

**Town of Underhill  
Development Review Board Minutes  
May 22, 2017**

**Board Members Present:**

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

Jennifer Chamberlin (28 Chamberlin Woods Rd.)  
Timothy Chamberlin (28 Chamberlin Woods Rd.)  
Paul Chamberlin (97 River Road)  
Joan Chamberlin (97 River Road)  
Andy Chamberlin (104 Mountain Road)  
Kiley Krywka (104 Mountain Road)  
Nate Sullivan (91 River Road)

**Staff/Municipal Representatives Present:**

Andrew Strniste, Planning Director

Peter Mutolo (184A VT Rte. 15, Jericho, VT)  
Shelby Evans (184A VT Rte. 15, Jericho, VT)  
Grant Allendorf (P.O. Box 214, Underhill, VT)  
Susan Allendorf (P.O. Box 214, Underhill, VT)  
Andres Turizzo (P.O. Box 4413, Burlington, VT)  
Ian Jewkes (164 Main St., Colchester, VT)  
Ryan Allendorf (4 Piney Grove Lane)  
Andrea Thorpe (13 Lower English Settlement)

**Others Present:**

Mike Gravelin (Beartown Rd.)  
David Burke (13 Corporate Drive, Essex Jct., VT)  
Thomas Fetters (49 Beartown Rd.)  
Robin Simard (1016 Main St., Colchester, VT)  
Allen Simard (1016 Main St., Colchester, VT)  
Roland Burroughs (46 Beartown Rd.)

**6:00 PM – 05/22/2017 DRB Public Meeting**

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- DRB Members convened at Town Hall between at 6:00 PM and 6:30 PM.
- [6:30] Chair Van Winkle called the meeting to order.
- [6:30] Chair Van Winkle asked for public comment. No public comments were provided.

**6:30 PM – Burroughs Preliminary Subdivision Review Hearing  
46 Beartown Road (BE046)**

**Docket #: DRB-17-03**

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- [6:30] Chair Van Winkle began the meeting by explaining the procedure for a preliminary subdivision review hearing. The applicants' consultant, David Burke, was before the Board to discuss the application pertaining to a two-lot planned residential development of land Roland & Rachel Burroughs owned, located at 46 Beartown Road in Underhill, VT. The applicants' developer and family were also in attendance, as well as an abutting neighbor.
- [6:33] No conflicts of interest were present, and therefore, no recusals occurred. Those who would be providing testimony were sworn in by Chair Van Winkle.
- [6:34] Mr. David Burke provided an overview of the proposed project: summarizing what has changed from the Sketch Plan Review meeting, explaining that land was being designated as open space in order to utilize the bonus density, and explaining where the wastewater systems will be located. He continued to state that the State water/wastewater permit is pending, and that he located the Lot 2 septic systems to the southeast as much as possible. Mr. Burke continued to state that "Top of Bank" should actually be "Top of Slope," as the Town's verbiage and the engineering discipline's verbiage are reversed. Lastly, he stated that the water/wastewater permit will be ready in time for final subdivision review.
- Board Member Miller asked for clarification between the difference from "Top of Slope" and "Top of Bank," which was answered by the "Top of Bank" buffer included an area that

floods. Board Member Miller confirmed that the south side of Mill Brook would require the applicants to be 100 feet from Mill Brook (Top of Bank) while the north side of Mill Brook only requires the applicant to be 50 feet from Mill Brook (Top of Slope). Staff Member Strniste stated that the Board still needed to determine the bonus density to be awarded, and Board Member Miller agreed with Mr. Burke's point from the Sketch Plan Review meeting that the minimum bonus should be awarded. Board Member Miller inquired if utilities needed to be depicted on the site plan, and Chair Van Winkle advised that, in his opinion, they did not need to be since the impact was only to Lot 2. Mr. Burke concurred and stated that utilities are oftentimes shown when a development road was being built. Board Member Chapek inquired about the different setback lines depicted on the site plan.

