



# Town of Underhill

## Development Review Board

### Findings and Decision

---

#### SUBDIVISION AMENDMENT REVIEW APPLICATION OF MICHAEL & ELIZA KRAMER FOR ROAD/DRIVEWAY WIDTH WAIVER REQUEST

In re: Michael & Eliza Kramer  
3 Acer Ridge (AR003)  
Underhill, VT 05489

Docket No. DRB-19-06

**Decision:** Approved with conditions (see Section V – Decisions and Conditions of Approval)

#### **I. INTRODUCTION AND PROCEDURAL HISTORY**

This proceeding concerns the subdivision amendment review application submitted by the applicants, Eliza & Michael Kramer, regarding a road/driveway width waiver request for a portion of the shared driveway located on property the applicants own at 3 Acer Ridge (AR003) in Underhill, Vermont.

- A. On June 19, 2019, the applicants filed a subdivision amendment review application for the abovementioned project. Planning Director & Zoning Administrator, Andrew Strniste, received the application and determined that it was complete shortly thereafter. A site visit was scheduled to commence on Monday, July 15, 2019 at 6:00 PM, while the hearing date was scheduled for 6:35 PM at Underhill Town Hall on Monday, July 15, 2019.
- B. On June 26, 2019, notice regarding the subdivision amendment review hearing was mailed via certified mail to the following property owners adjoining the property subject to the application:
  1. Applicant: AR003 – Michael F. & Eliza R. Kramer, 3 Acer Ridge, Underhill, VT 05489
  2. AR004 – Suzanne K. Kusserow Trustee, P.O. Box 125 Underhill Center, 05490
  3. AR005 – John B & Colleen A. Gay, 5 Acer Ridge, Underhill, VT 05489
  4. AR008 – Adrie S. Kusserow & Robert J. Lair, 8 Acer Ridge, Underhill, VT 05489
  5. BE013 – Christopher & Melanie Poley, 13 Beartown Road, Underhill, VT 05489
  6. BE020 – Walter E. & Marie A. Tedford Trustees, P.O. Box 26, Underhill Center, VT 05490
  7. BE031 – Christopher M. & Christine N. Dillon, 31 Beartown Road, Underhill, VT 05489
  8. BE046 – Roland A. & Rachel T. Burroughs, P.O. Box 84, Underhill Center, VT 05490
  9. BE049 – Thomas P. Fetters, 49 Beartown Road, Underhill, VT 05489
  10. PV020 – Michael K. & Emily E. Diffenderffer, 20 Pleasant Valley Road, Underhill, VT 05490
  11. ST028 – Stephen G. Shuma, 28 Stevensville Road, Underhill 05489

- C. During the week of June 23, 2019, notice of the public hearing for the proposed Kramer subdivision amendment review hearing was posted at the following places:
  - 1. The Underhill Town Clerk's office;
  - 2. The Underhill Center Post Office; and
  - 3. Jacobs & Son Market.
- D. On Saturday, June 29, 2019 the notice of public hearing was published in the *Burlington Free Press*.
- E. A site visit at the property located at 3 Acer Ridge, Underhill, Vermont, commenced at 6:00 PM on Monday, July 15, 2019.
- F. Present at the site visit were the following members of the Development Review Board:
  - 1. Board Member, Charles Van Winkle, Chairperson
  - 2. Board Member, Stacey Turkos, Vice Chairperson
  - 3. Board Member, Mark Green
  - 4. Board Member, Daniel Lee
  - 5. Board Member, Karen McKnight
  - 6. Board Member, Penny Miller

Municipal representatives and members of the public present during the site visit were:

- 7. Planning & Zoning Administrator, Andrew Strniste
  - 8. Applicant, Eliza Kramer
  - 9. Applicant, Michael Kramer
  - 10. Abutting Neighbor, John Gay
- G. The subdivision amendment review hearing began at 6:35 PM on Monday, July 15, 2019 at the Town of Underhill Town Hall, 12 Pleasant Valley Road, Underhill, Vermont.
  - H. Present at the subdivision amendment hearing were the following members of the Development Review Board:
    - 1. Board Member, Charles Van Winkle, Chairperson
    - 2. Board Member, Stacey Turkos, Vice Chairperson
    - 3. Board Member, Mark Green
    - 4. Board Member, Daniel Lee
    - 5. Board Member Karen McKnight
    - 6. Board Member, Penny Miller

Also, in attendance was Staff Member, Andrew Strniste, Planning Director & Zoning Administrator.

