

**Town of Underhill
Development Review Board Minutes
December 4, 2017**

Board Members Present:

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

John McNamara (7 Pine Ridge Road)
Scott Thomas (263 River Road Road)
Dianne Terry (34 Pine Ridge Road)
Steve Coddling (34 Pine Ridge Road)
Nancy Hall (31 Pine Ridge Road)
Chantal O'Connor (2 Pine Ridge Road)
Leslie Dee (28 Pine Ridge Road)
Thad Gembuzynch (28 Pine Ridge Road)
Marilyn Harden (26 Pine Ridge Road)
John Harden (26 Pine Ridge Road)
Dave Demuynck (27 Pine Ridge Road)
Greg Leech (29 Pine Ridge Road)
Amy Golodetz (29 Pine Ridge Road)
Bethany Demuynck (27 Pine Ridge Road)
Susann May (37 Pine Ridge Road)
Carol Truesdell (38 Pine Ridge Road)
Roy Towlen (38 Pine Ridge Road)
Cathy Leatherisch (27 Pine Ridge Road)
Peter Duval (25 Pine Ridge Road)

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Director

Others Present:

John Koier (15 Pine Ridge Road)
Brabara Koier (15 Pine Ridge Road)
Heidi Duke (16 Pine Ridge Road)
Jamie Duke (16 Pine Ridge Road)
Geoff Duke (16 Pine Ridge Road)
Cathy McNamara (7 Pine Ridge Road)

6:30 PM – 12/04/2017 DRB Public Meeting

- DRB Members convened at Town Hall at 6:30 PM.
- [6:31] Chair Van Winkle called the meeting to order.
- [6:32] No public comments were provided.

**6:35 PM – Duval Conditional Use Review Request
25 Pine Ridge Road (PR025), Underhill, VT**

Docket #: DRB-17-16

-
- [6:35] Chair Van Winkle began the meeting by explaining the procedure for a conditional use review hearing. The applicant, Peter Duval, was before the Board to discuss his application pertaining to the conversion of his single-family dwelling with an attached accessory dwelling to a four-unit, multi-family dwelling on property he owns at 25 Pine Ridge Road (PR025) in Underhill, Vermont. Also in attendance were the various neighbors along Pine Ridge Road and neighbors in Underhill Center. No conflicts of interest were identified before the commencement of the hearing. All those who would be testifying were sworn in.
 - [6:39] Staff Member Strniste submitted Exhibit W, a memorandum from the Mount Mansfield Union School District expressing their ability to serve, into the record.
 - [6:40] Mr. Duval provided an extensive overview of his proposed project. He began by stating that he had no formal design as of yet, as he wanted to obtain the conditions from the Board prior to doing more design work. He explained that his design is in progress, and would be asking for a continuation to submit more design work. He explained that he is proposing a courtyard that would be pedestrian oriented. He continued with an

explanation of the red pine that existed on the lot and provided examples of some of the forestry practices he plans on performing. Mr. Duval then explained that he had discussed the layout design of the driveway with Mr. Schoopman from the Underhill-Jericho Fire Department, and advised that the Fire Department wanted the end of the driveway to be wider than the rest of the driveway, as well as providing a parking area along Pine Ridge Road. Mr. Duval then advised that he would propose the sewage disposal area be next to the tree identified on Exhibit U, and that the existing sewage area is in the backyard area. He then continued to state that the original center of Crane Brook was the boundary of the old Underhill Center Village. Mr. Duval explained to the Board that the proposal meets the specifications and requirements of the district. He then explained his vision of the courtyard and trail. He advised that the building would work for 100-200 years and that it would not need to be adapted, but rather will be adaptable. The building would provide flexibility for the elderly, which is the driving force for the courtyard. The silo Mr. Duval identified on the site plans is proposed to be an energy plus structure that is open on the ground level with greenhouse space on the second level. A second floor would be added to the existing house, which would be connected to the proposed barn by way of a cross deck. In response to Board Member McKnight's question, Mr. Duval explained that the silo would be part of the main residence. When the structure is not being used by Mr. Duval, he advised that he intends on renting the dwelling unit. He then explained that he is not intending on building the building all at once, and will be based on current needs. In response to Board Member Green's question, Mr. Duval clarified that the silo and old residence (including the second floor addition) will have residential units. Mr. Duval then explained that the dwelling units have not been specified yet; however, none would be in the new barn.

