

**Town of Underhill
Development Review Board Minutes
May 21, 2018**

Board Members Present:

Charles Van Winkle, Chair
Matt Chapek
Mark Green
Daniel Lee
Penny Miller
Karen McKnight
Stacey Turkos

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Director

Others Present:

Peter Duval (25 Pine Ridge Road)
Jory Curran (81 Maple Leaf Road)
Dennis Curran (81 Maple Leaf Road)
Paul O'Leary (13 Corporate Drive, Essex Jct.)
Phil Jacobs (73 Lower English Settlement Rd.)
Aaron Brill Hart (16 Jacobs Hill Road)

6:35 PM – 05/21/2018 DRB Public Meeting

- DRB Members convened at Town Hall at 6:30 PM after attending a site visit 17 Jacobs Hill Road, formerly 16 Harvest Run Road.
- [6:35] Chair Van Winkle asked for public comment, and invited Mr. Peter Duval to speak if he wished. Mr. Duval advised that the application was clearly submitted on November 2, 2017. Chair Van Winkle provided an overview of the statutory issue that emerged during Mr. Duval's application to those that were in the audience. He then advised that he wanted to take a straw vote on which regulations to apply. Mr. Duval informed the Board that he submitted a written request to stay the application. Staff Member Strniste provided an explanation of what a stay is in relation to a continuance. Chair Van Winkle provided an explanation of 24 V.S.A. § 4449(d).

6:41 PM – Old Business

25 Pine Ridge Road (PR025), Underhill, Vermont

Docket #: DRB-17-16

- [6:41] Discussed ensued about Mr. Duval's application, specifically on the 24 V.S.A. § 4449(d) issue. Chair Van Winkle advised that when an application for a zoning permit is submitted, the Zoning Administrator can either approve, deny, or refer to the Development Review Board. Board Member Miller asked if the Staff ever explicitly states that a permit enter into a state of abeyance, and acknowledged that there are no official checklists. Chair Van Winkle opined that he did not think applying the 2018 Regulations was fair to Peter since there is no strict process adhered too. Board Member Miller made a motion to rule in favor of Mr. Duval and apply the 2014 *Unified Land Use & Development Regulations* as they pertained to his motion. The motion was seconded by Board Member Turkos. Board Member Green stated for the record that he did not believe the application was consider complete when it was submitted; however, he agreed to apply the 2014 Regulations in the interest of fairness. Staff Member Strniste advised that completeness is distinguishable from asking for more information. Chair Van Winkle opined that when a meeting is warned then the application is determined complete. The Board voted unanimously that the 2014 Regulations were the appropriate set of regulations to apply. Mr. Duval submitted additional materials into the record.
- [6:56] A discussion ensued about whether the hearing should be continued again. Mr. Duval opined that the interested parties would probably want to see the new information.

Staff Member Strniste asked the Board if the interested parties knew new information could be submitted at the evening's meeting. The Board advised yes. Chair Van Winkle advised that he may want to look at the application and ask questions, and recommended continuing the hearing further. Staff Member Strniste advised that the Board could always reopen the hearing to ask questions; however, it would require the hearing to be noticed again. The Board discussed process. Board Member Green opined that not extending the hearing to let the neighbors comment is contrary to the purpose of keeping the evidentiary portion of the hearing open to the 21st, as closing the oral testimony part of the hearing on May 7th and keeping open the evidentiary portion of the hearing until May 21st was to allow the neighbors/interested parties the ability to provide comments. Chair Van Winkle opined that if they were to reopen the hearing, then the questions should be specific and narrow. Board Member Miller made a motion to close the evidentiary portion of the hearing, which was seconded by Board Member Turkos. The motion was approved unanimously.

7:07 PM – Curran Sketch Plan Review Meeting

81 Maple Leaf Road (ML081), Underhill, Vermont

Docket #: DRB-18-09

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- [7:07] Chair Van Winkle began the meeting by explaining the procedure for a sketch plan review meeting. The applicants, Marjory and Dennis Curran, were before the Board to discuss the application pertaining to a proposed two lot subdivision of land they own at 81 Maple Leaf Road (ML081) in Underhill, Vermont. No other parties were in attendance. No conflicts of interest were identified before the commencement of the meeting.
 - [7:09] Mr. Curran began by informing the Board that there is an existing single-family dwelling on the lot, south of Maple Leaf Road, that met all of the setback requirements. He and his significant other are looking to subdivide the land and sell the house, but they would keep the remaining land as one lot. A discussion ensued about the lot possibly being in two zoning districts.
 - [7:11] Clarification was provided about the configuration of the proposed lots. The Board discussed the implications of the definition "contiguous land" under Article XI. A discussion about access ensued and whether the applicants would need an access permit if they did not have any plans to build on the lot. Mr. Curran advised that time was of the essence. The Board and Mr. Curran discussed the proposed acreage requirements for each lot.
 - [7:17] Mr. Curran advised that he was intending to look at various septic designs. He then asked the Board to waive preliminary subdivision review. Further discussion about requiring an access permit ensued. Staff Member Strniste advised that some form of correspondence should be obtained from the Selectboard advising that an access permit is not required, or a preliminary access permit should be obtained. Board Member Stacey provided an overview of the Selectboard's process and scheduling. Ms. Curran asked about, and the Board explained, the process going forward. Board Member advised that the subdividing process is a long one. Chair Van Winkle advised that part of the subdivision process ensures that proposed development will not pollute groundwater and there will be adequate access. Board Member Miller advised that a professional survey and site plan will need to be submitted.
 - [7:29] Staff Member Strniste provided an overview of his staff report, as well as revisiting the "contiguous land" definition. Board Member Turkos then stated that she knew the Currans, and if they were uncomfortable with her drafting the sketch plan review letter, she would recuse herself. The Currans informed that they were not uncomfortable. Board Member Turkos made a motion to accept the sketch plan application and waiver preliminary subdivision review. Board Member Miller seconded the motion and was approved unanimously.

