

**Town of Underhill  
Development Review Board Minutes  
July 17, 2017**

**Board Members Present:**

Matt Chapek  
Mark G. Green  
Karen McKnight  
Penny Miller  
Stacey Turkos

**Others Present:**

Robin Simard (1016 Main St., Colchester, VT)  
Al Simard (1016 Main St., Colchester)  
Roland Burroughs (46 Beartown Road)  
Mike Gravelin (4592 Dorset St., Shelburne, VT)  
David Burke (13 Corporate Dr., Essex Jct., VT)  
Jason Marias (318 Irish Settlement Road)  
Jeffrey Moulton (49 Highland Road)  
Thomas Fetters (49 Beartown Road)  
Mary Jo Berube (351 Irish Settlement Road)  
Dexter Lefavour (34 School St., Littleton, NH)

**Staff/Municipal Representatives Present:**

Andrew Strniste, Planning Director

**6:40 PM – 07/17/2017 DRB Public Meeting**

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- DRB Members convened at Town Hall at 6:40 PM.
- [6:45] Board Member Miller called the meeting to order.
- [6:45] Board Member Miller asked for public comment. No public comments were provided.
- [6:46] Board Member Chapek made a motion to appoint Board Member Miller as Acting Chair until the next Development Review Board meeting. Board Member Turkos seconded the motion, which passed unanimously.
- [6:47] Acting Chair Miller signed a submitted, finalized Mylar.

**6:35 PM – Burroughs Final Subdivision Review Hearing  
46 Beartown Road (BE046)**

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

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- [6:50] Acting Chair Miller began the meeting by explaining the procedure for a final subdivision review hearing. The applicants' engineer, David Burke, was before the Board to discuss the application regarding the subdivision of land owned by Roland and Rachel Burroughs located at 46 Beartown Road in Underhill, VT. The applicants' family was in attendance. Also in attendance was an adjacent land owner. No new interested parties or conflicts of interest were identified before the commencement of the hearing.
  - [6:54] Mr. Burke began the hearing by stating the submitted plans were essentially the same as those submitted as part of the preliminary subdivision review hearing, only the top of bank v. top of slope reference was corrected. He also advised that water/wastewater permits were obtained. Staff Member Strniste advised that the applicants would have to request from the Selectboard to waive the turnaround requirement since it was a requirement of preliminary access approval. He also advised that he agreed with the applicant that a turnaround would create a giant parking area due to the dwellings location in relation to the road. Board Member Green inquired about the deed language, specifically in regards to the open space requirement.
  - [7:02] Acting Chair Miller read aloud the restrictive covenants and the seven restrictions. Clarification was given in regards to those covenants. Mr. Burke explained that having the

restrictions in the deeds would help subsequent owners.

- [7:05] No further questions or comments were provided from any board members or audience members. The Board determined that they had enough information to make a decision on the application. Board Member Chapek made a motion to close the evidentiary portion of the hearing, which was seconded by Board Member McKnight. Board Member Turkos made a motion to approve the final subdivision review application and craft the decision in closed deliberative session. Board Member Green seconded the motion, which was approved unanimously. Staff Member Strniste and Mr. Burke had a discussion on whether the Mylar could be recorded during the appeal period. Staff Member Strniste advised that the Town had a long standing practice of not recording the Mylar until after the appeal the period.
- [7:15] A brief discussion ensued between the Board about Acting Chair Miller's proposed procedure for writing decisions.

