



# Town of Underhill

## Development Review Board

### Appeal Request Findings & Decision

February 26, 2018

Ms. Lynn McLaughlin  
414 Cilley Hill Road  
Underhill, VT 05489

*Re: Appeal of Zoning Administrator's Decision to deny an after-the-fact Temporary Structure/Use Permit Application pertaining to the ancillary barn structure at 414 Cilley Hill Road in Underhill, Vermont and the subsequent preliminary violation letter asserting that the building is improperly constructed within a floodplain, dated 1 December 2017.*

Dear Ms. McLaughlin:

In response to your appeal of the above referenced action, the Development Review Board conducted a site visit on the subject property on 20 January 2018 and received testimony at a public hearing in the Town Hall on 22 January 2018. For additional information, refer to the Development Review Board information package for Docket 18-02 McLaughlin, and the minutes of the Underhill Development Review Board meeting as adopted on xx February 2018.

In consideration of the matter before us the Board reviewed the following evidence:

- a) Exhibit A – Hearing Procedures
- b) Exhibit B – Appeal Application Form, dated 12/26/17
- c) Exhibit C – Applicants' Appeal Materials, dated 12/14/17
- d) Exhibit D – Zoning Administrator's Construction Inquiry, dated 10/18/17
- e) Exhibit E – Temporary Use Permit Application, dated 10/20/17, rejected 12/1/17
- f) Exhibit F – Variance Request Application, dated 12/26/17
- g) Exhibit G – Certificate of Service, dated 12/22/17
- h) Exhibit H – Burlington Free Press Notice, dated 12/30/17
- i) Exhibit I – 414 Cilley Hill Road Appeal/Variance Request Timeline

After reviewing the evidence presented with the appeal and additional evidence presented at the hearing, we find that correct procedures were not followed to make a definitive determination of the extent of your barn's impingement on the floodplain per Section 6.3.D of the Underhill Unified Land Use and Development Regulations (UULDR), amended 2014:

*If uncertainty exists with respect to the boundary of a Special Flood Hazard Area (SFHA) or floodway, the boundary shall be determined by the Zoning Administrator in consultation with the National Flood Insurance Program Coordinator at the Vermont Agency of Natural Resources. If the applicant disagrees with the determination made by the Zoning Administrator, a Letter of Map Amendment (LOMA) from FEMA shall constitute proof.*

No evidence was submitted that the Zoning Administrator had determined the boundary of the Special Flood Hazard Area in consultation with the National Flood Insurance Program Coordinator.

Given this insufficient evidence, the Development Review Board overturns the Zoning Administrator's action of denying the Temporary Structure/Use application and instructs the Zoning Administrator to issue a Temporary Structure/Use permit, good for one year from the date of this letter.

Relative to your request for a variance to allow your barn to remain in its location, the DRB dismisses the request without prejudice, again finding lack of clear evidence regarding the location of the barn relative to the floodplain.

If you have not removed or relocated your barn structure by the end date of the Temporary Structure/Use permit, you must apply for a permit for a permanent structure; otherwise, typical enforcement actions can be taken. The DRB encourages you to contact the Zoning Administrator to discuss methods for resolving your situation.

Sincerely,

A handwritten signature in black ink that reads "Charles Van Winkle". The signature is written in a cursive, flowing style.

Charles Van Winkle  
Chairman, Underhill Development Review Board

cc: Brad Holden, 60 Covey Road, Underhill, VT 05489