Others present at the hearing were:

- 1. Applicant, Eliza Kramer (3 Acer Ridge, Underhill, VT 05489)
- 2. Applicant, Michael Kramer (3 Acer Ridge, Underhill, VT 05489)
- 3. Abutting Neighbor, Suzanne Kusserow (4 Acer Ridge, Underhill, VT 05489)

4. Abutting Neighbor, John Gay (5 Acer Ridge, Underhill, VT 05489)
- I. At the outset of the hearing, Chairperson Van Winkle explained the criteria under 24 V.S.A § 4465(b) for being considered an “interested party.” Those who spoke at the hearing were:
    1. Applicant, Eliza Kramer
    2. Applicant, Michael Kramer
    3. Abutting Neighbor, John Gay
    4. Abutting Neighbor, Suzanne Kusserow
  - J. In support of the combined preliminary & final subdivision application, the following exhibits were submitted to the Development Review Board:
    1. Exhibit A - AR003 Subdivision Amendment Review Staff Report
    2. Exhibit B - Exhibit B - AR003 Subdivision Amendment Review Hearing Procedures
    3. Exhibit C - Subdivision Review Application
    4. Exhibit D - Waiver Request Narrative
    5. Exhibit E - BFP Notice
    6. Exhibit F - Certificate of Service
    7. Exhibit G - DRB Decision # DRB-10-17
    8. Exhibit H - DRB Decision # DRB-17-13
    9. Exhibit I - Access Permit # A-18-18
    10. Exhibit J - 3 Acer Ridge Site Plan
    11. Exhibit K - Site Plan Depicting Area in Review

No additional exhibits were distributed to the Board prior to the Monday, July 15, 2019 hearing, nor were any additional exhibits submitted into the record during the hearing.

All exhibits are available for public review in the Kramer Subdivision Amendment Review file (AR003/DRB-19-06) at the Underhill Zoning & Planning office.

## **II. FACTUAL FINDINGS & CONCLUSIONS RELATING TO THE UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS**

The Minutes of the July 15, 2019 meeting, written by Andrew Strniste, are incorporated by reference into this decision. Please refer to the Minutes for a summary of the testimony.

Based on the submitted application, testimony, exhibits, and evidence, the Development Review Board (hereafter Board) makes the following findings under the requirements of the 2011 *Underhill Unified Land Use and Development Regulations* (ULUDR), as amended March 6, 2018:

### ***PROJECT BACKGROUND***

In September 2017, Michael and Eliza Kramer submitted an application to amend a previously approved Acer Ridge Subdivision, a Planned Residential Development, to allow for the construction of a detached accessory dwelling (see DRB Decision #: DRB-17-13). The Board approved the application, while deferring all road and driveway oversight to the Selectboard (condition #2 of DRB-17-13, Exhibit H). At that time, the Selectboard, in accordance with the 2015 *Underhill Road, Driveway and Trail Ordinance*, had jurisdiction in regard to reviewing project aspects related to any and all driveways and roads.

The Applicants subsequently submitted an access permit application to the Selectboard, as required by the conditions of approval under DRB Decision #: DRB-17-13 (Exhibit H). As part of the Access Permit's uncontested conditions of approval (Permit #: A-18-18, Exhibit I), the Applicants were required to widen the shared portion of the driveway from Acer Ridge to the detached accessory dwelling (AR001 – 1 Acer Ridge) from 14 ft. to 20 ft., as required under § 5.A.3.a of the 2015 *Underhill Road, Driveway and Trail Ordinance*. The subject portion of the shared driveway that was to be widened is approximately 100 ft. in length.

