

**Town of Underhill
Development Review Board Minutes
February 5, 2018**

Board Members Present:

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

Chantel O'Connor (2 Pine Rdige Road)
Tom Costello (2 Pine Ridge Road)
Dianne Terry (34 Pine Ridge Road)
Steve Coddling (34 Pine Ridge Road)
Jamie Duke (16 Pine Ridge Road)
Heidi Duke (16 Pine Ridge Road)
Geoff Duke (16 Pine Ridge Road)
John Hardacre (26 Pine Ridge Road)
Marilyn Hardacre (26 Pine Ridge Road)
John Koier (15 Pine Ridge Road)
Barbara Koier (15 Pine Ridge Road)
Dave Demuynck (27 Pine Ridge Road)
Elizabeth Gembczynski (28 Pine Ridge Road)
Kathleen Gembczynski (28 Pine Ridge Road)
Leslie Dee (28 Pine Ridge Road)
Nancy Hall (31 Pine Ridge Road)
Susann May (37 Pine Ridge Road)
Thomas May (37 Pine Ridge Road)

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Director

Others Present:

Peter Duval (25 Pine Ridge Road)
Cathy McNamara (7 Pine Ridge Road)
John McNamara (7 Pine Ridge Road)
Roy Towlen (38 Pine Ridge Road)
Thad Gembczynski (28 Pine Ridge Road)

6:32 PM – 02/05/2018 DRB Public Meeting

- DRB Members convened at Town Hall at 6:25 PM.
- [6:30] Chair Van Winkle called the meeting to order.
- [6:31] Since no general public attended the meeting, no public comments were provided.

**6:35 PM – Duval Continued Conditional Use Review Hearing
25 Pine Ridge Road (PR025), Underhill, Vermont**

Docket #: DRB-17-16

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- [6:35] Chair Van Winkle began the meeting by providing an overview of conditional use review, and reminded the audience that the applicant had asked for a continuance at the beginning of the December 5, 2017 hearing so he could supplement his application. Chair Van Winkle explained the hearing procedures for the conditional use review hearing and swore in those who wished to speak. Chair Van Winkle then informed the audience and the applicant that Exhibits W-BB were submitted during the last hearing, and that Exhibits CC & DD were submitted prior to the continued hearing.
 - [6:41] Mr. Duval explained to the Board that he requested a continuance at the end of the last meeting; however, he was coming to the Board at the evening's hearing to answer any questions they may have and obtain direction on information they would like to see. Between the first hearing and the evening's hearing, he advised that he could only recollect that Board Member Miller wanted a massing study. He then informed the Board that he did not have any new specifics; however, he wanted to discuss the regulations and how his design and program objectives meet the current regulations.
 - [6:45] Mr. Duval proceeded to explain that his proposal was more complex than a typical project, and wanted to provide the Board background on how he arrived at his proposal. He

began by providing some background about his father. During his father's early adulthood, he had a "playboy kit" that consisted of a boat, car, and stereo; however, after meeting his wife, he sold the "fun toys" and bought a ski facility in Jeffersonville, VT. After the ski facility burned down, Peter's parents moved to Essex, VT where they built a house that had southwardly facing windows, large overhangs, solar receivers, and a large central chimney with wood stove connection. The applicant then presented a painting of the house in Essex that his parents built to the Board and audience. In 1973, the Duvals had converted to a wood system. At the same time, Mr. Duval (the applicant) was becoming more familiar with climate change and how to incorporate features into houses to lessen the impact of climate change. Mr. Duval (the applicant) then advised that his father began to reassemble the "playboy kit." In 1983, the Duvals (the applicant's parents) made a real estate investment in the Circumferential (CIRC) Highway. In 1991, the applicant advised that he, in addition to a professor, had discovered many problems with the highway. Shortly thereafter, the applicant stated that he was in Europe for the fall of the U.S.S.R., and that he was involved with energy/electrical production on the continent. He then advised that the United States has a lot of ground to make up, as the U.S. has 4% of the population, but consumes a disproportionate amount of the planet's energy. Mr. Duval then explained that Americans would have to reduce 95% of their emissions for them to contribute their fair share of emissions.

