

**Town of Underhill
Development Review Board Minutes
September 17, 2018**

Board Members Present:

Charles Van Winkle, Chair
Mark Green
Penny Miller
Stacey Turkos
Shanie Bartlett, Alternate
Mark Hamelin, Alternate

Others Present:

Kenneth Hall (4 Blakey Road)
Victor Veve (P.O. Box 47, Cambridge, VT)
Paul O'Leary (63 Corporate Drive, Essex Jct.)
Robert Reed (20 Downs Road)
Kitty Reed (20 Downs Road)
Sheila Corbett (29 Downs Road)
James Corbett (29 Downs Road)
Megan Martin (36 Downs Road)
Michael Skinner (550 Hinesburg Road,
Burlington, VT)

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Director

6:47 PM – 09/17/2018 DRB Public Meeting

- DRB Members convened at Town Hall around 6:40 PM after attending a site visit at 32 Downs Road
- [6:47] Chair Van Winkle asked for public comment. Mr. Kenneth Hall, a previous applicant in front of the Board in regards to a proposed subdivision, asked the Board if they were amenable to combining the preliminary subdivision review and final subdivision review hearings. Staff Member Strniste advised that depending how the Board answers will dictate how he warns the public hearing. Chair Van Winkle advised that the Board had to be transparent, and recommended that the applicant apply for the combined hearing. At the hearing, as the first order of business, the Board will then determine if preliminary subdivision review and final subdivision hearings should be combined. Staff Member Strniste will warn the hearing as a combined preliminary subdivision and final subdivision review hearing. No other public comment was provided.

**6:54 PM – Veve Conditional Use Review Application
32 Downs Road (DW032), Underhill, Vermont**

Docket #: DRB-18-14

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- [6:54] Chair Van Winkle began the meeting by explaining the hearing procedures for the subject conditional use review hearing. The applicant, Victor Veve/Rical, LLC, and his representative, Paul O'Leary from O'Leary & Burke Civil Associates, PLC, were before the Board to discuss the application pertaining to the construction of a driveway that would impact steep slopes and very steep slopes on property located at 32 Downs Road in Underhill, VT, which is owned by John A. & Cheryl B. Perreault. Various members of the public were also in attendance. No ex parte communications between the Board and applicant occurred and no conflicts of interest were present. Exhibit R – Comments from Underhill-Jericho Fire Department; Exhibit S – Correspondence from Fitzgerald Environmental Associates, LLC Regarding Wetlands; and Exhibit T – Map of Wetland Assessment Wetland by Fitzgerald Environmental Associates, LLC were added to the record.
 - [6:58] Mr. O'Leary began the presentation by advising that the site location was approved for a septic system, and that Mr. Veve is proposing a house on an upper plateau. He then provided an overview of the driveway layout – the driveway starts at a 3% grade, which climbs to a 5% grade. Once the driveway turns, it rises to a 10% grade. Upon turning again,

the grade turns to a 6% grade. Mr. O'Leary than advised that the grading is assumed to be 1 on 2, which assumes there is no ledge, which there is. He further informed the Board that the stormwater would run down the slope. Mr. O'Leary continued by stating that there is a substantial ditch along Grant's Landing; that there is a 24 inch culvert near the proposed intersection; that they are proposing three ponds that will capture and release at slow rates. Mr. O'Leary advised that the discharge of the stormwater would be at the same rate as the current conditions, and while there could be some erosion, the ledge would likely reduce the amount. He then concluded the overview by advising that he picked the best grade he could, the house site could shift, and that multiple pull-off areas were depicted on the plans.