- [7:12] Mr. Duval continued to explain that he was debating installing solar panels, as well as constructing a greenhouse on the south side of the structure. In response to Mr. Green's question, Mr. Duval advised that the silo would be no more than 35 feet. Mr. Duval then stated that he was looking for the Board to enumerate the constraints, and therefore, he could work towards a concept that would meet those conditions. He then advised that the tree cutting covenants in the deeds were not enforced and suggested that the insulation requirements in the deeds were implausible. Board Member Miller clarified Mr. Duval's intent, which was confirmed by Mr. Duval as seeing if the project was well-received in order for him to take the project to the next level.
- [7:18] Mr. Duval then advised that after consulting with Staff Member Strniste prior to the meeting, that he wanted to make the following points: 1) the Board's jurisdiction is development review, not design review; 2) the Wishinski decision was a weak decision, was not argued very well, and does not apply to the current application; 3) conditional uses cannot be denied if the impacts can be mitigated, and that he expects to submit something in writing at the continued hearing; and 4) "character of the neighborhood" is not an official term used in the Zoning Regulations and the Town Plan, and that "character of the area" is the official term that takes into consideration the extent of the zoning district. Mr. Duval then explained that multi-family dwellings are conditional uses in all zoning districts, and that the Board should be looking at the inclusionary zoning of multi-family dwellings. He then explained that his proposed project conforms with the policies of previous Town Plans, and that the barriers for affordable housing should be reviewed. He concluded his project overview by stating that it conformed and met all of the policies of the Town and State.
- [7:32] Chair Van Winkle informed Mr. Duval that he did not disagree with him about the policies, and that the Board had to review the application against the criteria set out in the *Unified Land Use & Development Regulations*. Chair Van Winkle asked a clarification question about the dwelling, and whether it was a single-family dwelling with two kitchens,

or a single-family dwelling with an attached access dwelling, as well as asked how many bedrooms the current dwelling had. Mr. Duval answered there were a total of two bedrooms, and that it was a single-family dwelling with two kitchens. He then advised that he was proposing a four separate units, 3 bedrooms per unit. Mr. Duval informed the Board that the parking would be under the deck and breezeway, and that more parking could be provided if needed. Trash would be located under the breezeway, and composting will be available. Mr. Duval then explained the method where he would take woody debris, put soil on top, and then plant vegetation. He then advised that there would be no flowing water, and the berms will improve the retention of moisture.

- [7:39] Board Member Miller noted that the proposed project appears to increase the impervious surface substantially, and asked if an engineer will be commissioned. Mr. Duval answered that he did not think one would be needed; however, an engineer would do the site design. Board Member McKnight asked if the intent for each dwelling unit would have families. Mr. Duval explained that the current septic capacity could have four bedrooms. He then stated that each unit would not be identical to each other, and on average, there would be three bedrooms each. He stated that he had enough capacity for wastewater. He then stated that the building may not be exclusively for residential purposes. Board Member Chapek confirmed that there would be three bedrooms, one bathroom, and one kitchen per unit. Board Member Miller advised that the project sounded as if it were a co-housing structure; however, Mr. Duval confirmed that there would be four separate dwellings for rental purposes.
- [7:50] Staff Member Strniste provided an overview of his comments provided in the staff report. Board Member Green asked how flexible the Board could be with the footprint if they were to approve the application. Staff Member Strniste advised that in previous applications, the Board has always established the footprint of the principal dwelling. Board Member Miller suggested that the Board require a massing drawing of the structure. Chair Van Winkle advised that the applicant would be required to obtain a construction permit and water/wastewater permit from the State of Vermont. Board Member Miller informed the Board why a narrative of the design may be appropriate for the Board to consider.
- [8:02] Geoff Duke, a resident of 16 Pine Ridge Road, stated that while he could sympathize with a son in school and a parent getting older, the proposed project would be a fundamental change to the character of the neighborhood. He also voiced his concern about the potential devaluation of his property and increase in traffic. Mr. Duke continued to state that there are 12 owner occupied lots. While he could respect the needs/changes of the neighborhood, he is concerned about the narrative of the project, as well as the potential commercial sounding uses. Mr. Duke also expressed his disappointment with Mr. Duval to hear how unimportant neighborhood appeared be. While a lot of the concepts sounded intriguing, Mr. Duke would be more comfortable if those concepts were proposed for Mr. Duval and his family. Mr. Duke concluded by stating that he had concerns about the flexible housing proposal, and felt that a continuation of the hearing would not stray from the underlying project proposal: a rental building in a single-family neighborhood.
- [8:07] Leslie Dee, a resident of 28 Pine Ridge Road, stated that neighborhood is very important to her, and that Pine Ridge Road is a neighborhood, as the road is a dead-end road, each lot being five acres. She stated that the Pine Ridge lots were not part of Underhill Center or related to the lots along Pleasant Valley Road. Ms. Dee continued to state that she had concerns with the potential commercial use component of the project, and provided an example of how the owners along Pine Ridge Road functioned as a neighborhood. She stated her reservations about potentially losing the sense of neighborhood with lots turning into rentals. She then suggested that that the proposed trail would not be realistic as the