- [6:57] Chair Van Winkle advised that he was going to let the applicant finish his presentation; however, he was going to need more specifics about the application.
- [6:58] Mr. Duval advised that when the storm of the century hit, he witnessed the impact on Cuba and how the country adapted to the lack of energy. He then advised that he was successful in fighting the CIRC Highway. Afterward, he stated that if he did not know about the collapse that is going to happen, based on his life experiences, he would be happy with the "playboy kit" with the cabin in the woods. He then informed the Board that the world is in for an unpleasant future, and that he is proposing a building that will be constructed for when there are environmental refugees – not just from other countries, but from the flooding that is going to occur in nearby towns. Mr. Duval then informed the Board that his house currently sits in the perfect place, as the area is: flat, sandy, has ample water supply, a good road, solar orientation, septic capability, out of a cold spot, and the vegetation is different from Underhill Center.
- [7:05] Mr. Duval then advised that his application was for a four-unit residence, and informed the Board that it was half of what is possible permitted as a conditional use and twice as much for what is possible with a general permit. He then advised that the project would be in-line with all of the energy components allowed under the density bonus section of the Regulations. Chair Van Winkle clarified that density bonuses are permitted when an applicant is subdividing. He then clarified that the project is for a four-unit structure with sewage design for 12 bedrooms. Board Member Miller asked Mr. Duval if his intention of submitting the application was for what he might want, and that he was looking for approval for the concept. She then advised that the Board typically asks for specifics. Mr. Duval advised that he could get engineering drawings for the roadways, access and septic; however, the full build out may take time to ascertain. He then informed the Board that there were no building designs for the Albertini development. Chair Van Winkle advised that the Albertini's had proposed a subdivision, whereas Mr. Duval was in front of them with a conditional use application, which also contains site plan review. He then informed Mr. Duval that there is a higher level of review with conditional use review than subdivision review. Mr. Duval then asked the Board what they wished to see and what questions needed to be answered.
- [7:18] Staff Member Strniste provided an overview of his staff report, specifically

informing the Board of issues he noted at the previous hearing. He noted issues pertaining to the footprint of the building, home industry v. home occupation, floor plan, among others.

- [7:27] Board Member Green asked about septic capacity. Chair Van Winkle advised that the Board typically relies on the obtainment of a wastewater permit from the State of Vermont.
- [7:35] A discussion ensued about when zoning permits expire, when a conditional use is considered established, and how that relates to a conditional use application. Staff Member Strniste advised that how he interprets the Land Use & Development Regulation, that when conditional use approval is granted, the accompanying zoning permit is issued on the same day. The accompanying zoning permit expires one year from the date it was issued unless an extension can be granted. The conditional use approval does not run with the land until the use has been established. Mr. Duval advised that he anticipates the use to be established prior to the completed construction of the additions. Board Member Miller asked a clarification question in regards to the applicant obtaining all of the requisite State permits. Mr. Duval advised that he plans on obtaining all of the permits and exceeding those regulations, even if the floor plans were to change. Board Member Green asked if the Department of Public Safety requires a finalized plan. Board Member Miller clarified that the applicant could obtain a permit extension if the State or Federal Government was the cause of delay. She also clarified that the applicant would be grandfathered under these regulations should the regulations change. However, if one-year were to lapse and the applicant did not apply for the requisite permits, then the application loses the grandfather status.
- [7:40] Chair Van Winkle opened up the hearing to the attending residents. Ms. Leslie Dee inquired first, asking at what point the Board would make a decision on the application. Chair Van Winkle advised that the Board wanted to give the applicant every chance to present his project. Mr. Roy Towlen advised that giving the applicant a list of what the Board would like to see in order to make a decision would be helpful. Staff Member Strniste said that he plans on enumerating the recommendations for the applicant and attaching them to the minutes for the neighbors.
- [7:43] Chair Van Winkle advised that he would like to see where the stormwater will flow and what erosion control mechanisms will be taken. He also wants to see where the septic field is going to be placed. In addition, he wants to see more information in regards to site circulation, specifically where the parking will be. Chair Van Winkle went on to ask for landscaping and screening mechanisms. Mr. Thomas May inquired about the multi-family dwelling v. single-family dwelling issue and whether that has been address yet. Board Member Miller informed the applicant that the footprint of the building was important, and that a massing of the structure would help with evaluating the scale of the building. She then advised that the past applications involving multi-family structures pertained to structures in an existing building, whereas the current applicant was planning on constructing new structures. A discussion ensued about massing models. Mr. John McNamara inquired about the Act 250 permit and the relevance it has at the current proceeding. Chair Van Winkle advised that the Act 250 is still valid, and that it can be considered as part of the review; however, it cannot be used as a reason to deny the application. A discussion then began about home industry businesses v. home occupation businesses. Board Member Miller clarified that depending on the hours and type of business, could impact how the business is categorized. Mr. Duval advised the board of what his intentions were regarding the different “users” he envisioned living in the household. A discussion ensued on whether the Board should be evaluating the business component of the project, and whether it was in the application. Mr. Duval then informed the Board that there would be no commercial component.

