

**Town of Underhill
Development Review Board Minutes
November 17, 2014**

Board Members Present:

Charles Van Winkle
Will Towle
Matt Chapek
Karen McKnight
Penny Miller
Jim Gilmartin
Mark Hamelin

Others Present:

Scott Marceau (Applicant- 59 Harvey Road)
Heather Jacobs (16 Park Street, 1st hearing)
Lynn Varley (Applicant-25 Waguhrbrook Lane)
Lea Van Winkle (Resident, Corbett Rd, 2nd hearing)
Debby Hanley (Real estate agent- 2nd hearing)

Staff/ Municipal Representatives Present:

Sarah McShane, PZA

6:30 PM- 11/17/2014 DRB Public Hearing

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

6:30 PM- Conditional Review (DRB 14-13) S. Marceau- 59 Harvey Road

- Note: A site visit was held at 59 Harvey Road on Saturday November 15, 2014 at approximately 9:30 AM. Those who attended the site visit included: Scott Marceau, Heather Jacobs, Board members Charles Van Winkle, Will Towle, Matt Chapek, Karen McKnight, Penny Miller, and PZA Sarah McShane.
- Chair Van Winkle began the hearing by explaining the procedure for Conditional Use Review and the definition of interested party. He stated that the Applicant, Scott Marceau, is before the board for approval of a side setback waiver and variance on the property located at 59 Harvey Road.
- Chair Van Winkle swore in hearing participants and exhibits and asked if any board members had a conflict of interest or ex parte communications.
- Applicant Scott Marceau provided a brief overview of the application. He stated that he is requesting approval to tear down the existing house in order to rebuild a single family dwelling and garage. His lot is approximately 129' in width and the side setbacks for the zoning district are 75' on each side. He explained that he is requesting the maximum waiver of 37.5' on each side. (The Applicant's original application included a request for a variance and waiver, but after the site visit the Applicant determined that he could make his proposed improvements by simply requesting a waiver on both sides and did not need to request a variance). He stated that the new dwelling will be situated 30' as measured from the Harvey Road ROW and if the new dwelling interferes with his existing septic system he will have a new septic system designed.
- Chair Van Winkle stated that the side setback requirements overlap each other and in order to develop the lot the Applicant is required to obtain DRB approval.

- Board member P.Miller asked whether or not the Board had to waive the 400' frontage requirement. Chair Van Winkle answered that since he is not proposing a new lot, the Board did not have to waive the frontage requirements, just the side setbacks.
- Board member W.Towle stated that the Applicant is requesting approval to reduce the setback requirements for a nonconforming structure.
- PZA Sarah McShane provided comments. She stated that the Applicant is constrained by the width of the lot and the side setback requirements. His request is to construct the new dwelling within the side setbacks. She also stated her concern of whether or not the ZA is allowed to issue a building permit for a second primary dwelling since the regulations only permit one principal dwelling per lot. She requested that the Board include a condition that the ZA be allowed to issue a building permit for a second primary dwelling on the Lot and that the Applicant be required to demolish the existing house prior to being issued a Certificate of Occupancy.
- Board members discussed establishing a building envelope for both the dwelling and garage. Board members discussed allowing a 37.5' waiver for each side setback and discussed whether it was appropriate to limit the depth of the waiver. Board member P.Miller stated that it is approximately 800' to the brook on the property.
- Chair Van Winkle asked if there were any public comments or questions and if the Board felt they had enough information to make a decision.
- Board member W.Towle made a motion, seconded by K. McKnight, to discuss the application in open session.
- At 6:55 PM Board member W. Towle made a motion, seconded by P.Miller, to approve the application given it meets the findings of Section 5.5 (A)(4). The motion included approval for a 37.5' waiver for each side setback with a maximum depth of 800' and requires that the Applicant demonstrate conformance with the 30' front setback requirement.
- Chair Van Winkle amended the motion to include approval for the ZA to issue a building permit for a second primary dwelling on the lot with the condition that the existing dwelling will be demolished prior to the issuance of a Certificate of Occupancy. The amended motion passed by all Board members present.
- Chair Van Winkle explained that the Board will issue a written decision within 45 days. Applicant Scott Marceau and Heather Jacobs exited the hearing.