As the Applicants were completing their project – the detached accessory dwelling – the impacts of widening the shared driveway emerged after examining the situation closer. Specifically, the applicants learned that the widening of the shared driveway to 20 ft. would result in the removal of several trees that lined the entire shared driveway. Upon this discovery, the Applicants submitted a written request to the Selectboard (Exhibit I) asking them to waive the 20 ft. width requirement and allow them to keep the existing width of 14ft. During the Selectboard meeting, they were advised that the more appropriate venue for the request would be the Development Review Board, and therefore, the Selectboard dismissed the driveway/road width waiver request.

In regard to the subject application with this Board, the Applicants are seeking a subdivision amendment and requesting a driveway/road width waiver for the shared portion of the driveway between Acer Ridge and the accessory dwelling at 1 Acer Ridge (AR001). Specifically, the driveway/road width waiver request would allow the Applicants to forgo widening the current 14 ft. widen shared driveway to 20 ft., which is normally required under § 5.A.3.a of 2015 *Underhill Road, Driveway & Trail Ordinance*, for a distance of 100 ft. The existing property is located in the Water Conservation zoning district as defined in Article II, Table 2.5 of the 2011 *Underhill Unified Land Use & Development Regulations*, amended March 6, 2018.

## **ARTICLE II – ZONING DISTRICTS**

### **A. ARTICLE II, TABLE 2.5 – WATER CONSERVATION DISTRICT**

The Board finds that the proposed subdivision road width reduction is not anticipated to adversely affect the gravel aquifer recharge area in Underhill Center, as a road width reduction will not result in any contaminates or contaminate-like substances absorbed into the aquifer.

## **ARTICLE III – GENERAL REGULATIONS**

### **A. SECTION 3.2 – ACCESS**

The Board finds that the subject shared driveway accesses Acer Ridge, a private road, which accesses Beartown Road, a Class II Town Highway. The portion of the shared driveway under review currently serves two lots (3 & 5 Acer Ridge) and three residences (1, 3 & 5 Acer Ridge). The Selectboard approved Access Permit #: A-18-18 (Exhibit I) with a condition of widening the portion of the shared driveway between Acer Ridge Road and 1 Acer Ridge from 14 ft. to 20 ft. However, with this decision the Board amends that Access Permit to allow the Applicants to widen the driveway as much as possible without damaging the existing trees between Acer Ridge Road and 1 Acer Ridge; during the pre-hearing site visit, that measurement was determined to be approximately 16 ft. wide. The Board notes that the shared driveway/road will continue to meet the 12 ft. setback requirement under this section.

See Section III of this decision, *Factual Findings & Conclusion relating to the Underhill Road, Driveway & Trail Ordinance*, below for more information pertaining to the Board's rationale for waiving the 20 ft. road/driveway width requirement.

**B. SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS**

The Board finds that Section 3.7.E.4 allows them to waive district dimensional requirements when the proposed waiver is part of an approved master plan for a planned residential dimension. Additionally, the Board views the *Underhill Road, Driveway & Trail Ordinance* as an extension of the *Underhill Unified Land Use & Development Regulations* since the ULUDR references Road and Driveway Standards as Appendix A. Since the Selectboard has delegated authority to the Board to review the standards of the *Road, Driveway & Trail Ordinance*, in conjunction with the various references to the highway standards in the ULUDR, the Board finds that it has the authority to waive the road/driveway width standards enumerate under Section 5.A.3.a and 5.A.4.a of *Underhill Road, Driveway & Trail Ordinance*.

**C. SECTION 3.8 – NONCONFORMING LOTS**

While 4 & 5 Acer Ridge are nonconforming lots, they were approved as part of DRB Decision #: DRB-10-17 – a Planned Residential Development.

**D. SECTION 3.11 – OUTDOOR LIGHTING**

The Board finds that no outdoor lighting is proposed, and therefore, review under this section is not required.

**E. SECTION 3.17 – SOURCE PROTECTION AREAS**

The Board finds that the entirety of the Acer Ridge Subdivision is located within a Groundwater Source Protection Area; however, approval of the detached accessory dwelling under DRB Decision #: DRB-17-13 implicitly approved the associated impacts caused by the detached accessory dwelling, which includes traffic along Acer Ridge and its associated driveways. Since the subdivision amendment request before the Board will not result in an increase in traffic, further review under this section is not required.