- [6:45] Board Member Miller asked if the plans needed to receive a revision date to change the phrase "Top of Bank" to "Top of Slope." Chair Van Winkle advised Mr. Burke to work with Staff Member Strniste to obtain parcel codes from the Listers. Board Member Miller asked if the floodplain area needed to be illustrated on the site plan; however, since these areas are likely protected in the open space, it likely does not.
- [6:49] Mr. Thomas Fetters inquired about the isolation shields that overlapped onto his land and what the implications were. Mr. Burke advised that the placement of the well and wastewater system were depicted to affect Mr. Fetters' land the least, and that the only thing that Mr. Fetters' would not be able to do in those isolation shields would be installing some type of sewage disposal system within them. Mr. Burke confirmed there would be no impact to Mr. Fetters' land on the eastern side of Kusserow Lane.
- [6:53] No other public comment was provided, nor were any more comments or questions provided by the Board.
- [6:54] Chair Van Winkle asked if the Board had enough evidence to close the evidentiary portion of the hearing, which the Board answered in the affirmative. He then asked for a motion to close the evidentiary portion of the hearing. Board Member McKnight made a motion to close the evidentiary portion of the hearing. Board Member Green seconded the motion, which was approved unanimously. Chair Van Winkle asked if the Board wanted to deliberate in closed or open session. The Board agreed to vote on whether to approve the application and then enter into closed deliberative session. Chair Van Winkle asked for a motion to approve the application and continue to craft the decision in closed deliberative session. Board Member Miller made the motion, which was seconded by Board Member Chapek. The Board unanimously voted to approve the application.

**6:54 PM – Chamberlin Final Subdivision Review Hearing  
97 River Road (RV097)**

**Docket #: DRB-16-06**

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- [6:54] Chair Van Winkle began the meeting by explaining the procedure for a final subdivision review hearing. The applicants' grandson and co-applicant, Andy Chamberlin, was before the Board to discuss the application pertaining to a two-lot subdivision of land they own, located at 97 River Road in Underhill, VT. The applicants and family were in attendance, as well as an abutting neighbor. The Board confirmed that there were no state or municipal officials present acting in their representative capacity.
  - [6:57] No conflicts of interest were present, and therefore, no recusals occurred. Those who would be providing testimony were sworn in by Chair Van Winkle.
  - [6:58] Mr. Andy Chamberlin provided an overview on what has changed since he last met with the Board during the preliminary subdivision hearing. He explained that more of the Class II Wetlands on Lot 2 were depicted on the site plan, parcel codes were added to the plans, he had applied to the Army Corps of Engineers for a wetlands permit, and added

shoulders to the proposed driveway. Staff Member Strniste advised that the application looked satisfactory, only that the wetland permits had not been obtained yet, nor did the applicants provide the draft deed language. Chair Van Winkle advised that usually draft deed language is required for multi-lot subdivisions; however, in this case, draft deed language should be provided that references the Road Maintenance Agreement, as well as associated right-of-way easements. Staff Member Strniste informed the Board that he did not see the value that was added to the review process with the inclusion of site plan review and conditional use review.

- [7:05] Board Member Green inquired about the wetland permit, and what it entailed. Chair Van Winkle advised that the permit allows for the least amount of impact within the area, and that it helps protect against urban pollution. Mr. Andy Chamberlin advised that the State Wetlands Permit was for the Class III Wetlands while the Army Corps of Engineers Permit was for the culvert area. Chair Van Winkle advised that the permits provide a burden of proof that the area will not be substantially impacted in a negative way. Board Member Miller asked when the building permit should be issued since the wetland permits have not been issued thus far. Chair Van Winkle advised that a Certificate of Occupancy should not be issued until after the permits are received.
- [7:14] Staff Member Strniste advised that the applicants should contact him about the land contract issue, and when to withdraw the land in an effort to meet the provisions of the contract.
- [7:15] Nate Sullivan asked for clarification from the Board on when the Certificate of Occupancy will be issued. Chair Van Winkle reaffirmed his earlier statement, and stated that the Board understood that it was prime construction season, which is why they are offering some flexibility on when permits should be submitted.
- [7:16] Chair Van Winkle asked if the Board had enough evidence to close the evidentiary portion of the hearing, which the Board answered in the affirmative. He then asked for a motion to close the evidentiary portion of the hearing. Board Member Chapek made a motion to close the evidentiary portion of the hearing. Board Member McKnight seconded the motion, which was approved unanimously. Chair Van Winkle asked if the Board wanted to deliberate in closed or open session. The Board agreed to vote on whether to approve the application and then enter into closed deliberative session. Chair Van Winkle asked for a motion to approve the application and continue to craft the decision in closed deliberative session. Board Member Miller made the motion, which was seconded by Board Member Green. The Board unanimously voted to approve the application.