**7:20 PM – Marias Preliminary Subdivision Review Hearing  
318 Irish Settlement Road (IS318)**

**Docket #: DRB-17-04**

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- [7:20] Acting Chair Miller began the meeting by explaining the procedure for a preliminary subdivision review hearing. The applicant, Jason Marias, and his engineer, Dexter Lefavour, were before the Board to discuss his application regarding the subdivision of land owned by Mr. Marias located at 318 Irish Settlement Road in Underhill, VT. Two abutting land owners were in attendance. Also in attendance were two adjacent land owners. No conflicts of interest were identified before the commencement of the hearing.
  - [7:25] Staff Member Strniste informed the Board that the applicant submitted email correspondence from the State of Vermont advising that the deer wintering yards are no longer present on the lot. Mr. Marias stated that he would be submitting formal correspondence for the final subdivision review process. Staff Member Strniste also submitted Exhibit N, the preliminary access permit, into the record. Mr. Marias and Mr. Lefavour inform the Board that they were subdividing the 14 acre lot in three lots, two of which were approximately three acres. Lots 2 & 3 would share a driveway. Mr. Marias informed the Board that the existing transformer would be upgraded and the new transformer would be placed along the shared driveway. The underground utilities would follow the same location as the existing waterline, which would be abandoned. Board Member McKnight inquired about the existing wells. Acting Chair Miller asked for clarification about the well shields. Mr. Lefavour explained that the Lot 1 well had no upland, the Lot 2 well was at the edge of a ridge, and the Lot 3 had an existing dug well. He also explained that the plans show for a replacement well, stating that the plans show that it is a viable option should the dug well on Lot 3 become contaminated. Acting Chair Miller advised the applicant that there were no isolation shields illustrated on the plans. Mr. Lefavour stated what they would be filing for the water/wastewater permits in the coming weeks. Acting Chair Miller asked if the isolation shield would contain the location of wells, specifically across Irish Settlement Road. Mr. Lefavour responded that he did not anticipate that this would occur.
  - [7:40] Staff Member Strniste provided an overview of his comments provided in the staff report. He specifically focused on when a conditional use permit would be required for the proposed accessory dwelling and the identification of the wetlands on the plans. Acting Chair Miller asked what were to happen if wetlands were on the Town lot. Staff Member Strniste advised that the wetlands buffer would be incorporated into the setback. Mr. Marias reaffirmed that he would be getting a formal letter from the State of Vermont regarding the deer wintering yard. Mr. Moulton advised that the deer wintering yard was

no longer there. A brief discussion ensued on the setback requirements and whether the lot is considered a thru-lot. Board Member Chapek inquired about an easement showing the placement of the utilities. The Board advised that they would like to see deeds that reference the requisite easements and the road maintenance agreement during the final subdivision review hearing.

- [7:55] Acting Chair Miller sought clarification about the slope of the driveways.
- [7:57] Mr. Moulton inquired about the septic systems. Mr. Lefavour explained why the septic systems were placed in the locations identified on the plans. A discussion then ensued about the proposed detached accessory dwelling. Board Member Turkos inquired if the detached accessory dwelling discussion was necessary since this was an application for preliminary subdivision review. Mr. Lefavour provided clarification on the septic system locations for the existing primary dwelling and the proposed detached accessory dwelling. Mr. Moulton explained that the Town right-of-way has been depicted as 50 feet, and that Fuller Road was 60 feet. He then inquired if the well shield and/or isolation shield should be moved closer towards Fuller Road to impact the lots across Irish Settlement Road less. Mr. Lefavour explained that the replacement well was a place holder. Acting Chair Miller explained that the Board would prefer to see isolation shields/well shields contained on the same lot, but understands that the State Regulations allow the shields to overlap property boundaries on a first come, first serve basis. Mr. Lefavour informed Mr. Moulton that a distinct ravine existed where access to drill the well was difficult.
- [8:04] Ms. Mary Jo Berube inquired if the detached access apartment was required to be owner occupied. Acting Chair Miller advised that the owner occupancy requirement is required as of now, but may not be true in the future. A discussion then ensued about accessory apartments again.
- [8:07] Mr. Marias advised that he would be seeking a conditional use permit during the final subdivision review hearing. Staff Member Strniste advised that a floor plan would be required for that hearing.
- [8:12] Board Member McKnight made a motion to close the evidentiary portion of the hearing. Board Member Turkos seconded the motion, which was approved unanimously. Board Member Chapek made a motion to approve the preliminary subdivision review application and craft a decision in closed deliberative session. Board Member Green seconded the motion, which was approved unanimously. Staff Member Strniste provided the applicant an overview of the timeline going forward.

### **8:18 PM – Other Business**

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- [8:18] A discussion ensued about covenants and deeds. Clarification was provided regarding the difference between referencing and incorporating. Board Member Green advised that incorporating covenants into the deed provided for better simplicity. The Board reviewed the restrictions in the Burroughs proposed covenants. Acting Chair Miller made a motion to move into closed deliberative session regarding the Burroughs and Marias applications. Board Member Turkos seconded the motion, which was approved unanimously.
  - [9:55] Board adjourn.

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Submitted by:  
Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 07/17/2017 meeting of the DRB were accepted  
this 21 day of August, 2017.

Penny M. Miller  
Penny Miller, Acting Chairperson