**F. SECTION 3.18 – STEEP SLOPES**

The Board finds that the area subject to this review does not contain areas of steep slopes (15-25%) and very steep slopes (>25%), and therefore, review under this section is not required.

**G. SECTION 3.19 – SURFACE WATERS & WETLANDS**

The Board finds that the area subject to this review is not in close proximity to any surface waters or wetlands, and therefore, review under this section is not required.

**ARTICLE VI – FLOOD HAZARD AREA REVIEW**

The Board finds that a Special Flood Hazard Area is not located within the Acer Ridge Subdivision, and therefore, review under this Article of the regulations is not required.

**ARTICLE VII – SUBDIVISION REVIEW**

**A. SECTION 7.2 – APPLICABILITY**

The Board finds that the applicants' proposed subdivision amendment is subject to the requirements of the *Underhill Unified Land Use & Development Regulations* per § 7.2, and was classified as a "major subdivision – Planned Residential Development" during the initial subdivision review process – DRB Docket #: DRB-10-17 (Exhibit G).

**B. SECTION 7.8 – REVISIONS TO AN APPROVED SUBDIVISION**

The Board finds that applications requesting a waiver of road ordinance-related standards must be reviewed by the Selectboard or this Board, where applicable, in accordance with 8.E of the *Underhill Road, Driveway & Trail Ordinance*. This particular waiver request was referred to this

Board by the Selectboard, as they found this Board to be proper venue for the road/driveway width waiver request.

#### **ARTICLE VIII – SUBDIVISION STANDARDS**

##### **A. SECTION 8.1 – APPLICABILITY**

The Board finds that no technical review was needed for this proposed project. The Board also finds that the applicants have requested one waiver in accordance with Section 8.E of the *Underhill Road, Driveway & Trail Ordinance*: a waiver of the 20 ft. road/driveway width requirement. Various provisions of the *Unified Land Use & Development Regulations* reference the highway ordinance (Sections 3.2.D.1, 8.A.3.a, 8.6.A.9 & 8.6.B), thereby implying that the Board has the ability to waive those road ordinance-related standards. In addition, the Selectboard has explicitly authorized the Board to waive the *Road, Driveway & Trail* standards in the ordinance itself – see Section 8.E of that document.

##### **B. SECTION 8.6 – TRANSPORTATION FACILITIES**

###### SECTION 8.6.A – ACCESS & DRIVEWAY

The Board finds the current state of the shared driveway and Acer Ridge as follows:

- Both the base of Acer Ridge and the shared driveway are significantly lower than the required elevation, and therefore, must be brought up AOT standards to allow for stormwater to be distributed to the adjacent drainage ditches. The Board notes that stormwater is currently channeling down the shared driveway and Acer Ridge onto Beartown Road.
- At the end of Acer Ridge, the shared driveways fork, one going to the west and one going to the east. The applicants shall eliminate the "V" fork, and make more of "U" shaped configuration to allow for emergency vehicles and other commercial/industrial sized truck to easily navigate that area of the driveway.
- The shared portion of the driveway measures approximately 14 ft. At the recommendation of the Underhill-Jericho Fire Department, the Board finds that the Applicants shall widen the width from Acer Ridge Road to 1 Acer Ridge to the maximum width possible that would not result in the trees being removed or tree roots damaged. During the site visit, the Board approximated this width to be 16 ft.

As a result of this decision, Access Permit #: A-18-18 is amended accordingly (see Section V, Decision and Conditions of Approval below). The conditions of approval from the previous permits (see directly below) that have not been superseded by this decision are to remain in effect:

- Access Permit #: A-12-03 and A-18-18
- Building Permit #: B-13-31 and B-18-26
- Development Review Board Decision #: DRB-10-17 & DRB-17-13

See Section 3.2 above for more information as it relates to the *Unified Land Use & Development Regulations*. See Section III of this decision for more information as it relates to the *Underhill Driveway, Road & Trail Ordinance*.