6:55 PM- Recess

- Board members recessed for five minutes before the next scheduled hearing. Board members discussed and signed outstanding documents.

7:00 PM- Conditional Use Review (DRB 14-14) Lynn & Thomas Varley- 25 Waughbrook Lane

- Note: A site visit took place on Saturday November 15th at 25 Waughbrook Lane. Those who attended the site visit included Lynn & Thomas Varley, Debby Hanley, Lea Van Winkle, Nicole Bourassa, Sarah Freeman, Scott South, and Michael Kuk. Board members in attendance included Charles Van Winkle (recused), Matt Chapek, Penny Miller, Will Towle, Karen McKnight, and PZA Sarah McShane.
- Acting Chair Towle began the hearing by explaining the process for Conditional Use Review and asked if any Board members had a conflict of interest or ex parte communications.

- Board member Van Winkle stated that he had a conflict of interest and recused himself from the hearing. Acting Chair Towle swore in participants and exhibits.
- Applicant Lynn Thomas provided two additional items for consideration during the hearing; a copy of their waste water permit application as submitted by McCain Consulting Inc. and a sketch drawing indicating the approximate location of the dwelling and parking improvements. S.McShane added the two items to the public record.
- Applicant Lynn Thomas provided an overview of the proposal. She stated that they are currently under contract to purchase the property and would like approval to construct a single story contemporary cape style detached accessory dwelling for her in-laws. She stated that the septic application has been submitted to the state and that they would like to construct an approximate 1000 sf accessory dwelling approximately 24' in height. She stated that the location of the proposed accessory dwelling is indicated on the provided sketch plan. They are planning on extending and improving the parking area for additional parking.
- Board members asked whether or not they are planning on screening the accessory dwelling. Applicant Lynn Varley stated that they are planning on keeping all but one tree and that the project area sits lower than the road and will be naturally screened by existing vegetation. She stated that they would like to run the utilities below ground but haven't confirmed it with the electrical company.
- Board members discussed the public process and timeline with the Applicant.
- PZA Sarah McShane provided comments. She stated that the plans appear to meet the regulations for accessory dwellings and that the Board should consider requiring that the driveway improvements meet B-71 Standards and that an engineer certify that the improvements have been completed to meet the standards prior to obtaining a Certificate of Occupancy. She also stated that the Town Attorney had clarified that in his opinion the zoning regulations did allow for accessory dwellings to be rented to non-family members.
- Lea Van Winkle (resident- Corbett Road) asked for clarification on the approval process and timeline. Board members explained the approval process and appeal timeline.
- Board member K.McKnight inquired about the septic system. Applicant Lynn Varley confirmed that they are proposing a separate septic system for the accessory dwelling.
- Acting Chair Towle asked for further comments and questions. Board member P.Miller made a motion, seconded by J.Gilmartin to close the evidentiary portion of the hearing. The motion passed by all Board members present (C. Van Winkle recused). Board member P.Miller made a motion, seconded by K.McKnight, to deliberate in open session. The motion passed by all Board members present (C. Van Winkle recused).
- Board members discussed the application and potential conditions.
- Board member M.Hamelin made a motion, seconded by M.Chapek, to approve the application subject to the following conditions: the Applicant is required to obtain a waste water permit, an engineer is required to certify that driveway improvements have been made according to driveway standards and include at least one additional parking space for the accessory dwelling, the accessory dwelling be clearly subordinate to the principal dwelling, and for the accessory dwelling to be less than 1200 sf. The motion passed by all Board members present (C.Van Winkle recused).

7:55 PM- Old Business

- Board member K.McKnight made a motion, seconded by M. Chapek to approve the DRB minutes from 9/15/2014, 10/6/2014, and 10/20/2014 as submitted. The motion passed by all Board members present.
- The next meeting will be December 1, 2014.

Meeting adjourned at 8:05 PM.

Submitted by:
Sarah McShane, PZA

These minutes of the 11-17-2014 meeting of the DRB were accepted

This 1 day of December, 2014.

Charles Van Winkle
Charles Van Winkle, Chairperson

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