- [7:03] Chair Van Winkle asked Mr. O'Leary to explain the check dams that are proposed as part of the project – for erosion and stormwater control that helps reduce velocity. Mr. O'Leary advised that volume does not create the damage, but rather, velocity. The check dams will help reduce velocity as the water progresses down the slope. Board Member Miller asked Mr. O'Leary to explain what a level spreader was, and whether it was a retention pond – the level spread is a retention pond, and when the water exceeds the berm level, the water will disperse through the rocks, rather than there being one point of discharge. Vegetation in level spreader's rocks are okay. Mr. O'Leary advised that level spreaders are often aligned with contours.
- [7:07] Resident, James Corbett, asked if Mr. Grant had installed level spreaders or check dams when initially installing Grant's landing. Both Chair Van Winkle and Mr. O'Leary advised none that they saw. Board Member Miller inquired about the curtain drain and whether that is adverse to the proposed drainage pattern, which Mr. O'Leary advised that it was similar to a footing drain around a basement of a house and that he did not think it would have a negative impact on the stormwater plans. Board Member Miller asked if a daily inspection would be performed as indicated on the plans. Mr. O'Leary advised that this action was typically conducted by the contractor or property owner. Board Member Miller then inquired about a certificate of compliance, and whether it could be mandated as part of a conditional use review application. Staff Member Strniste confirmed that certificates of compliance are only issued with subdivision infrastructure; however, a driveway certificate is required for the certificate of occupancy process.
- [7:13] Mr. Corbett asked the Board what were to happen if circumstances were to change as construction was underway, and as a result, the applicant was unable to complete the driveway as originally designed. Chair Van Winkle advised that the Board retained jurisdiction of the project, and that the applicant would have to amend the application. He then advised that if the applicant did not conform to the conditions or regulations, then a violation could be issued. Board Member Green asked how dependent the design was on vegetation. Mr. O'Leary advised that the calculations were based on the percentage on impervious, and that the area contained failing woods, which provides for some infiltration of stormwater, and rock is not good filtration. He then informed the Board that Mr. Veve anticipates thinning the trees to obtain a view. Staff Member Strniste confirmed that the difference in elevation from Grant's Land to the proposed house location is approximately 70 feet.
- [7:17] Board Member Miller informed Mr. O'Leary that Underhill-Jericho Fire Department finds the navigation of switchback challenging when the slope is 10% after the turn. Mr. Robert Reed contended that snow would be an issue, specifically the runoff from snow melt. Board Member Miller asked Mr. O'Leary if thawing of snow would be an issue. Mr. O'Leary used the Jacobs Subdivision for comparison purposes – that subdivision is on land that is more impervious, and therefore, runoff is not as much of an issue. He then advised that a heavy rainstorm will provide more runoff should ice remain in late winter; however, the stone features are anticipated to still work since they do not freeze as quickly as most may

- thinking. Therefore, the check dams and level spreader are still anticipated to work.
- [7:21] Board Member Miller asked Staff Member Strniste if there had been complaints about stormwater runoff to the Town in regards to the Jacobs Subdivision. Staff Member Strniste answered in the negative. Mr. O'Leary predicted that 90 percent of the 19 acre parcel was anticipated to stay the same. Board Member Bartlett asked about the impacts to Downs Road.
 - [7:23] Staff Member Strniste provided an overview of his comments in the Staff Report. Board Member Green inquired about setbacks from Steep Slopes. Staff Member Strniste and the Board were unable to confirm that setbacks from steep slopes existed in the regulations. Setbacks from artificial slopes exist under Section 3.18.D.4.e of the regulations. Subsection f of that same section implies construction can occur on steep slopes.
 - [7:33] Ms. Sheila Corbett had a clarification question on where the stormwater would be traveling. Mr. O'Leary answered Ms. Corbett's question. He then advised that no more water would be entering the culvert, and that the drainage pattern of the site would not be changing. He then clarified that some stormwater already travels down Grant's Landing, towards Downs Road, which is from the property north of the subject lot. Mr. Reed asked for clarification about the statement that no additional water would occur. Mr. O'Leary clarified that the rate of runoff will stay the same, though the volume will increase. Mr. Reed then asked if no extra water would be going into the ditch that is on property. Mr. O'Leary then informed Mr. Reed again that the rate would be the same. A question was asked to Mr. Veve how much clearing would occurred; he advised not much. Mr. Reed asked about the proposing holding pond to be located near his property. Mr. O'Leary informed him that it would be moved, as he was unaware that that ditch was constructed to keep water off the property. Mr. Reed inquired about additional snow removal being plowed into the ditch and not thawing out. Chair Van Winkle reiterated to Mr. Reed the difference between the rate of runoff and volume of runoff. Mr. Veve informed the Board that the plans were created to address these types of problems. Board Member Miller asked where the snow was proposed to go.
 - [7:49] Chair Van Winkle advised that the Board want to act in the interest of fairness, and that the Board could either make a decision and conditional approval on updated plans being subsequently submitted, or request the submission of updated plan and make a decision about the application at a later date. For clarification, Board Member Miller advised that the changes to be made was the relation of the level spreader north of Grant's Landing. Mr. Reed advised that he had no issue with the moving of the pond. Ms. Megan Martin inquired about the purpose of moving the pond, which was because the applicant's engineer was unaware of the ditch where the pond was to be located. Board Member Green inquired about the proposed house location in relation to the rear property line. Staff Member Strniste asked about the snow removal. Mr. Veve responded that an ideal location would be to push the excess snow over the pull off areas.
 - [7:55] Board Member Miller asked Mr. O'Leary about when the applicant would inspect the site after a rain event. She then inquired about bonding.
 - [7:57] Chair Van Winkle asked if the Board had enough information to make a decision about the application. Board Member Miller inquired about the liability waiver regulation in the Land Use & Development Regulations. Staff Member Strniste advised that the text of that regulation could be written directly into the decision. A question was asked by Chair Van Winkle about the liability transferring from Mr. Grant to the subsequently land owners. Board Member Green inquired about the ditches being maintained along Downs Road.
 - [8:03] Chair Van Winkle asked if the Board had enough information to make a decision about the application. The Board answered in the affirmative. Board Member Miller made a

