

**Town of Underhill
Development Review Board Minutes
February 20, 2017**

Board Members Present:

Charles Van Winkle, Chairperson
Mark Green
Penny Miller
Karen McKnight
Matt Chapek

Others Present:

Irene Linde (68 Pleasant Valley Road)
William Hayden (2044 Main Road, Huntington, VT)
Sandy Murphy (94 Irish Settlement Road)
Brian Smith (94 Irish Settlement Road)
Stacey Turkos (140 Irish Settlement Road)
Cynthia Seybolt (95 Pleasant Valley Road)
Robin Simard (1016 Main St., Colchester, VT)
Al Simard (1016 Main St., Colchester, VT)
Mike Graube (4592 Dorset St, Shelburne, VT)
David Burke (13 Corporate Drive, Essex Junction, VT)
Walter Tedford (20 Beartown Road)
Mike Karmer (3 Acer Ridge Road)
Pam Billings (310 Irish Settlement Road)
Mary Jo Berube (351 Irish Settlement Road)
Jason Marias (318 Irish Settlement Road)

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Director

6:30 PM – 02/20/2017 DRB Public Meeting

- DRB Members convened at Town Hall at 6:30 PM. Chair Van Winkle called the meeting to order.
- Chair Van Winkle asked for public comment. No public comments were provided.

**6:35 PM – Tomasi – Sketch Plan Review
79 Pleasant Valley Road (PV079)**

Docket #: DRB-17-02

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- [6:36] Chair Van Winkle began the meeting by explaining the procedure for a sketch plan review meeting, and acknowledged that the meeting was informal in order to familiarize the Board with the proposed subdivision, and therefore, no one needed to be sworn in. The applicant's engineer, William Hayden, was before the Board to discuss the sketch plan review application on behalf of the land owner pertaining to the lot located at 79 Pleasant Valley Road. A handful of abutting neighbors were in attendance.
 - [6:38] No conflicts of interest were present, and therefore, no recusals occurred.
 - [6:38] Mr. Hayden provided an overview of the subdivision, explaining that the landowners were only proposing a 2-Lot subdivision at this time, mainly to parcel off a 5-acre parcel containing the existing house. Mr. Hayden further explained that Lot 2 contains onsite water/wastewater, as well as an onsite replacement wastewater system location for the replacement wastewater system currently being used. Board Member Miller inquired if the proposed replacement wastewater system would be a mound system, where Mr. Hayden said no, that it would be at grade. Board Member Miller confirmed that the field across Pleasant Valley Road would not be developed at this time, and will remain a field. Mr. Hayden confirmed

that the landowners have discussed subdividing in the future; however, at this time, the main focus was parceling off the existing farm house. He continued on to answer the Board's question that with careful engineering, additional building sites could be located towards the center of the lot. Ms. Seybolt and Ms. Linde asked for clarification regarding the curb cut and driveway, where Mr. Hayden confirmed that the only curb cut at this time would be to access the newly created lot. The driveway was not shared between Lots 1 & 2 because the only feasible location for the wastewater systems would be where a shared driveway would be located. Mr. Hayden clarified Chair Van Winkle's question about the building envelope exceeding the setbacks, as the building envelope was proposed to follow the property lines and stop before the slopes got too steep.

- [6:48] Staff Member Strniste provided his comments and questions that he identified in his staff report, mainly focusing on the existing trail that bisects the lot, as well as identifying the Board's ability to request a sidewalk easement.
- [6:53] Board Member Miller inquired about the proposed driveway's setbacks, as well as the ramifications if the driveway were to be upgraded to a development road. Mr. Hayden clarified that the plans accommodate any possible upgrades of the driveway to a development road. Board Member McKnight asked for clarification regarding the Lindes' driveway location, as the two parcels are adjacent to one another. Ms. Seybolt asked Mr. Hayden if the 1989 survey was being used when the property was being surveyed, which he answered yes; however, the land would be resurveyed by a licensed surveyor prior to final subdivision review. Ms. Linde asked Mr. Hayden how close the driveway will be to the property line, and how the driveway will affect her ability to subdivide. Mr. Hayden stated that the driveway was 24 feet from the property line, and that Ms. Linde could reach out to the Tomasi's regarding the possibility of a shared accessway. Ms. Linde also expressed her concern regarding the water/wastewater isolation distances.
- [7:00] Chair Van Winkle explained that the Board infrequently grants waiver requests to forgo preliminary subdivision review, as all the issues are typically ironed out during that hearing, and allows the final subdivision review hearing to be a virtual rubber stamp. He then asked the Board the applicant had fulfilled all of the application requirements. The entirety of the Board answered yes. Chair Van Winkle then asked the Board if they wished to deliberate in closed or open session. The Board responded that they wished to deliberate in open session to be continued until after all of the meetings.