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- [7:32] Chair Van Winkle began the meeting by providing an overview of a subdivision review amendment hearing. He then explained the hearing procedures for the evening's hearing and swore in those who wished to speak. Staff Member Strniste had reminded the Board that the sketch plan application in February had been reclassified to a subdivision amendment hearing. Chair Van Winkle asked if there were any ex parte communications with the applicant or any conflicts of interest. No ex parte communications had been made, nor were any conflicts of interest were identified. Three additional exhibits were added to the record: the Wastewater System and Potable Water Supply Permit; an Ability to Serve Memorandum from the Mount Mansfield School District; correspondence from Dori Richiede.
 - [7:41] Mr. Paul O'Leary, who represents the applicant, Phil Jacobs, was before the Board. He advised that the applicant is looking to subdivide 17 Jacobs Hill Road. He provided an overview of the wastewater systems, driveways, single-family dwelling locations and, building envelope. Mr. O'Leary then provided an explanation of how the ravine impacts the proposed development sites. He informed the Board that the wastewater/water permits were in hand and that they were waiting on stormwater permits, which will accommodate a 10-year storm. Mr. O'Leary provided a more in-depth overview of the driveway layout and explained why a shared driveway was impractical – the 15 ft. difference in elevation over the short difference makes meeting the 10% grade impossible.
 - [7:45] Mr. O'Leary answered Board Member McKnight's question pertaining to the flags she saw during the site visit. He then confirmed that utilities will be underground. Board Member McKnight inquired about ledge. Mr. O'Leary informed that he did not think there would be much ledge in the driveway locations; however, possibly in the house location for Lot 8. He informed the Board that he anticipates limiting clearing around the houses, as they were trying to protect the ravine. Board Member Miller confirmed with Mr. O'Leary that his interpretation of building envelopes equates with clearing. Chair Van Winkle inquired about the building envelopes being too small for accessory structures such as pools. Mr. O'Leary advised that there should be enough space, and that often, the landowners put themselves in precarious situations by siting the house footprint in the middle of the building envelopment. Board Member Turkos asked how many house were in the total subdivision; Mr. O'Leary answered that 10 with this subdivision. Reference was made to the Richiede correspondence.
 - [7:55] Board Member Miller inquired about the excess dirt seen during the site visit. Mr. O'Leary informed the Board that the direct was from the swales.
 - [7:58] Staff Member Strniste provided an overview of his staff report. Topics of discussion included the turn radii for the driveways and turnarounds, Section 3.18, pedestrian easements, and the Underhill-Jericho Fire Department possibly having concerns with the Lot 8 driveway. Mr. O'Leary advised that the new lots would have to join the Homeowner's Association.
 - [8:04] Mr. O'Leary provided an overview of the stormwater system in place. He also informed the Board that the stormwater permit in place/proposed does not require maintenance and ditching along harvest run. He then provided an overview of the stormwater permitting enforcement procedures performed by the State. Board Member Chapek inquired about how much cumulative impervious surface is in the Jacobs Subdivision; Mr. O'Leary estimated about three acres. Board Member Green asked Mr.

O'Leary if the lack of neighbors attending the hearing was an indication that the stormwater infrastructure is working properly. Mr. O'Leary responded yes, and opined that the infrastructure in place was probably more than necessary. Mr. O'Leary provided an explanation about the purpose of a spreader (or overflow pond), which is reduce the velocity.

- [8:14] Board Member Miller read the correspondence from Dori Richiedi into the record. Mr. O'Leary estimated that approximately 1/3 of Lot 9 will be cleared and 1/2 of Lot 8 will be cleared. A discussion ensued about the maintenance along Harvest Run. While Mr. Brillhart was attending the meeting, he advised he was just listening.
- [8:20] The Board advised that they had enough information to make a ruling on the application. Board Member Turkos made a motion to close the evidentiary portion of the hearing, which was seconded by Board Member Miller. The Board voted unanimously to approve the application. Chair Van Winkle provided an overview about the process going forward. Board Member Turkos made a motion to vote to approve the application and craft the decision in closed deliberative session. Board Member Miller seconded the motion. The motion was approved unanimously.
- [8:23] Board Member Turkos made a motion to enter into closed deliberative session. Board Member Miller seconded the motion, which was approved unanimously.

8:25 PM – Other Business

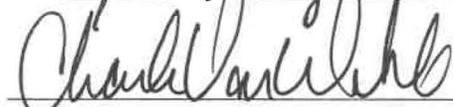
- [8:25] Staff Member Strniste advised that the Board could approve the minutes of June 4, 2018. He then informed the Board that the only hearing on the agenda for June 4 is the Howard variance application. The Board agreed to a working session for the June 18 meeting.
- [8:35] The Board discussed their process of voting in open session and deliberating in closed session.
- [8:37] The Board discussed the implications and process had they continued the Duval hearing.
- [8:43] Staff Member Strniste advised that the Board should review the checklists and develop a more manageable process to determine complete applications.
- [8:50] A discussion ensued about the interplay between the Road Ordinance, the Land Use & Development Regulations, as well as the review process.
- [8:54] Board Turkos made a motion to enter into deliberative session. The motion was seconded by Board Member McKnight, and approved unanimously.

Board Entered into Deliberative Session

- [9:30] Board adjourns.

Submitted by:
Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 05/21/2018 meeting of the DRB were accepted
this 21 day of May, 2018.



Charles Van Winkle, Development Review Board Chair