

**Town of Underhill
Development Review Board Minutes
August 19, 2019**

Board Members Present:

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

Others Present:

Peter Duval (25 Pine Ridge Road)
Keith Carter (39 Hobart Hill Road)
Tara Carter (39 Hobart Hill Road)
Steve Coddling (34 Pine Ridge Road)
John Koier (15 Pine Ridge Road)
Barbara Koier (15 Pine Ridge Road)
Tom May (37 Pine Ridge Road)
John Hardacre (26 Pine Ridge Road)

Staff/Municipal Representatives Present:

Andrew Strniste, Zoning Administrator

B.M.C.
6:33 PM - 08/19/2019 DRB Public Meeting

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- DRB Members convened at Town Hall around 6:25 PM.
 - [6:38] Chair Van Winkle commenced with the evening's meeting. No adjustments to the agenda were made. No public comment was provided.

**6:34 PM - Carter Sketch Plan Review
39 Hobart Hill Road (HB039), Underhill, Vermont**

Docket #: DRB-19-09

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- [6:34] Chair Van Winkle began the evening's hearing by explaining the meeting procedures for a sketch plan review meeting. The application pertains to a 2-Lot Subdivision of land at 39 Hobart Hill Road, which is owned by Keith & Tara Carter – the Applicants. The Applicants were before the Board to discuss the application. No other people were attendance to comment about the application. No ex parte communications between the Board and the Applicants were identified, nor were any conflicts of interest identified. No additional exhibits were submitted into the record.
 - [6:37] The applicants provided background about the project – a 2-Lot subdivision of a 60 acre property, with the vacant lot remaining a “wood lot.” Staff Member Strniste informed the Board about the existing access way and what is to be expected during the subdivision review process. Board Members McKnight and Miller confirmed with the Applicants that the existing lot was part of a previously approved 2-Lot subdivision. Inquiries by the Board were made about any existing deed limitations or road maintenance agreements.
 - [6:47] Board Member McKnight made a motion to classify the subdivision as a “minor” subdivision. The motion was seconded by Board Member Miller and approved unanimously. Board Member McKnight made a motion to combine preliminary and final subdivision review. The motion was seconded by Board Member Chapek and approved unanimously. Board Member Miller made a motion to accept the sketch plan review application. The motion was seconded by Board Member McKnight and approved unanimously.

**6:53 PM - Duval Court Ordered Conditional Use Review
25 Pine Ridge Road (PR025), Underhill, Vermont**

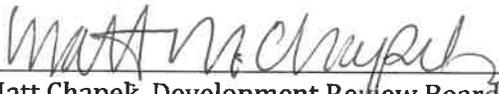
Docket #: DRB-17-16(2)

