

**Town of Underhill  
Development Review Board Minutes  
May 1, 2017**

**Board Members Present:**

Charles Van Winkle, Chairperson  
Matt Chapek  
Mark Green  
Mark Hamelin  
Karen McKnight  
Penny Miller  
Stacey Turkos

**Staff/Municipal Representatives Present:**

Andrew Strniste, Planning Director

**Others Present:**

John Viggato (23 Fuller Road)

**6:45 PM – 05/01/2017 DRB Public Meeting**

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- DRB Members convened at Town Hall at 6:45 PM.
- [6:50] Chair Van Winkle called the meeting to order.
- [6:51] Chair Van Winkle asked for public comment. No public comments were provided.

**6:52 PM – Viggato Site Plan Review Hearing  
23 Fuller Road (FU023)**

**Docket #: DRB 17-08**

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- [6:52] Chair Van Winkle began the meeting by explaining the procedure for a site plan review hearing. The applicant, John Viggato, was before the Board to discuss the site plan review application pertaining to the proposed construction of a seasonal dwelling on a lot that contains access to a Class IV Highway located at 23 Fuller Road in Underhill, VT. No interested parties attended the hearing.
- [6:53] No conflicts of interest were present, and therefore, no recusals occurred. Those who would be providing testimony were sworn in by Chair Van Winkle.
- [6:54] Mr. Viggato provided a brief overview of the proposed project: he was seeking a building for the construction of a seasonal cabin, which was to be located adjacent to the primary structure (which there was no immediate plan to construct the primary structure). In addition, he planned on upgrading the road from 10 ft. wide to 12 ft. wide, which would conform with the Underhill Road Ordinance. The driveway does traverse a Class II Wetland, however, he has obtained the requisite State permit verifying that the impact to the existing wetlands would be reduced.
- [6:56] Mr. Viggato confirmed that the State allows maintenance to the existing driveway per the 2012 Permit (Exhibit J). He continued to explain that the Vermont Wetlands Program Letter (Exhibit J) allows for the maintenance of the existing driveway whereas the ANR Individual Wetland Permit (Exhibit K) allows for the expansion of the driveway. Mr. Viggato then clarified which site plans by O'Leary & Burke were for their respected permit. Board Member Miller confirmed from Mr. Viggato that there were going to be no substantial changes to the existing driveway, and that the proposed driveway would be upgraded to meet the Underhill Road Ordinance. Board Member McKnight inquired about the mapping of natural wildlife; however, Staff Member Strniste explained that review of this criteria is not part of the site plan review Process, but rather, the subdivision review process.
- [7:03] Chair Van Winkle confirmed from Mr. Viggato that the structure would be primitive, which will not include power, insulation, or water, and will not be occupied for more than

60 days. Mr. Viggato explained that he would be building the cabin and contracting out the construction of the driveway.