- [7:57] Ms. Leslie Dee inquired if the materials requested had to be submitted in writing. Ms. Susann May asked what the barn would be used for. Clarification was provided after Mr. Jamie Duke's question about the barn being an accessory structure, and that no dwelling units could be located in the barn
- [8:02] Board Member Green inquired about the issue with the deeds mentioned at the previous hearing. Ms. Leslie Dee asked which process was to occur first, the Act 250 permitting process or the Town permit processing. Staff Member Strniste advised that either could be first; however, typically, the Town process is performed first. A clarification question was asked by Mr. John McNamara about why the Act 250 permitting process would not occur first. Mr. Duval advised that the process typically starts at the Development Review Board and that the parameters are set out then. Ms. Chantell O'Connor asked the Board about the application hinging on the "character of the neighbor" issue. Staff Member Strniste informed Ms. O'Connor that the analysis of "character of the area" was more complex than initially thought. Mr. John Koier asked a question about the water conservation and the new Underhill Center District. Mr. Koier was advised that the district has not been approved, and that the applicant has submitted the current application under the current regulations. Ms. Nancy Hall asked if the applicant would have a deadline for submitting materials. Chair Van Winkle advised that the applicant did have the ability to submit new information at the hearing. Board Member Miller opined that information that was submitted at the hearing made review more challenging. Staff Member Strniste asked the applicant to submit information as early as possible as a courtesy. Chair Van Winkle recommended a hearing date of April 2, 2018 to reconvene. Board Member McKnight asked the applicant to supply information regarding the water supply, and whether there would be adequate water for two more units.
- [8:12] Chair Van Winkle asked for a motion to continue the hearing until April 2, 2018. Board Member Turkos made a motion to continue the hearing until April 2, 2018. The motion was seconded by Board Member Green. Mr. Duval asked if he could have until May 7, 2018. Chair Van Winkle asked for amended motion. Board Member Turkos made a motion to amend the original motion and to continue the hearing until May 7, 2018. Board Member Green seconded the motion, which was approved unanimously. Chair Van Winkle advised that the materials were going to be posted to the Town's website and that the requests would be attached to the minutes. Ms. Marilyn Hardacre inquired about what were to happen if she was unable to attend the next hearing and wanted to participate. Chair Van Winkle advised that an opportunity would be provided for interested parties to submit comments during a two week extension after the May 7, 2018 hearing. Therefore, the evidentiary portion of the hearing would not be closed at the continued hearing. Board Member Miller advised that the massing model is informative if the model is comparable with the neighborhood features. She also asked what the process was for the neighbors to rebut information. Mr. Tom Castello opined that enough information still wasn't presented, and asked how many more resources needed to be wasted. Chair Van Winkle then advised that depending on the information submitted during the May 7, 2018 hearing, if the neighbors wanted more information, or submit information, the hearing could be subsequently continued.

8:23 PM – Other Business

- [8:23] Staff member Strniste advised that minutes to be approved will be prepared for the following meeting.
- [8:24] Board Member Turkos made a motion to enter into deliberative session to discuss

the McLaughlin appeal application. The motion was seconded by Board Member McKnight and approved unanimously.

- [8:25] Board moved into deliberative session.
- [9:00] Board Adjourns.

Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 02/05/2018 meeting of the DRB were accepted
this 19 day of MARCH, 2018.



Charles Van Winkle, Development Review Board Chair