**7:19 PM – Piney Grove Subdivision Amendment Review Hearing  
Piney Grove Subdivision (PY)**

**Docket #: DRB-17-07**

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- [7:19] Chair Van Winkle began the meeting by explaining the procedure for a subdivision amendment review hearing. The applicants' consultant, Andres Torizzo, was before the Board to discuss the application pertaining to the stormwater plan amendments for the Piney Grove Subdivision located adjacent to Lower English Settlement Road in Underhill, VT. Members owning land within the subdivision, abutting neighbors, and a consultant were also in attendance.
  - [7:23] Mr. Torizzo began the hearing by explaining the changes he made since he received Krebs and Lansing's independent review. He explained that he proposed to regrade the road to direct the road runoff water towards the swale on the uphill side of the road. In addition, two culverts would be removed rather than plugged. By making these changes, no runoff should occur to the existing rip-rap area on the Allendorf property.

- [7:26] Board Member Miller asked if the regrading would affect or exacerbate the driving experience, to which Mr. Torizzo responded that the change would likely be minimal or an improvement in the winter. She also advised that she liked the idea of removing the culverts as the Board had issues with plugs in the past. Chair Van Winkle asked why the applicant proposed to revamp the stormwater plans when the Board asked for an easement around the cascading waterfall instead. Mr. Torizzo responded that the proposed plan was not revamping the system, but rather, coming up with a strategy that most feasibly fixes the issue. By directing the stormwater in the upper part of the subdivision towards a bigger retention pond, eliminating the flow towards the waterfall, and eliminating the culverts towards the waterfall, the issues should be fixed. Mr. Torizzo then explained he performed the work on what he was tasked to do. He then explained that he received confirmation from the State that they will be issuing the permit amendment shortly. Mr. Torizzo then explained that by keeping the flow out of the area and regrading the road, the system was better overall, as no flow would occur towards the Allendorfs. Board Member Miller then summarized that while this approach may not be what the Board asked in 2014, the problems seemed to be resolved, which is what everyone was striving to do.
- [7:33] Board Member Miller asked for Mr. Torizzo to address Comment 3 of the Krebs & Lansing Study regarding additional analysis for larger storms. Mr. Torizzo explained while the State standard was for a 10-year storm, an analysis was performed for a 100-year storm, and the proposed stormwater plans held up fine.
- [7:36] Chair Van Winkle inquired if the revised stormwater plans took into consideration the entire subdivision, which Mr. Torizzo answered in the affirmative. Chair Van Winkle advised that the Board was initially concerned with two study points along Lower English Settlement Road during the original subdivision review process. He then explained that the Town wanted to assure that these downstream existing features were not overwhelmed. Mr. Torizzo then provided an explanation of Exhibit N. Board Member Miller and Chair Van Winkle asked if too much water would flow to the lower ponds. Mr. Torizzo reassured the Board that the swale and pond were sufficient to handle the capacity for a 100-year storm. Board Member Miller asked if the existing swale was not built to the original design-depth, could that affect the modelling and could the result be that the swale will not hold all of the stormwater. Mr. Torizzo said he tested the swale in the model as a foot in depth, and that the model worked out fine.
- [7:47] Chair Van Winkle expressed his concerns about the stormwater velocity in the swale. Mr. Jewkes, the Town of Underhill's consultant from Krebs & Lansing, explained that the heavy stone in the swale was satisfactory, and that there would be concern if the stormwater exceeded 10 feet per second instead of one foot per second.
- [7:50] Board Member Green inquired about the chronology of the reports that were submitted to be reviewed. Mr. Jewkes stated he saw the updates Mr. Torizzo made, but did not have enough time to analyze it. Mr. Torizzo explained that by eliminating the fallen tree, excavating the area, and placing stone in the pocket, the area should stabilize. He explained that his goal was to keep the stabilization localized, and to proceed by not grading much, but rather, revegetating. Board Member Miller asked if the approach was to minimize expenses or to minimize erosion. Mr. Jewkes agreed that what was being proposed was for stabilization purposes, as the fix was not cheap. He then stated that he would recommend a different fabric, but what was proposed was fine. Mr. Jewkes then explained that to revegetate the waterfall area would present challenges and possibly cause other stability questions. Board Member Green confirmed with Mr. Jewkes that these were adequate remedies and that there was nothing major that the Board was missing. Board Member Miller asked if the lower pond needed to be increased in size. Mr. Torizzo explained that it did not since he is proposing to reduce the amount of stormwater going to the pond.

