

**Town of Underhill  
Development Review Board Minutes  
August 6, 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:**

Brad Holden (60 Covey Road)  
Justin Willis (P.O. Box 1001, Jericho, VT)

Katy Lesser (68 Lower English Settlement)  
Ian Roos (68 Lower English Settlement)  
John Pedrin (54 Lower English Settlement)  
Dianne Terry (34 Pine Ridge Road)  
Steve Coddling (34 Pine Ridge Road)  
Peter Duval (25 Pine Ridge Road)  
Heidi Duke (16 Pine Ridge Road)  
Jamie Duke (16 Pine Ridge Road)  
Geoffrey Duke (16 Pine Ridge Road)  
Barbara Koier (15 Pine Ridge Road)  
John Koier (15 Pine Ridge Road)  
John Hardacre (26 Pine Ridge Road)  
Marilyn Hardacre (26 Pine Ridge Road)

**6:30 PM – 08/06/2018 DRB Public Meeting**

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- DRB Members convened at Town Hall at 6:25 PM.
- [6:30] Chair Van Winkle asked for public comment. No public was in attendance, and therefore no public comment was provided.

**6:32 PM – Bingham Sketch Plan Review Meeting**

**Docket #: DRB-18-13**

**59 Lower English Settlement Road (LE059), Underhill, Vermont**

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- [6:32] Since there was no public comment, Chair Van Winkle began the sketch plan review meeting slightly early by explaining the procedure for a sketch plan review meeting. The applicant's representatives, Brad Holden and Justin Willis, were before the Board to discuss the application pertaining to a 3-Lot subdivision of land at 59 Lower English Settlement Road. Three members of the public were in attendance. No ex parte communications between the Board and applicant occurred and no conflicts of interest were identified. No additional exhibits were added into the record.
- [6:34] Mr. Brad Holden provided an overview of the proposed project: a 3-Lot subdivision of a 14.3 acre lot. The current, existing lot has a single-family dwelling and out buildings. There will be a shared right-of-way for Lots 1 & 2. A state representative from the Department of Environmental Conservation visited the site on May 2, 2018 and determined that there were wetlands present. The applicant hired an engineering firm to delineate those wetlands. Mr. Justin Willis advised that the test pits were conducted. At this time, the applicant has not obtained access permit approval from the Selectboard. Mr. Holden provided some clarification about the site plan. Mr. Willis advised that the proposal was to have Lot 3 accessed by its own driveway from Lower English Settlement Road. The fallback, would be to have a shared driveway for all three lots; however, access the house location from the shared driveway would cause more site disturbance. Mr. Ian Roos advised that he did not like the driveway to the proposed Lot 3 being sited directly across from his driveway, as it would complicate snow removal.
- [6:40] Staff Member Strniste provided an overview of his comments provided in the Staff

Report.

- [6:42] Mr. Holden informed the Board that he would reach out to the abutting landowner who submitted a letter of concern (the MacDonalds). Mr. Holden informed the Board that the MacDonalds were concerned with drainage and runoff from the proposed Lot 2; however, he further advised that the runoff from Lot 2 would not make it to their property due to the topography.
- [6:46] Board Member Green asked a clarification question about the letter submitted by the MacDonalds. Board Member Chapek inquired about the replacement system for Lot 1 being on Lot 3. Mr. Willis advised that there was really no good location on Lot 1, and by placing it on Lot 3, it would be enough to pursue a state permit. Mr. Holden informed the Board that the proposal was not fully engineered, and what was depicted on the site plan was more a placeholder. Board Member Green asked if the Board should be concerned about the curb cuts at this time; Chair Van Winkle advised no. Board Member Lee inquired about the replacement system. Board Member McKnight inquired about deeryards and habitat blocks. Mr. Willis informed that there were no deeryards and that the identified habitat block attempts to follow the tree line. A clarification question was asked about the wetlands.
- [6:50] The Board unanimously voted to classify the subdivision as a minor subdivision. Board Member Turkos made a motion to waiver preliminary subdivision review. The motion was seconded by Board Member Chapek. Chair Van Winkle explained to the subdivision process to the attending public to the sketch plan review meeting. Chair Van Winkle answered Board Member Miller's question, specifically advising that the final subdivision review hearing could be continued should any concerns emerge during the hearing. Board Member Miller's questions pertaining to interested parties providing input during the access permit process was answered in the affirmative. Board Member Miller advised that no red flags were identified by the zoning administrator, and therefore, she was comfortable going straight to final subdivision review. Board Members Turkos and Lee agreed. All were in favor for waiving preliminary subdivision review. Chair Van Winkle asked for a motion to accept the sketch plan review application. The motion was made by Board Member Chapek, seconded by Board Member Miller, and approved unanimously.