###### SECTION 8.6.B – DEVELOPMENT ROADS

The Board notes the following: while an access way is considered a development road when it serve four or more lots per this Section of the *Unified Land Use & Development Regulations*,

under § 5.B.4.a of the *Underhill Road, Driveway & Trail Ordinance*, should an accessory dwelling be added to 5 Acer Ridge, the shared portion of the driveway under review as part of this application would be considered a development road since that specific section of the Road Ordinances refers to residences and lots. For this particular application, this Section does not apply.

#### **ARTICLE VIII – PLANNED UNIT DEVELOPMENT**

##### **A. SECTION 9.1 – PURPOSE**

The Board finds that the Acer Ridge Subdivision was approved as a Planned Residential Development under DRB Decision #: DRB-10-17. The Applicants' waiver request conforms with the two of the enumerated policies outlined under Section 9.1.A: 1) master planning for comprehensive, environmentally sensitive, integrated subdivision and development; and 2) efficient and economical use of land, resources, facilities, utilities and services [*Emphasis Added*]. As stated above, the Board has the authority to modify density and dimensional requirements of the applicable zoning provisions under the ULUDR concurrently with the approval of subdivision review – in this case subdivision amendment review. Various provisions of the ULUDR reference the highway ordinance/standards (§§ 3.2D.1, 8.6.A.3a, 8.6.A.9 and 8.6.B). The Selectboard also delegates review of *Road Ordinance*-related waivers to the Development Review Board when applications involve road-related components.

When reviewing the current situation in relation to the two policies above and the Board's delegated authority, the Board finds that granting the Applicants' road/driveway width waiver is appropriate in these circumstances. The widening of the current shared driveway from 14 ft. to 20 ft. would result in the removal of various trees that line the driveway, which would be adverse to the intent of the subdivision, which strongly considered environmental impacts, as alluded too by Ms. Kusserow's testimony during the hearing. Keeping in mind the environmental impacts, as well as the comments provided by the Road Foreman and the Underhill-Jericho Fire Department (which are enumerated under Section 8.6.A above), in addition to the subdivision already being a Planned Residential Development, the Board finds that granting the waiver is justified. In further support of the Board's conclusion, the Board finds that no lots within the Acer Ridge Subdivision can be further subdivided (see conditions of approval of the DRB Decision #: DRB-10-17, Exhibit G), thus reducing any possibility of significant traffic increase along this portion of the shared driveway. Lastly, Planned Residential Developments are to allow for greater flexibility, and therefore, the relaxation of Town standards are permitted; the subject road/driveway width waiver is consistent with the intent of Planned Residential Developments.

##### **B. SECTION 9.2 – APPLICABILITY**

The Board finds that the subject lot under review is part of a Planned Residential Development that was approved under DRB Decision #: DRB-10-17 (see Exhibit G).

##### **C. SECTION 9.3 – APPLICATION REQUIREMENTS**

The Applicants have satisfied the requirements of this Section. More specifically, the Applicants have submitted a written statement outlining the waiver request (Exhibit D).

##### **D. SECTION 9.4 – REVIEW PROCESS**

The proposed waiver request does not substantially alter any of the previous findings made under this Section or in the Board's previous decisions: DRB-10-17 & DRB-17-13.

**E. SECTION 9.5 – GENERAL STANDARDS**

The Board finds that the proposed waiver request is consistent with the goals and policies of the *Underhill Town Plan* currently in effect, as well as the purpose statement of the Water Conservation zoning district. Specifically, the proposed waiver is consistent with Section 9.5.A.2, as the road/driveway width waiver will minimize site disturbance of the current environment. The Board notes that the road/driveway waiver does not affect the current density of the Acer Ridge Subdivision.

**III. FACTUAL FINDINGS & CONCLUSIONS RELATING TO THE UNDERHILL ROAD, DRIVEWAY & TRAIL ORDINANCE**

**A. SECTION 8 – ADMINISTRATION & PERMITTING**

SECTION 8.E – WAIVERS

The Board finds that the present circumstances are unique, as the road/driveway subject to review is part of a Planned Residential Development. Additionally, the Applicants have demonstrated that they are requesting the waiver in good cause, as the Applicants are striving to maintain the aesthetics, character and environment of the subdivision. Should the road/driveway be required to be widened to the 20 ft. standards, then multiple trees would need to be removed, thus adversely impacts the aesthetics, character and environment of the subdivision.