- [7:59] Chair Van Winkle confirmed that the rate of stormwater runoff will suffice and that while the volume may increase, the rate will not. Board Member Chapek inquired about the slope of the pitch proposed for Piney Grove Lane, and if a guard rail would be needed.
- [8:03] Chair Van Winkle inquired into the Homeowner's Association standing, as it was discovered that the Homeowner's Association is not fully functional, although it exists. Chair Van Winkle expressed his doubts of the improvements being made. A brief discussion ensued about the lack of a statement of compliance as the current stormwater system has not been maintained. Chair Van Winkle then stated that since nothing was maintained, there was not a lot of faith in the stormwater permitting system, and that the Board was holding up other permitting processes to assure everything was done property.
- [8:13] Mr. Peter Mutolo went before the Board to explain that he and the other members of the Board would apply legal pressure on Mr. Goplen if he did not perform the infrastructure improvements. He then stated that if he needed to join Mr. Goplen in order to get a majority of members in the Homeowner's Association to have standing, he would gladly do so. Mr. Mutolo went on to state that he thought the improvements that are being proposed address all the issues. He then stated that the Homeowner's Association never incorporated due to the arising issues that prevented it from starting. A discussion then ensued about the implications of the Homeowner's Association not being set up, as well as the process for setting up the Homeowner's Association. Mr. Mutolo then confirmed that Mr. Goplen understands that he is on the hook for installing the infrastructure, and then asked for the most expedient decision possible.
- [8:27] Chair Van Winkle stated the Board would likely want to give Krebs & Lansing time to review the changes made shortly before the hearing. Board Member Miller explained that what was proposed feels right.
- [8:28] Mr. Grant Allendorf explained that he and his family were behind the proposed changes, as all of the issues appeared to adequately address the problems. He then inquired why the process took so long to arrive at this solution. Mr. Allendorf then asked for some trees to be planted adjacent to the road to assist with a privacy issue that emerged as a result of the waterfall. He then suggested that a guard rail be placed next to the road to prevent people from sliding over the cliff.
- [8:34] Ms. Andrea Thorpe then inquired if the updates would affect her house at 13 Lower English Settlement Road and if the proposed impervious surfaces were accounted for. Mr. Torizzo explained that the model takes into considered all proposed impervious surfaces and that the stormwater system must be maintained. Chair Van Winkle then explained that the issue with Ms. Thorpe's house is a subsurface problem rather than a surface problem, but assured Ms. Thorpe that the run off rates should be the same.
- [8:37] Chair Van Winkle proposed to continue the hearing to June 19 in order to give time for Krebs & Lansing to review what was being submitted prior to the hearing and to provide cost estimates on what was being proposed. He also proposed that the Board ask for an additional five trees to be located adjacent to Piney Grove Lane. Chair Van Winkle asked for a motion to continue the hearing to June 19 at 6:35 pm. Board Member Chapek proposed the motion as presented, and was seconded by Board Member McKnight. Motion approved unanimously.

### 8:37 PM – Other Business

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- [8:37] Chair Van Winkle provided an overview on what was requested of Watershed Associates and Krebs & Lansing prior to the next hearing. Chair Van Winkle recommended bonding the project, and explained the advantages of obtaining a bond. Board Member

Miller explained that the developer owns the road and infrastructure, and until it is finished, the Homeowner's Association is not enabled.

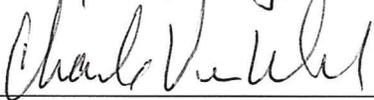
- [8:57] Staff Member Strniste provided a brief overview of the upcoming hearings.
- [9:06] A discussion ensued about meeting upstairs, and if there were any recommendations to improve the meeting experience.
- [9:27] Staff Member Strniste asked what information could be taken out of future staff reports.
- [9:29] Chair Van Winkle asked for a motion to enter into closed deliberative session. Board Member Miller made the motion as presented, which was seconded by Board Member Chapek. Motion approved unanimously.
- [9:55] Board adjourn.

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Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 05/22/2017 meeting of the DRB were accepted  
this 19 day of June, 2017.



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Charles Van Winkle, Chairperson