5"
 False Gambrel - 175"

Wall construction- 1-2 pallets per section,
 12 pallets per layer
 Then 1.5 rows

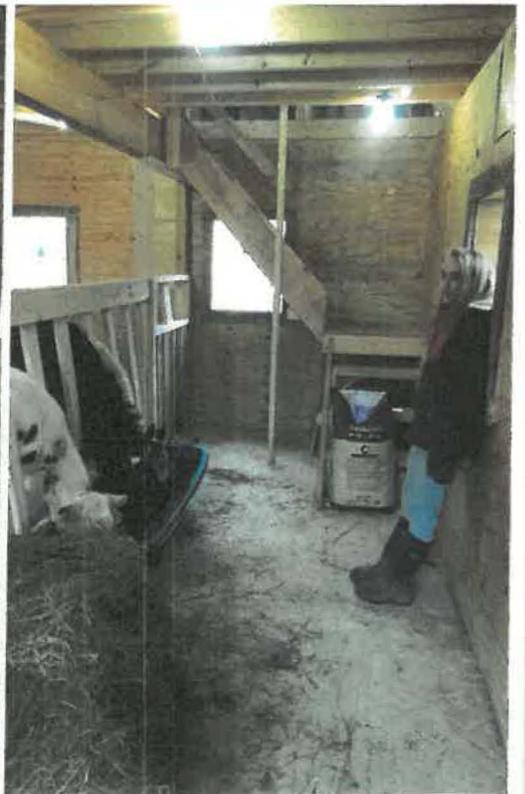
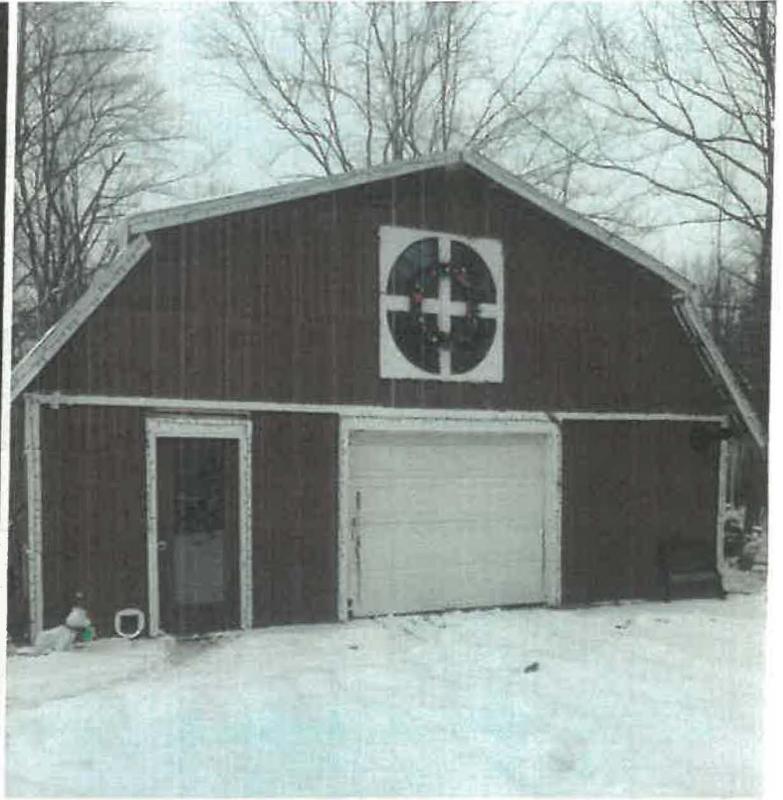
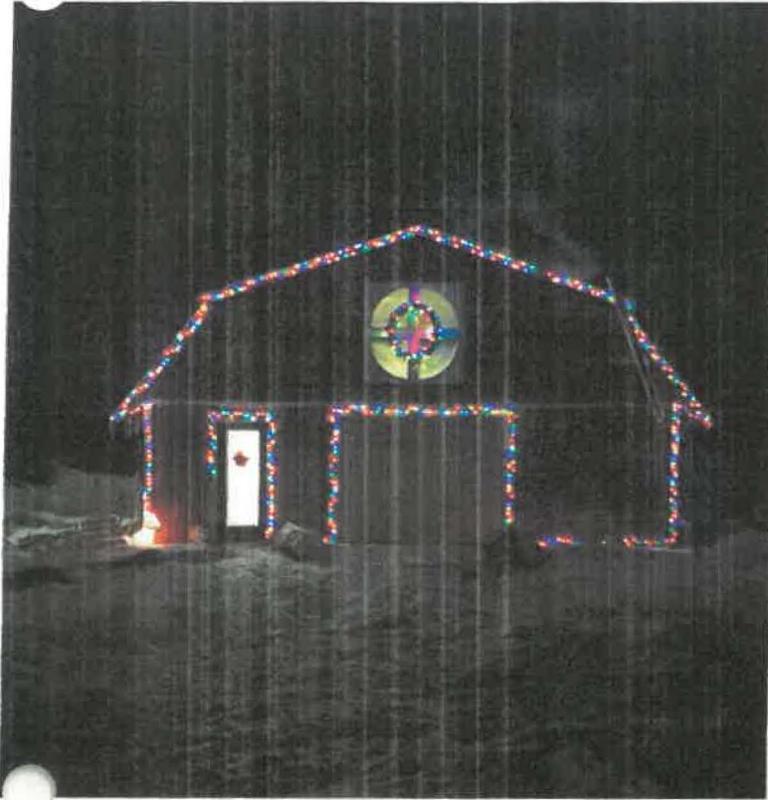
Walls Breakdown to- wall, layer, individual
 Roof Breakdown to- 4 sections