Additionally, the Board finds that the requested waiver is minor in nature, does not conflict with the stated purposes of the Road Ordinance, State laws or rules, nor are fiscal reasons a basis for the waiver being requested and granted.

**B. SECTION 5 – SPECIFIC PROVISIONS: DRIVEWAYS & DEVELOPMENT ROADS**

SECTION 5.A – DRIVEWAYS

Regarding specific standards for driveways, the Board reviews the following subsections:

SECTION 5.A.1 – CONSTRUCTION & DESIGN REQUIREMENTS

The Board directs that the Applicants shall construct the portion of the shared driveway under review (Acer Ridge road to 1 Acer Ridge) in conformance with the AOT B-71 Standards, which includes the base layer of the driveway.

SECTION 5.A.2 – LOCATION

The Board finds that the applicant satisfied the requirements of this subsection.

SECTION 5.A.3 – WIDTHS

The Board finds that the area subject to review is approximately 100 ft. in length, which is between Acer Ridge and the driveway serving 1 Acer Ridge. Typically, the required width of the shared driveway is 20 ft.; however, as explained above, the Board waives the required width. The Board requires the applicants to widen this portion of the driveway to the extent possible without causing damage to the trees lining the shared driveway – measured to be approximately 16 ft. in width during the site visit. The shared driveway between Acer Ridge road and 1 Acer Ridge should be built to B-71 standards.

SECTION 5.A.4 – NONCONFORMING LOTS:

While the Acer Ridge Subdivision contains nonconforming lots, those lots were approved as part of a Planned Residential Development, which allows for the relaxation of various standards. Additionally, the portion of the shared driveway under review is located on 3 Acer Ridge, which is a conforming lot.

C. SECTION 5.B – DEVELOPMENT ROADS

Regarding specific standards for Development Roads, the Board reviews the following subsections:

SECTION 5.B.1 – CONSTRUCTION & DESIGN REQUIREMENTS

The Board directs that the Applicants shall construct Acer Ridge road (from Beartown Road to the fork) in conformance with the AOT A-76 Standards, which includes the base layer of the driveway.

SECTION 5.B.2 – SYSTEM CAPACITY

The Board finds that the Acer Ridge Subdivision cannot be further subdivided due to a condition of approval in its previous decision: DRB-10-17 (see Exhibit G). Therefore, increased traffic along the shared portion of the driveway subject to review is not expected to occur. As a result, no traffic impact analysis is required.

SECTION 5.B.3 – LOCATION

The Board finds that the residences accessing the shared driveway under review connect to Acer Ridge, which accesses Beartown Road, a Town highway. The subdivision is connected to Beartown Road by that one access point only, and with the conditions of approval herein, will help facilitate emergency vehicle access in accordance with the recommendations made by the Underhill-Jericho Fire Department. As mentioned above, subsequent subdivisions cannot occur within the Acer Subdivision, and therefore, future connections are not under consideration as part of this decision. Steep slopes, surface waters, wetlands, resource of hazard areas are not located in the project area.

SECTION 5.B.4 – WIDTHS

The Board finds that Acer Ridge road (between Beartown Road and the fork of the two shared driveways) shall be reconstructed to satisfy the standards of AOT-76 standards, which includes the base layer of the road. At this time, the Board makes no finding should the landowners, or their successors, add a residence to 5 Acer Ridge (such as an accessory dwelling). Should the landowners, or their successor, add a residence to 5 Acer Ridge, then subsequent review pertaining to this shared driveway will require additional as the shared driveway will need to be widened in accordance with this subsection:

- The shared portion of the driveway between Acer Ridge road and 1 Acer Ridge will be required to be widened from ~16 ft. (approved by this decision) to 20 ft., in accordance with the AOT A-76 standards; and
- The shared portion of the driveway between 1 Acer Ridge and the driveway serving 3 Acer Ridge will be required to be widened from 14 ft. to 20 ft., in accordance with the AOT B-71 standards.