- [6:53] Chair Van Winkle began the evening's hearing by explaining the hearing procedures for the court ordered conditional use review hearing, which was granted to allow the Board to review the wastewater design as it relates to the conditional use review criteria. The applicant, Peter Duval, was before the Board to discuss the wastewater design as it relates to the conditional use criteria. The subject property is located at 25 Pine Ridge Road in Underhill, Vermont, which is owned by the aforementioned Applicant and his significant other, Ellen Duval. Various neighbors were in attendance. No ex parte communications between the Board and the Applicant were identified, nor were any conflicts of interest identified. No additional exhibits were submitted into the record at this time.
- [6:57] Mr. Duval informed the Board that the only exhibit he submitted for review was his wastewater system design, exhibits labeled as Exhibit III & JJJ. He then expressed his discontent with the Town's attorneys not responding to his questions/emails. Mr. Duval submitted Exhibit RRR – Email Correspondence Sent to Staff on July 15, 2019. Mr. Duval informed the Board that the wastewater design hasn't changed since the McCain submittal. Mr. Duval informed the Board about the number of qualified individuals who have worked on the project.
- [7:12] Discussion ensued about how far the wastewater system was located from Crane Brook and the fact that Crane Brook was not identified on the drawing. Mr. Duval suggested that the review of the wastewater design was not in the purview of the Development Review Board. Board Members provided examples of engineers working with the DRB to modify the wastewater system location to address noted concerns. Discussion ensued about the whether the setback should be from the "top of slope" v. "top of bank" as depicted in Section 3.19. Mr. Duval submitted the following two exhibits regarding the setback from Crane Brook: Exhibit SSS – VCGI Map Depicting Contour Lines & Exhibit TTT – VCGI Map Depicting Lidar Imagery. Mr. Duval informed the Board that he felt as if he was being singled out for regulatory abuse. He then inquired with the Board if they thought wastewater systems were considered development.
- [7:45] Mr. Duval answered Board Member Chapek's question, and confirmed that the wastewater system will be located on a slope that is greater than 15%. Mr. Duval submitted Exhibit UUU – McClellan Wastewater System Site Plan (RV284) and Exhibit VVV – Whelan Wastewater System Site Plan (BE147) into the record. Mr. Duval advised that the submitted exhibits was evidence illustrating that wastewater systems are not development. He then informed the Board that he needed to submit this evidence now as the issue will be discussed once back in court - whether the Town can regulate wastewater. Mr. Duval informed the Board he challenged exhibits Staff Member Strniste inserted into the record. He then advised that there was a serious deficiency in the DRB review process since the Board didn't know the difference between slope and bank.
- [8:00] Mr. John Koier, 15 Pine Ridge Road, inquired about isolation and separation shields. He also vocalized his concern about the proposed structure being three stories high. Mr. John Hardacre, 26 Pine Ridge Road, expressed his concerns about the septic system potentially polluting his well and not wanting his well to run dry.
- [8:07] Mr. Steve Coddling, 34 Pine Ridge Road, vocalized his discontent about the length of time that has elapsed from the initial hearing to the present. In addition he expressed concerns about the Act 250 permit and property devaluation.
- [8:10] Ms. Barbara Koier, 15 Pine Ridge Road, inquired about other applications where single-family dwellings were converted into multi-family dwellings. Mr. Tom May inquired about the next steps in the process.
- [8:13] Mr. Duval informed the Board that his project's wastewater system would be the best system in Underhill. Board Member Lee asked if the isolation shield would encompass

- Crane Brook; Mr. Duval answered in the affirmative.
- [8:19] Board Member Green advised that he did not have enough information to make a decision on the information submitted, as there was not evidence documenting the setbacks. Mr. Duval responded by saying that the surveyor declined to put that information on the plan. Further discussion ensued about the "top of bank" v. "top of slope." The Board discussed the additional information that it would like to see on the site plan.
 - [8:33] Board Member Lee confirmed with Mr. Duval that the leachfield would be built on a steep slope of 15%, and suggested that the Applicant submit the necessary documentation to ensure conformance with the zoning regulation, specifically the steep slope regulations.
 - [8:44] Board Member Green made a motion to continue the hearing to Monday, September 16 @ 7:00 PM. The motion was seconded by Board Member McKnight and approved unanimously. The Board requested that the site plan depict the "top of slope" and "top of bank" as depicted in 3.19 and defined in Article XI (see definition of "Stream Bank") of the *Unified Land Use & Development Regulations*. Measurements should be provided for: 1) the distance between the edge of the wastewater system and the "top of slope," 2) the distance between the "top of slope" and the edge of the waterway, presumably the "top of bank," and 3) the distance between the edge of the wastewater system and the edge of the waterway, presumably the "top of bank." Additionally, the Board asked for information related to the steep slope criteria. Board Member McKnight made a motion to enter into deliberation, which was seconded by Board Member Green. The motion was approved unanimously.
 - [9:10] The Board adjourned.

Submitted by:
Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 08/19/2019 meeting of the DRB were accepted
this 7 day of OCTOBER, 2019.



Matt Chapek, Development Review Board Clerk