**7:03 PM – Burroughs – Sketch Plan Review
46 Beartown Road (BE046)**

Docket #: DRB-17-03

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- [7:03] Chair Van Winkle began the meeting by explaining the procedure for a sketch plan review meeting, and acknowledged that the meeting was informal in order to familiarize the Board with the proposed subdivision, and therefore, no one needed to be sworn in. The applicant's engineer, David Burke, was before the Board to discuss the sketch plan review application on behalf of the applicants pertaining to the lot located at 46 Beartown Road. A handful of abutting neighbors were in attendance.
 - [7:05] No conflicts of interest were present, and therefore, no recusals occurred.
 - [7:06] Mr. Burke began by explaining that the Burroughs are proposing a 2-Lot Subdivision, which they plan to give the subdivided lot to the daughter & son-in-law to build a single-family dwelling. The subdivision is being proposed as a PRD, with ~62% of the land preserved as open

space in an effort to utilize the density bonus provision under § 9.6 of the Underhill Unified Land Use & Development Regulations.

- [7:09] Afterward, Mr. Burke walked the Development Review Board through the Staff Report that was provided to them the week beforehand. Mr. Burke identified that there was an existing well in the proposed designated open space. He then informed the Board that they would need to grant the density bonus in order for the Burroughs to subdivide. At a very minimum, the Board would need to grant a 7.8% density bonus, which would provide the applicant with the minimum yield. Otherwise, the proposed subdivision/development would meet the other dimensional requirements. Mr. Burke did identify that the proposed single-family house design is not complete yet; however, the house will exceed the minimum setback standards, as it will be well within the building envelope. Board Member McKnight asked if the Simards planned on keeping the rock in the front yard, and the answer was yes.
- [7:13] Mr. Burke explained that there were some possible wetlands in the southeast portion of the lot; however, since no development is anticipated in that location, then no wetlands specialist would be needed. He further contended that while a PRD requires “major” subdivision under the Regulations, the proposed subdivision is not “major,” and asked the Board to consider combining Preliminary and Final Subdivision Review, as it is straight forward. Mr. Burke then stated that the applicants do not anticipate any additional development on Lot 1, nor is any type of stormwater management plan required, but that there would be erosion control features incorporated into the site plan. Mr. Burke then suggested that he was possibly going to meet with the Selectboard again to discuss the turnaround condition in the preliminary access permit, as he did not believe one was necessary given the proximity of the house to the road. Staff Member Strniste suggested talking to the Underhill-Jericho Fire Department to obtain a letter of support.
- [7:18] Chair Van Winkle asked the applicants to provide an ongoing management plan for the open space during the preliminary subdivision review process, which Mr. Burke responded that it would be worked into the legals.
- [7:22] Staff Member Strniste provided an overview of his questions and comments provided in the staff report. He inquired if the Mill Brook buffer was measured from the top of the bank or top of the slope, as the Regulations contain different setbacks from each feature. Board Member Miller asked what the advantage is of limiting the density bonus to 7.8% versus granting the entire 50% bonus. Staff Member Strniste agreed with Mr. Burke that the higher the percentage, the higher the standard should be. A discussion ensued about developability and whether the open space should contain areas that were not developable since a large portion of the lot contains development constraints. Mr. Burke responded that the Board should not take that approach, as the open space designation is being applied as intended. Board Member Green asked the question of whether undevelopable land should count fully toward the open space density bonus, expressing his concern that in a future situation, this could be used to justify a large density bonus on a very small developable portion of a lot where a large undevelopable portion is used to count as open space. Chair Van Winkle rebutted by stating that the Board is not tied to past decisions, and only needs to focus on what is in front of them. Board Member Chapek asked if any agriculture buildings could be built in the area being designated as open space. Mr. Burke responded in the affirmative.
- [7:31] Mr. Tedford inquired about the proposed wells and how that will impact the water table, as his shallow well has gone dry at various times recently. Mr. Burke explained that the proposed well was to remain in close proximity of the proposed single-family house. Board Member Miller followed up by stating that no one really knows the impact of what another well will have on the abutting properties. Mr. Burke continued to state that the State has jurisdiction

over water/wastewater, and that as the demand and use of water increase, the separation zone for the well increases. Board Member McKnight explained that there were issues with the wells in the area. Board Member Miller then explained to Mr. Burke that while the Town does not have jurisdiction over the well locations, the Board likes when applicants can keep isolation zones/shields on the parent property as to not impact adjacent land owners.