motion to vote in open session, but deliberate in closed session. The motion was seconded by Board Member Turkos and approved unanimously. Board Member Turkos made a motion to approve the application, which was seconded by Board Member Miller. The motion was approved unanimously.

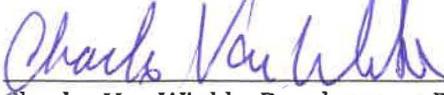
- [8:04] Chair Van Winkle provided an overview of the timeline going forward.
- [8:05] Staff Member Strniste advised that he did not prepare the minutes to be approved for this meeting.
- [8:06] Chair Van Winkle advised that the Town and previous applicant appeared to botch the original access way as it relates to Grant's Landing. A discussion ensued about whether a restriction on clear cutting should occur. Chair Van Winkle opined that about an acre of land would be cleared. Board Member Miller advised that a clear cutting restriction could potentially impair the view. Staff Member Strniste advised that they could advise in the decision the difference between rate of stormwater runoff v. volume of water.
- [8:14] A brief discussion ensued about process and the Selectboard's review and the Board's review. Board Member Green opined that the stormwater plans were for a 10-year storm; however, the plans would probably be better suited to be a 25-year or 50-year storm event. Board Member Hamelin advised that the bigger the event that the infrastructure had to handle, the more area that would be impacted. Chair Van Winkle advised that the decision should address the following: the liability waiver, the submission of reviewed plans before the building permit, the inspection of the site after a rain event, a certification letter prior to obtaining a certificate of occupancy, and the difference between rate of stormwater runoff v. the volume of water.

8:23 PM – Other Business

- [8:23] Staff Member Strniste informed the Board that Wells/McLaughlin wanted to make modifications to their project proposal, and that the proposed modifications seems to inevitably require additional review. The Board agreed.
- [8:26] The upcoming schedule was ascertained:
 - Wells/McLaughlin Waiver/Variance Request, assuming they could submit materials in time, would be scheduled for October 15, 2018.
 - ReTribe Appeal/Conditional Use Review would be scheduled for a special meeting on October 29, 2018 since the November 5 meeting would need to be cancelled due to the election.
 - Hall Subdivision would be before the Board sometime before the end of the year.
 - Bingham Subdivision would be before the Board sometime before the end of the year.
- [8:33] Staff Member Strniste informed the Board that there was a zoning forum they are welcome to attend on October 17, 2018. He then advised that he has not been updated about the temporary structure on Cilley Hill that pertained to the McLaughlin appeal earlier in the year.
- [8:35] Staff Member Strniste advised that he would be issuing a subdivision amendment for 73 Cloverdale Road by the end of the Road.
- [8:36] Staff Member Strniste informed the Board that Mr. Peter Duval appealed his decision to the Environmental Division of the Superior Court.
- [8:51] The Board adjourned.

Submitted by:
Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 09/17/2018 meeting of the DRB were accepted
this 29 day of OCTOBER, 2018.



Charles Van Winkle, Development Review Board Chair