The Board recognizes that the widening issue subject to this review may be similar should a residence be added to 5 Acer Ridge; however, by making no finding, the Board reserves the ability to make findings in the future should circumstances change should that situation occur.

SECTION 5.B.5 – TRAVEL LANES

The Board finds that the shoulders shall be consistent with Table 5.1 of *Underhill Road, Driveway & Trail Ordinance*.

SECTION 5.B.6 – NECESSARY ADDITIONAL ACCESS

The Board finds that this subsection does not apply.

SECTION 5.B.7 – ROAD NAMES

The Board finds that this subsection does not apply.

**IV. WAIVERS, MODIFICATIONS & SUPPLEMENTATIONS**

The Board grants the following waivers/modifications:

1. The Board waives the 20 ft. road/driveway width requirement for the portion of the shared driveway between Acer Ridge road and 1 Acer Ridge.

**V. DECISIONS AND CONDITIONS OF APPROVAL**

The Board is satisfied with the level of investigation, engineering and evaluation conducted in the application submittal and review process concerning the above-mentioned project. The Board thoroughly reviewed all aspects of the proposal under the evaluation of the *Underhill Land Use & Development Regulations & Underhill Road, Driveway and Trail Ordinance* and concludes that based on the evidence submitted and the above findings, the proposed subdivision and development generally conform to the aforementioned standards and regulations.

Based upon the findings above, and subject to the conditions below, the Development Review Board grants final subdivision approval for the project presented in the application and at the hearing with the following conditions:

Procedural Conditions

1. The Board finds that **NO** subdivision plans are required to be submitted and recorded as part of this subdivision amendment application.
2. All subdivision and recording fees must be paid in full prior to commencing with construction.
3. The conditions of approval from the previous permits (see directly below) that have not been superseded by this decision are to remain in effect:
  - a. Access Permit #: A-12-03 and A-18-18
  - b. Building Permit #: B-13-31 and B-18-26
  - c. Development Review Board Decision #: DRB-10-17 & DRB-17-13
4. The Board requires the project to be constructed in accordance with this decision.

Substantive Road, Driveway & Trail Ordinance Conditions

5. The Board approves the road/driveway width waiver request and directs the Zoning Administrator to issue an amendment to Access Permit #: A-18-18 in accordance with this decision.

6. The portion of the shared driveway subject to review (between Acer Ridge road and 1 Acer Ridge) is to be widened to the greatest extent possible without causing damage to the trees lining the shared driveway, which measured approximately 16 ft.
7. The Applicants shall reconstruct the roadbed of the shared driveway subject to review (between Acer Ridge road and 1 Acer Ridge) to meet the standards of the AOT B-71 standards.
8. The Applicants shall reconstruct the roadbed of Acer Ridge (between Beartown Road and the shared driveways serving 1, 3 & 5 Acer Ridge and 4 & 8 Ridge diverge) to meet the standards of the AOT A-76 standards.
9. The Applicants shall upgrade the fork-like area where the shared driveways diverge into a “u-shaped”-like configuration, which shall provide a better turning radius for emergency vehicles. This upgraded area shall be built to AOT A-76 standards.
10. The Applicants shall trim the trees along Acer Ridge and the shared driveway serving 1, 3 & 5 Acer Ridge so the traveled portions of Acer Ridge and the shared driveway are unobstructed up to a height of 13 ft. 6 inches.
11. All stormwater runoff shall be shed towards the existing drainage ditches and shall not be channeled towards Beartown Road. In the event that stormwater drainage is directed, or results in being directed, towards Beartown Road, the Applicants are responsible for remediating the circumstances.
12. Should the landowners, or their successors, of 5 Acer Ridge propose adding a residence (e.g. an accessory dwelling) in the future, further review by this Board is required should another driveway/road width waiver be requested.

Dated at Underhill, Vermont this 6<sup>th</sup> day of August 2019.

*Approved By  
the Underhill Development Review Board,  
Charles Van Winkle, Chairman,*

---

Charles Van Winkle, Chair, Development Review Board

NOTICE: This decision may be appealed to the Vermont Environment Court by an interested person who participated in the proceedings before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings. Appeal period ends 6 September 2019.