- [7:36] Chair Van Winkle asked the Board if the applicant had fulfilled all of the application requirements. The entirety of the Board answered yes. Chair Van Winkle then asked the Board if they wished to deliberate in closed or open session. The Board responded that they wished to deliberate in open session to be continued until after all of the hearings.

**7:40 PM – Marias – Sketch Plan Review
318 Irish Settlement Road (IS318)**

Docket #: DRB-17-04

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- [7:40] Chair Van Winkle began the meeting by explaining the procedure for a sketch plan review meeting, and acknowledged that the meeting was informal in order to familiarize the Board with the proposed subdivision, and therefore, no one needed to be sworn in. The applicant, Jason Marias, was before the Board to discuss his sketch plan review application pertaining to the lot located at 318 Irish Settlement Road. A handful of abutting neighbors were in attendance.
 - [7:41] No conflicts of interest were present, and therefore, no recusals occurred.
 - [7:42] Mr. Marias gave a brief overview of his proposed project, explaining that he wished to subdivide two lots off from his lot. Staff member Strniste provided a more in-depth overview, explaining that the Development Review Board heard a similar sketch plan review proposal in 2008. The sketch plan proposal was approved, noting that there was a deer wintering yard located on the lot. Staff Member Strniste acknowledged that the State issued a letter that the area was no longer likely to be a deer wintering yard, expressed concerns about the setback requirements on the proposed Lot 2, as well as expressing the possible isolation zones of the leachfield/septic/well shields affecting adjacent properties. Mr. Marias explained that he tried to keep all of the known wetlands on Lot 3, his lot.
 - [7:56] Board Member Van Winkle explained that the Board would prefer not to see those shields and zones on other properties; however, there is nothing preventing the applicant from proposing otherwise. The applicant would have to provide notice to the adjacent property owners if the isolation distances were to impact neighboring properties. Ms. Billings inquired about where the location of the road was going to be placed, as Mr. Marias clarified that there would be a shared driveway only. Mr. Marias confirmed that the existing house will remain unaffected. Ms. Berube expressed her concern about her well being polluted. She also expressed her concern about the school bus having difficulty stopping on the hill during the winter. Mr. Marias acknowledged her concern.
 - [8:05] Board Member Miller explained that the Selectboard has jurisdiction over the placement of the curb cut. Mr. Marias clarified that the Selectboard liked the location of the curb cut.
 - [8:09] Ms. Turkos asked how the Town has jurisdiction over a school bus stop, and why it may be a factor. Board Member Miller explained that if there is concern expressed by the public, it helps shape the outcome as the process takes into consideration issues that might not be known by the Board. Chair Van Winkle also confirmed that traffic is one of the 14 factors the Development Review Board considers, which why school bus stops are under the Town's jurisdiction. Ms. Billings asked what happens if there are any changes between the sketch plan

review meeting and the preliminary review hearing. Chair Van Winkle advised that the proposal could be changed; however, this would be evident at the preliminary hearing, which the adjacent land owners would receive notice for.

- [8:13] Ms. McKnight asked who from the Town went out to look at the proposed driveway. Staff Member Strniste responded that both Road Foreman Sullivan & Town Administrator Bigelow went out together, and Selectboard Member Peterson went out on his own. Selectboard Member Peterson expressed concerns with the drawings in regards to the preliminary access permit application. Ms. Berube stated that she has seen deer laying down on the applicant's lot during the winter months. Board Member Miller stated that there are certain criteria that qualifies an area as a deer wintering yard. One of the Board Members asked how long a State proclamation is valid for, in which there was no direct answer.
- [8:16] Chair Van Winkle asked the Board if the applicant had fulfilled all of the application requirements. The entirety of the Board answered yes. Chair Van Winkle then asked the Board if they wished to deliberate in closed or open session. The Board responded that they wished to deliberate in open session.

**8:19 PM – Tomasi – Sketch Plan Review (Open Session Deliberation) Docket #: DRB-17-02
79 Pleasant Valley Road (PV079)**