Scale:

1 square = 1 Foot



The Barn - Outside

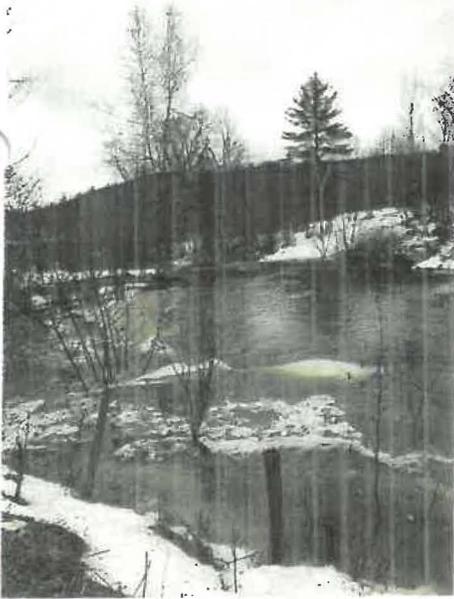


The Barn - Inside

Attachment 2

EXHIBIT

K



Lower Cilley Hill



Mid Cilley Hill



Culvert just below barn



411 driveway
across from barn



Road next to barn



411 up to
Sam Ward
Rd

Attachment 7

Part 1 of potential flood emergency plan- Observe 24/7

EXHIBIT

L

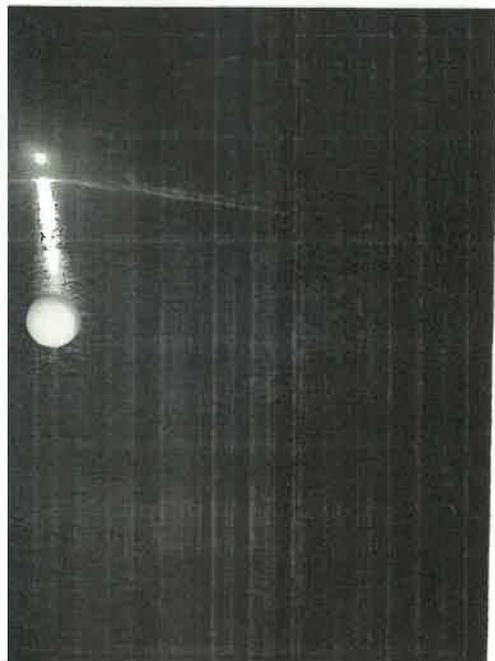
11/1/19 1:55am- Front lawn, house, garage. Barn

11/1/19 1:55am- Barn to road

During prep the stove is unplugged as a precaution. It is the only electrical thing below waist height.

The cows seem to think the water is pretty cool.