trail crosses a river, ends at private property thus not providing access to the village, and that it would not be a travel path since the neighborhood drives to their destinations. Ms. Dee then advised that that the project seemed very nebulous, as there was no definition to the project. She concluded that there were concerns of the project not coming to fruition, and that there would ultimately something that was only half built.

- [8:13] John McNamera, a resident of 7 Pine Ridge Road, advised that he was attracted to Pine Ridge Road because of 5-acre lots containing single-family dwellings. He stated that the neighborhood was tight knit, and that the proposed four-unit multi-dwelling structure containing 12 total bedrooms would notably increase traffic. He advised that he was not opposed to the environmental aspect of the project; however, while a lot of the project contained ambiguities, the one thing not vague were the number of units and bedrooms.
- [8:16] Dave Demuynck, a resident from 27 Pine Ridge Road, informed the Board that he felt there was not enough detail in the proposed application materials to advise if he supported the project or not; however, he was opposed to the four-unit, rental property idea. He stated that he performed some research on the literature pertaining to the implications of a project like the one put forth at the hearing. Mr. Demuynck submitted a study from Wendy Usrey titled *The Rental Next Door: The Impact of Rental Proximity on Home Values*, which became Exhibit X. He summarized the report as saying that the property values were negatively affected within a quarter mile radius of rental properties. Mr. Demuynck responded to Board Member Miller's question that the study appeared to focus on the rental of single-family dwellings rather than multi-family dwellings.
- [8:20] Nancy Hall, a resident from 31 Pine Ridge Road, submitted three documents into the record, which became Exhibits Y, Z and AA. Among the exhibits were a copies of the subdivision plat and the Act 250 permit. Ms. Hall advised that she appreciated the time and effort Mr. Duval put into the application. She then read Conditions 2 & 5 from the Act 250 permit, which advised that the lots were to be used for single-family dwellings, and if another use were proposed, the applicant would have to update the permit. She then advised that the neighbors plan on being vigilant about the application. Chair Van Winkle asked if the permit had been extended per the final condition of the Act 250 permit. Ms. Hall did not know; however, planned on inquiring since she had just found the permit that day.
- [8:28] Kathy Leathersich, a resident of 27 Pine Ridge Road, expressed concerns about privacy and safety as an abutting property owner to Mr. Duval. As a landowner who notes unfamiliar cars, she voiced significant concerns about the added traffic and the new access point to the subdivision – the proposed trail. Ms. Leathersich continued to state that there have been break-ins in other nearby neighborhoods, and she is worried [*and suggested*] that the proposed trail may provide a means of easy ingress and egress for criminals. While she is in favor of studios, the commercial component of the application could add a lot more traffic to Pine Ridge Road.
- [8:31] John Koier, a resident of 15 Pine Ridge Road, expressed his concern about the potable water supply, specifically the demand from the underground water source needed to meet the capacity. He also voiced concern about his gardens, as he could potentially see issues with pets of potential residents. Mr. Koier explained that he may have to fence his lot, which is something he does not want to do. He concluded that the 11 other neighbors agree that Pine Ridge Road was a neighborhood.
- [8:33] Chantell O'Connor, a resident of 2 Pine Ridge Road, explained that her issues with the project align with those of Geoff Duke who spoke earlier. She explained that she loved the creativity; however, as presented earlier, the subdivision was envisioned to be 5-acre lots containing single-family dwellings. She then explained that the neighborhood was

important to her. Ms. O'Connor reiterated a portion of the staff report stating that the application hinges on the character of the neighborhood affected. She explained that the application does not conform with the scale, density or intensity of the area; and that Pine Ridge was not part of the Underhill center village. Ms. O'Connor lastly presented a map of the Underhill Center Village Designation Boundary that was obtained by the Town earlier in 2017.