- [8:19] Chair Van Winkle began the open session deliberation by asking what the major concerns and issues were. The Board deliberated about what qualifies a subdivision as “major” or “minor” when there is the potential for future development. Board Member Green asked if the subdivision could be classified as a major development, as this could be the first phase as part of a phased development. Chair Van Winkle explained that the Board needed to review what was in front of them at this meeting, but in the future, the Board can “reach back” to previous subdivisions and state that the cumulative impact raises to the level of a major subdivision.
- [8:23] The Board unanimously agreed that the application met the requirements for sketch plan review. Chair Van Winkle asked if all were in favor of waiving preliminary subdivision review. Board Members Van Winkle, Chapek, and Miller were in favor of waiving the preliminary subdivision hearing while Board Members Green and McKnight were opposed. Since four votes were not attain, preliminary review is required. All were in favor of accepting the sketch plan, noting that preliminary subdivision review was not waived, as well as the following concerns: the possible trail easement, a possible sidewalk easement, and addressing the concerns of the down slope wastewater isolation shield on Ms. Linde's property. Notice to Ms. Linde will have to be provided.
- [8:35] A brief discussion about the sidewalk ensued, specifically about the reasons for installing a sidewalk along that part of Pleasant Valley Road.

**8:38 PM – Burroughs – Sketch Plan Review (Open Session Deliberation) Docket #: DRB-17-03
46 Beartown Road (BE046)**

- [8:38] Chair Van Winkle began the open session deliberation by asking what the major concerns and issues were. The Board unanimously voted to accept the sketch plan. Since the proposed subdivision was submitted as a Planned Residential Development, the Board determined that it must be reviewed as a major subdivision. The Board wished to waive preliminary review; however, they are constrained to § 7.2.B & § 7.2.F of the Underhill Unified

Land Use & Development Regulations, and therefore, preliminary review is required. Board Member Miller explained some of the issues of waiving preliminary subdivision review, which included: when the hearing was continued and different Board Members were present, different issues and concerns were raised, thus causing the hearing to be continued again; the Board may forget some of the concerns they initially had.

- [8:49] The Board noted that the applicant would need to provide a draft open space management plan during the preliminary subdivision review.

**8:51 PM – Marias – Sketch Plan Review (Open Session Deliberation)
318 Irish Settlement Road (IS318)**

Docket #: DRB-17-04

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- [8:51] Chair Van Winkle began the open session deliberation by asking what the major concerns and issues were. The Board unanimously voted to accept the sketch plan as a minor subdivision. The applicant did not ask for the preliminary subdivision review hearing to be waived. The Board noted the following concerns: the proposed curb cut; sight distances; maximize safe stopping distances; updating the deer wintering yard letter from the State; delineating the wetlands; and the location of the well shield, and how that may impact adjacent property owners, specifically, Mary Jo Berube.
 - [8:58] The Board discussed how to inform the applicant that a PRD may be applicable if the engineers find the constraints to be too restrictive. Board Member Miller informed the Board that the professional consultant should be able to catch that issue and inform the applicant. Chair Van Winkle also stated that the Planning & Zoning Administrator can inform the applicant of that possibility.

9:04 PM – Other Business

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- [9:04] Board Member Miller brought to the Board's attention issues that the Board will need to confront going forward, such as habitat blocks and prime agricultural land. She stated that the Board needs to consider whether they should deny based on these findings or find that there are no other feasible locations. She concluded by stating that this issue may be something to broach with the Planning Commission. Board Member Miller then asked if the applicants should supply the Board packets. Staff Member Strniste recommended that the fees should be increased to cover costs. A discussion ensued about the importance of prime agricultural soils.
 - [9:12] The Board assigned job captains for each of the applications in front of them. Board Member Chapek is the captain for the Tomasi application; Board Member Green for the Burroughs application; and Board Member McKnight for the Marias application.
 - [9:17] Chair Van Winkle asked for a motion to approve the minutes of December 5, 2016. Board Member McKnight made the motion to approve the minutes of December 5, 2016, which was seconded by Board Member Miller. Motion passed unanimously.
 - [9:18] Chair Van Winkle asked for a motion to approve the minutes of January 18, 2017. Board Member Chapek made the motion to approve the minutes of January 18, 2017 which was seconded by Board Member Green. Motion passed unanimously.
 - [9:19] Chair Van Winkle asked for a motion to approve the minutes of February 6, 2017. Board Member Chapek made the motion to approve the minutes of February 6, 2017, which was seconded by Board Member Green. Motion passed unanimously.
 - [9:20] Chair Van Winkle asked Staff Member Strniste about what the landowner would need to do regarding the conversion of the Underhill Center Country Store into two more dwelling units.

Staff Member Strniste informed Chair Van Winkle that a conditional use permit would be required.

- [9:26] The Board moved into deliberative session to discuss the Warner Creek Appeal Decision.
- [9:55] The Board moved to come out of deliberative session.
- [9:56] The Board Adjourned.

Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 02/20/2017 meeting of the DRB were accepted
this ~~20~~ 6 day of MARCH, 2017.



Charles Van Winkle, Chairperson