**7:03 PM – Duval Reconsideration Request Meeting  
25 Pine Ridge Road, Underhill, Vermont**

**Docket #: DRB-17-16**

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- [7:03] Chair Van Winkle informed all in attendance that the submitted reconsideration request was the first time that the Board received such an application. He then provide a brief overview with how he wanted to conduct the evenings meeting, specifically that he wanted the discussion to be narrow and focus on the new information being presented. While the meeting was not a public hearing, Chair Van Winkle asked for those who wished to speak to be sworn in to ensure the integrity of their statements. Board Member Miller asked for those members of the public to keep their comments short – if possible.
  - [7:09] Applicant, Peter Duval, advised that he thought the motions to reconsider the application was to reconsider the decision based on the information in the record. He then advised that he had new photos to submit, though he informed the Board that he felt that there was ample information in the existing record to rule positively. Mr. Duval then informed the Board that it is his liberty to organize his home as he sees fits – if he needs more space or wants more kitchens, then he should be able to do that accordingly. Mr. Duval then advised that the decision pertained to a straw project using straw regulations. Chair Van Winkle advised that the applicants presentation was argumentative, and that the Board wanted to hear information that was new that they hadn't considered. Mr. Duval

advised that the Board used the wrong Town Plan in making its decision, and that the 2014 zoning regulations were based on the 2010 Town Plan. Therefore, the 2015 Town Plan should not apply. He then informed the Board that they are not to create regulations, and that they cannot invent neighborhoods. By ruling the way, the Board did, the applicant contended that there would be no multi-family dwellings in Underhill due to the presence of single-family dwellings everywhere in Town.

- [7:14] When referring to a “straw project,” Board Member Chapek asked the applicant what he meant by “straw.” Mr. Duval responded by stating that the Board re-described the project to find reasons to deny it, as well as creating new thresholds. A discussion ensued about the screening mechanisms that Mr. Duval was proposing to implement. He gave a brief overview of the pictures that he submitted into the record.
- [7:20] Mr. Duval then expressed his disappointment that the Board still seemed to be debated the issue of bank and slope. He informed the Board that all the proposed site work would satisfy the setback requirements. Chair Van Winkle asked Mr. Duval if it was fair to say that he (Mr. Duval) disagreed with the Board’s conclusion. Mr. Duval responded that he has a problem with the information that the decision was based on. Board Member Miller clarified the applicant’s stance: that the Board made the decision on the wrong information, and that the information that he is presenting is the correct information that the Board should base their decision on. Chair Van Winkle advised that they are an interpretative Board and suggested that the applicant disagreed with their interpretation. Mr. Duval advised that he was presenting new information by informing the Board that there is no mention of the Underhill Village Center in the 2010 Town Plan. He then informed the Board that the Water Conservation District is predominantly residential. Mr. Duval then stated that the Board was suggesting the wrong number of parking spaces. He then provided a brief overview of the information provided in regards to the landscaping and screening.
- [7:32] Ms. Dianne Terry, from 34 Pine Ridge Road, asked about Mr. Duval’s ability to appeal the reconsideration decision. Chair Van Winkle advised that any decision made by the Board is appealable to the State court system. She then asked if both landowners have to sign off on an application. Staff Member Strniste advised that the applicant must work in cooperation with other landowners, as stated in the definition of “applicant.” Mr. Steve Coddington, from 34 Pine Ridge Road, advised that he was a forester by education and that 90% of trees described by Mr. Duval were junk vegetation. He also advised that Mr. Duval purchased the house knowing the neighborhood was for single-family dwellings, and that if he wanted something more, than he should move.
- [7:36] Mr. Jamie Duke, from 16 Pine Ridge Road, inquired about Mr. Duval’s statement about wanting more kitchens. He advised that if all he wanted was more kitchens, then that would be a substantial redefining of the project that he did not think anyone would be opposed too. Board Member Green inquired about the same statement pertaining to the kitchen. He inquired if there was anything in the regulations restricting the number of kitchens. Chair Van Winkle advised that there is no limit on the number of kitchens a homeowner can have. Mr. Duval advised that the moment you add kitchens, you are setting the number of dwelling units, which is what land use regulations control.
- [7:42] Ms. Heidi Duke, from 16 Pine Ridge Road, advised that she was not in favor of the project for the reasons stated in the previous hearings. Mr. Geoffrey Duke, also from 16 Pine Ridge Road, inquired about how well screened the project would actually be, as the proposed development would case some elimination of trees. He continued to state that there seems to be an inconsistency pertaining to the screening techniques the applicant presented.
- [7:46] Ms. Barbara Koier, from 15 Pine Ridge Road, advised that she was opposed to the

project, specifically mentioning that Mr. Duval has a tendency on not maintaining the property, which is what she would be worried about. Mr. John Koier, also from 15 Pine Ridge Road, that he remains opposed to the project. Ms. Diane Hardacre, from 26 Pine Ridge Road advised that she had concerns with the plans as originally presented. She informed the Board that the applicant had proposed a long construction time table, and as an adjacent homeowner, she would not be please about such a long timeline of construction. Mr. John Hardacre, also from 26 Pine Ridge Road, opined that he had concerns that the 3-story building would not be adequately screen.

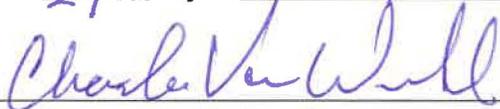
- [7:48] Mr. Duval informed the Board the extraordinary request of a massing illustrated that the structure would be screened. He then informed that the development timeline would occur in phases, and that construction would not occur over the duration of the proposed timeline. He lastly advised that the screening buffer is as deep into the property as other properties in the vicinity if not deeper.
- [7:51] Board Member Turkos made a motion to enter into closed deliberative session, which was seconded by Board Member McKnight. The motion was approved unanimously.

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Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 08/06/2018 meeting of the DRB were accepted  
this 29 day of October, 2018.



Charles Van Winkle, Development Review Board Chair