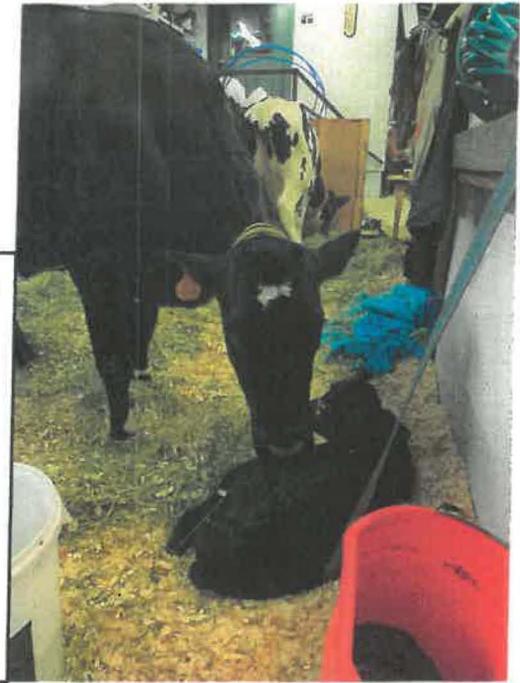
They think if people are up then it must be time to eat.



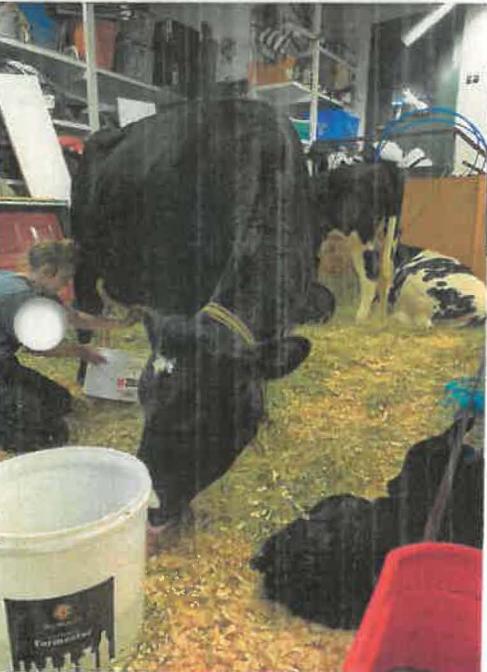
Attachment 8



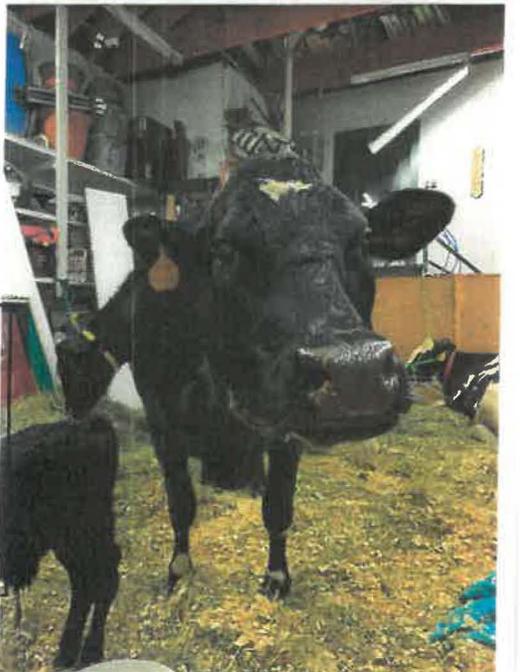
But no food right now, for safety the emergency plan is to take a walk around the backyard and then go into the garage and hang out until clean-up.



And the garage is so cozy.....why not go into labor and have a baby here? Well, I guess all of the video cameras doing the live stream from the barn won't catch this birth.



It kinda made milking easier for that first colostrum.



And momma loves having someone hanging out and sleeping in the garage, that means extra treats.



Little "Stormy" was only 27" tall so he got to go for rides and visit Rileys doctor's office.



Yes, he did wear a diaper for his public appearances.



| BARN DUTY | | | | | |
|-----------|----------------|---------|----------|-------------|-------|
| Event | Event/Activity | Project | Priority | Subcategory | Other |
| 10-11 | Emergency | Helps | | | |
| 11-13 | Emergency | Helps | | | |
| 13-17 | Emergency | Helps | | | |

I pledge my Head to clearer thinking, my Heart to greater loyalty,
 my Hands to larger service, and my Health to better living,
 for my club, my community, my country, and my world.