- [7:05] Board Member Chapek inquired about the wastewater permit; however, Mr. Viggato explained that he will not be drilling a well or connecting to onsite wastewater. A discussion ensued about whether a Certificate of Occupancy permit was required for a seasonal dwelling. Staff Member Strniste suggested that the decision could stipulate that the Zoning Administrator confirm that the structure was built in the proper location.
- [7:06] Board Member Miller asked if Class IV Roads should be treated like private roads, and why maintenance agreements were not required for these projects. Staff Member Strniste explained that the Selectboard has the discretion to maintain Class IV Road.
- [7:10] A discussion ensued regarding the proposed stipulation Staff Member Strniste provided in the Staff Report regarding the relocation of the driveway further into the Class II Wetlands, if it were to occur.
- [7:13] Chair Van Winkle provided an overview of each section within the Staff Report. Board Member Green asked if site plan review would be required for additional accessory structure. The Board agreed that accessory structures, so long as they are built in accordance to the Regulations in effect at the time, could be administratively approved. However, the construction of a new single-family dwelling would require conditional use review. The applicant reiterated that he does not plan to connect with onsite wastewater. The Board advised him that if there were sewage situations, they would be forced to contact the State and seek enforcement action. Mr. Viggato and Board Member Miller discussed the wastewater/water permit implications. Chair Van Winkle proceeded to provide an overview of Article 5 of the staff report. Board Member Miller inquired about the updated site plan, and that it did not provide a setback distance. Chair Van Winkle stated that as a condition of approval, they could mandate that all construction occurs within the setbacks.
- [7:23] Board Member Miller acknowledged Mr. Demarest's email that was submitted into the record for the Board to consider. Mr. Viggato requested that he would like to maintain the location of the seasonal dwelling, especially if Mr. Demarest would be proposing a 9-Lot subdivision in the future. Chair Van Winkle advised the applicant that they would request that an engineer certify that the driveway he constructed in accordance to the approved plan. A brief discussion remerged about the Certificate of Occupancy issue. Board Member Miller asked if there were any previous requirements pertaining to building envelopes. Chair Van Winkle advised that he was unaware of any as he had performed work on the site a decade or more ago.
- [7:33] Board Member Green inquired if the Board had the ability to limit the amount of vehicular traffic to the site, which Chair Van Winkle answered in the affirmative.
- [7:35] No public comment was provided.
- [7:36] Board Member McKnight inquired about deer wintering yards. Staff Member Strniste entered "Exhibit R – ANR Deer Wintering Yards Map" into the record for the Board to consider. Board Member McKnight stated she did not see some of the conditions usually seen with deer yards, such as hemlocks.
- [7:43] Chair Van Winkle asked if the Board had enough evidence to close the evidentiary portion of the hearing, which the Board answered in the affirmative. He then asked if the Board wanted to deliberative in closed or open session. The Board agreed to vote on whether to approve the application and then enter into deliberative session.
- [7:44] Chair Van Winkle asked for a motion to close the evidentiary portion of the hearing. Board Member Chapek made a motion to close the evidentiary portion of the hearing. Board Member Miller seconded the motion, which was approved unanimously.
- [7:45] Chair Van Winkle asked for a motion to approve the application and continue to

craft the decision in closed deliberative session. Board Chapek made the motion, which was seconded by Board Member Hamelin. The Board unanimously voted to approve the application.

- [7:49] Board Member McKnight volunteered to be the job captain for this application. Staff Member Strniste provided an overview of his access permit timeline and when Mr. Viggato should expect a decision from the Board.

#### 7:55 PM – Other Business

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- [7:55] Staff Member Strniste provided an overview of the Board's upcoming schedule.
- [8:04] Chair Van Winkle asked for a motion to approve the minutes of April 17, 2017. Board Member Chapek made a motion to approve the minutes of April 17, 2017, which was seconded by Board Member Miller. The motion was approved unanimously.
- [8:05] The Board advised that they wished for an engineer from Krebs & Lansing, the independent engineer reviewing the Piney Grove Subdivision Amendment, to be present at the May 22, 2017 hearing.
- [8:11] Job captains were provided for the upcoming applications:
  - May 22, 2017
    - DRB-17-03: Burroughs – Board Member Green
    - DRB-16-06: Chamberlin – Chair Van Winkle
    - DRB-17-07: Piney Grove – Chair Van Winkle
  - June 5, 2017
    - DRB-16-07: Stone – Chair Van Winkle
    - DRB-17-09: Brewer – Board Member Miller
    - DRB-17-02: Tomasi – Board Member Chapek
- [8:18] The Board advised that they would cancel the regularly scheduled meeting on July 3, 2017 due to the Fourth of July holiday.
- [8:20] Staff Member Strniste provided an overview on how the Planning Commission is progressing with the multi-family dwelling issues.
- [8:26] Staff Member Strniste provided an update regarding the letter the Board urged to be sent to O'Leary & Burke Civil Associates regarding the Warner Creek Appeal, as well as provided an overview regarding the trail issue pertaining to the Albertini subdivision.
- [8:32] Closed deliberative session commenced.
- [9:34] Board Member Chapek made a motion to come out of closed deliberative session. Board Member Turkos seconded the motion, which was approved unanimously.
- [9:35] Board Member Green made a motion to adjourn. Board Member Turkos seconded the motion, which was approved unanimously.

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Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 05/01/2017 meeting of the DRB were accepted this 5 day of JUNE, 2017.



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Charles Van Winkle, Chairperson