

**Albert M. Abdinoor**  
**22 Warner Creek**  
**Underhill, Vermont 05489**

Sent via email on September 28, 2020

Re: DRB Docket Number-19-10, Parcel ID code WC-037

Dear Honorable Members of the Town of Underhill Development Review Board:

As the owner of Warner Creek Lot 3, familiarly known as #22 Warner Creek, and as a 25% shareholder of the Upper Warner Creek Home Owners Association (HOA), I am writing to express my concerns with the proposed subdivision requested in DRB Docket Number-19-10, Parcel ID code WC-037.

Firstly, we would ask that the Board acknowledge that the Upper Warner Creek HOA as an abutting property owner to the proposed subdivision. Our HOA owns the roadway crossing Warner Creek Lot 4 and entering onto the proposed Lot 5A. As an abutting landowner, our Association did not receive any notice of the proposed application as required by regulation. Further, since the lower Warner Creek roadway is also impacted by this application, I do not believe that all of the lower Warner Creek landowners received the proper notice of this application. Therefore, this application cannot be approved until all of the abutting property owners are given sufficient notice under the law, so that all impacted parties will have the time to seek any legal and engineering advice in regard to this matter. See Applicant's Exhibit G, Certificate of Service.

Secondly, in its testimony to the Board on September 21, 2020, the applicant quickly dismisses the Board's request for evidence of a road maintenance agreement with the Upper Warner Creek HOA, as being covered in the existing wording contained in the applicants legal easement. However, I would point out to the Board, this wording only addresses the regular and routine road expenses of the upper portion of the roadway to be shared equally, and in no way contemplates the impact of construction vehicles nor any remedies in the event our roadway is damaged or adversely impacted by the applicant, except in the instance of misconduct. Our HOA needs to have written assurance from the applicant that he/she will immediately repair any damages to the roadway caused by the applicant, at the sole expense of the applicant, including the reimbursement of any attorney fees and legal expenses, attributable to any new development on Lot 5A. I will further point out to the Board, that the existing easement wording only extends to the Upper Warner Creek roadway, and in no way creates an agreement with the lower landowners of the Warner Creek roadway. Since the applicant also intends to use the lower portion of the road to access his/her property, I believe the applicant will also need a separate road maintenance agreement for the lower portion of the roadway.

Moreover, the applicant asserts he/she should not be responsible for widening/upgrading the existing roadway infrastructure to meet the requirements of the 2018 Underhill Road, Driveway and Trail Ordinance, as adopted on December 18, 2018. As you already know, our community was completed in 2014 and the roadway may be deficient relative to these requirements. The applicant has not demonstrated conditions for good cause for a waiver under this Ordinance as required. Any new development in our community should include the cost of bringing the shared roadway into compliance with the Ordinance. The associated cost can easily be built into the selling price of Lot 5A. If the Board will allow the applicant to avoid these costs, who will be financially responsible once the applicant sells Lot 5A and the roadway infrastructure is later deemed to be inadequate? We will ask that the Board's approval of this application require the roadway be widened/upgraded by the applicant to meet the 2018 Underhill Road, Driveway and Trail Ordinance requirements. If not, we will ask that both Warner Creek Lot 3 individually, and the Upper Warner Creek HOA separately, to be held harmless and indemnified financially from any roadway widening/upgrade expense associated to this subdivision application.

Lastly, I would like to address the proposed dwelling on Lot 5B. The proposed dwelling is less than 1,000 feet from the Warner Creek community and separated only by fine forest combustibles. This proposed dwelling will have an uninterrupted electricity supply, combustible fuels for heat, and presumably not occupied on a full-time basis since it is only accessible by trail. We are deeply concerned that our community will be at an increased fire risk, especially during any drought conditions. As a forward-thinking body and the likely impact of future global climate changes, the Board must require any proposed dwelling on Lot 5B to be accessible by emergency vehicles in the event of fire. The applicant has requested a waiver of fire protection and emergency services as part of his/her application. The applicant may or may not be legally able to waive his or her own fire protection rights, that's for the Board to decide. However, the applicant cannot waive the fire protection rights granted to our community as taxpayers of the Town of Underhill. We ask that the Board carefully consider the rights of all parties affected by this decision.

Thank you for your thoughtful consideration of these issues.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'A. Abdinoor', with a long horizontal flourish extending to the right.

Albert Abdinoor

(850) 445-7808