2019

Attachment 6



**I pledge my Head to clearer thinking, my Heart to greater loyalty,
my Hands to larger service, and my Health to better living,
for my club, my community, my country, and my world.**



McLaughlin Barn

Brad Holden <bholdenvt@gmail.com>

Mon 9/23/2019 9:29 AM

To: Andrew Strniste <astrniste@underhillvt.gov>;

Hi Andrew,

Sorry with all the time I've been devoting to my Mom I forgot that I had gone up to McLaughlin's place and measured the barn.

Based on taping to the centerline of Cilley Hill and assuming a 49.5' (3-rod R.O.W.) or 24.75' off centerline.

The south end corner of the barn is +- 28.5 feet off the right of way or 53.5 feet from the centerline. The north end corner is +- 22 feet off the right of way or +- 47 feet from the centerline. Dirt roads move around everytime there's a storm event or regravelling and grading so there's a little built in error and judgement that needs to be applied but these #'s are pretty close.

Please let me know if you have any questions.

Thanks,
Brad

Fwd: Cilley hill

Brad Holden <bholdenvt@gmail.com>

Mon 1/14/2019 1:36 PM

To: Andrew Strniste <astrniste@underhillvt.gov>;

 1 attachments (3 MB)

Mclaughlin Site Plan.pdf;

Sent from my mobile device

----- Forwarded message -----

From: **Brad Holden** <bholdenvt@gmail.com>

Date: Thu, Oct 18, 2018, 1:25 PM

Subject: Re: Cilley hill

To: Lynn McLaughlin <The4cornersfarm@outlook.com>

Lynn,

As we thought the flood zone line goes right through the middle of the building. Did you mention contacting the Ag Dept? is there a chance that would work? Attached is a plan showing the building and the flood zone. As I mentioned we could file for a letter of map amendment (LOMA) with the FEMA. No guarantees but that might work.

Please give me a call when you have a minute.

Brad

Bradford Holden, L.S.

60 Covey Road

Underhill, VT 05489

bholdenvt@gmail.com

802-578-7401 Mobile

On Mon, Oct 15, 2018 at 6:46 AM Brad Holden <bholdenvt@gmail.com> wrote:

Lynn, I'll swing by this morning. Around 8:00. Brad

Sent from my mobile device

On Mon, Oct 1, 2018, 12:54 PM Brad Holden <bholdenvt@gmail.com> wrote:

Sorry, Lynn I just keeping pulled in all kind of directions. Let me see what I can do about meeting with you this week.

I'll be in touch,

Brad

On Mon, Oct 1, 2018 at 12:42 PM Lynn McLaughlin <The4cornersfarm@outlook.com> wrote:

Hi Brad,

Well, summer has flown by. The town was wondering where we're at with the floodplain. Our temp permit is only good until January. So we need to know if we have to do anything, or modify the building, or have to find a place to lease for the cows for the winter. We need to know where the structure crosses the line, if it does, before we contact the agency of ag people. We can meet anytime.

Thanks,

Lynn McLaughlin

Sent from my amazing iPhone

On Jul 18, 2018, at 1:23 PM, Brad Holden <bholdenvt@gmail.com> wrote:

Hi Lynn,

We should set up a time for us to meet up at your place and discuss the situation, probably the soonest I could do it would be early next week.

Brad

Bradford Holden, L.S.

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bholdenvt@gmail.com

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On Wed, Jul 18, 2018 at 11:56 AM, Lynn McLaughlin <The4cornersfarm@outlook.com> wrote:

Hi,

Ok, I have started trying to figure out our flood plain issue. (McLaughlin 414 Cilley Hill, pallet heifer barn crossed into new fema flood plain). Riley has had a ton of health problems and couldn't even finish out the year of school so it has been crazy. She is in 4h still, the heifers are outside on our lawn. We are filing a 1040f because of our farm income so vt ag people said that we are officially a SFO. A small farm operation that does not have to be certified but is still considered a farm. Riley named it The Curious Cow Farm. So, if I remember correctly, I think that the town had said that for the next step we should link up with you next to figure out exactly what is really where. Then we can go to the state people from there. I'm sure that they want things done like yesterday but I have to inquire about how much things would cost. Getting out of the farm left us in huge debt that we are being hounded for in addition to Riley's health costs and trying to keep up with 4h.

Thanks

Lynn

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