- [8:37] Marilyn Harden, a resident of 26 Pine Ridge Road, informed the Board that other neighbors have expressed a lot of the same opinions she had. She then explained that she deliberately chose her house because it was on a dead-end road where all of the lots were 5 acres and wooded. Ms. Harden advised that Mr. Duval's ideas are interesting but some of them are concerning. She continued to state that she would like to know more about that plan. She concluded by stating that she was concerned with potential added traffic.
- [8:40] Diane Terry, a resident of 34 Pine Ridge Road, read and submitted a petition to the Development Review Board that was signed by 22 people in the neighborhood voicing their opposition to the project. The submitted document became Exhibit BB.
- [8:43] Susann May, a resident of 37 Pine Ridge Road, explained that as the first landowner on Pine Ridge Road, she loved the area and privacy. Though Mr. Duval's application is probably well intended, she explained that the conceptual design is fuzzy as Mr. Duval is using words such as "imagining," "anticipate," and "toying." She explained that the terms used are not very clear, and that the proposed plan would take away the country life style. She concluded by stating that she hoped that the Board would consider the neighborhood's opinions.
- [8:46] Jamie Duke, a resident of 16 Pine Ridge Road, explained that he has concerns about income segregation, and cautioned that rental property is not the same as affordable housing. He provided additional concerns about landlord and tenant issues, and concluded by stating that he is sympathetic to the environmental and social goals; however, did not believe that proposed project was a good way to advance those goals.
- [8:49] Heidi Duke, a resident of 16 Pine Ridge Road, explained that she was not in favor of the project, as she was concerned about housing value. She explained that the neighborhood was a walking neighborhood as evidenced during the site visit; however, added traffic could change the essence of the road and pedestrian safety.
- [8:51] Chair Van Winkle advised the hearing's participants that Mr. Duval had asked for a continuance to address comments and submit additional information. Staff Member Strniste advised that the next available hearing date would be February 5, 2018. Additional materials will be made available on the Town Website. Chair Van Winkle advised that materials can be submitted up to and through the next continued hearing, and once the evidentiary portion of the hearing is closed, then the Board will determine whether they should deliberate in closed or open session. The Board will then have 45 days to write the decision, and then there will be a 30 day appeal period.

9:00 PM – Other Business

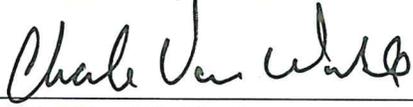
-
- [9:00] Board Member Turkos made a motion to approve the minutes of October 23, 2017, which was seconded by Board Member Lee. The motion was approved unanimously.
 - [9:01] Board Member Miller made a motion to approve the minutes of November 20, 2017, which was seconded by Board Member Turkos. The motion was approved unanimously.
 - [9:02] Staff Member Strniste advised what exhibits were added during the evening's hearing.
 - [9:03] Staff Member Strniste advised that he intends on making a Pine Ridge interested

- parties email group to send correspondence and updated information too.
- [9:05] Staff Member Strniste provided an overview on the upcoming applications and determined who the job captains for the upcoming hearings would be.
 - [9:16] Chair Van Winkle advised that the Board she not talk about the evening's application to anyone, otherwise, they may have to recuse themselves at the continued hearing.
 - [9:18] Chair Van Winkle asked for a motion to adjourn. Board Member Turkos made a motion to adjourn, which was seconded by Board Member Turkos. The motion was approved unanimously.
-

Submitted by:

Andrew Strniste, Planning Director & Zoning Administrator

These minutes of the 12/04/2017 meeting of the DRB were accepted
this 26 day of FEBRUARY, 2017.



Charles Van Winkle, Development Review Board Chair