

**Town of Underhill
Development Review Board Minutes
July 18, 2016**

Board Members Present:

Charles Van Winkle
Will Towle
Mark Green
Penny Miller
Karen McKnight

Staff/Municipal Representatives Present:

Andrew Strniste, Planning Coordinator
Kurt Johnson, Selectman

Others Present:

Robert Stone, Applicant (54a River Road)
Nicole Stone, Applicant (54a River Road)
Wally Stone (11 Doon Road)
Pat Stone (11 Doon Road)
Tim Chamberlin (28 Chamberlin Woods)
Jenni Chamberlin (28 Chamberlin Woods)
Paul Chamberlin, Applicant (97 River Road)
Joan Chamberlin, Applicant (97 River Road)
Andy Chamberlin (104 Mountain Road)
Kiley Krywka (104 Mountain Road)
Nate Sullivan (91 River Road)
Winfred Sullivan (11 Chamberlin Woods)
Denis Poley, Applicant (863 VT Route 15)
Pat Lamphere, Applicant (178 Beartown Road)
Mike Fullum

6:30 PM – 07/18/2016 DRB Public Hearing

- 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 – Poley – Variance Appeal: VT683 (683 VT Route 15)

Docket# DRB 16-05

- [6:35] Chair Van Winkle began the hearing by explaining the procedures for a variance hearing. The applicant Denis Poley was before the board for a proposed variance to accommodate a kitchen within the 50' rear setback. Currently, a deck extends into the rear setback; however, the applicant wishes to demolish the deck and put a kitchen in its place.
- [6:39] Chair Van Winkle swore in hearing participants. There were no conflicts of interest or ex parte communications reported by DRB members.
- [6:40] A discussion between the board and the applicant ensued when Chair Van Winkle asked why the applicant chose to apply for a variance when the area in question already contains a deck that encroaches upon the setback.
- [6:44] The applicant explained that he had a rough estimate on where the property line was. The board explained that a variance should not be issued without knowing the location of the property line.
- [6:45] The applicant was asked why he did not apply for a waiver, as the deck is considered a nonconforming structure. The board continued to explain to the applicant that if the kitchen is considered a preexisting nonconforming use, the removal of the deck and the construction of a kitchen does not need DRB review, and a zoning permit/waiver can be issued.
- [6:53] The board debated the applicability of § 3.9.A.3 v. § 3.9.B of the Unified Land Use & Development Regulations (ULUDR)

- [6:58] The board discussed if the current setback would be measured to the deck or to the dwelling, and determined that setbacks are measured to building coverage (including decks and porches), and not living space.
- [6:59] The board agreed that the applicant could construct the kitchen without DRB approval for a variance, as the kitchen would decrease the nonconformance under § 3.9.A.3; therefore, a building permit could be issued under § 10.3.
- [7:01] On a motion by W. Towle and seconded by M. Green, the DRB voted unanimously to issue a permit via § 3.9.A.

**7:05 PM – Lamphere - Final Subdivision Review:
BE116 (116 Beartown Road)**

Docket# DRB 15-05

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- [7:05] Chair Van Winkle began the hearing by explaining the procedure for final subdivision review. The applicant Pat Lamphere was before the Board for the subdivision of his land into three parcels. The applicant and his engineer were in attendance.
 - [7:09] Chair Van Winkle swore in the hearing participants. Karen McKnight recused herself to avoid any conflicts of interest.
 - [7:12] Chair Van Winkle asked the Planning Coordinator, Andrew Strniste, for comments, who replied that no inconsistencies were found during his review, acknowledging that as a recent hire, he was coming in during the end of the review process.
 - [7:13] A discussion between the Board and Applicant ensued about what should be shown on the site plan and the Mylar due to inconsistencies (the driveway was repositioned and the building envelope was expanded) discovered between site plans that were submitted to the board, as well as the site plan presented by the applicant during the hearing.
 - [7:22] A discussion ensued on what the DRB should be reviewing and approving.
 - [7:26] Chair Van Winkle and Board member Towle agreed that the easement language that was submitted sufficed.
 - [7:28] As a member of the Planning Commission, the applicant wishes to revisit the regulations to help clarify what the DRB should be reviewing and what the Planning Coordinator/Zoning Administer should be reviewing.
 - [7:30] A discussion between the board and the applicant ensued upon a recommendation by the Underhill/Jericho Fire Department regarding the placement of a dry fire hydrant on the property. The board determined that a dry fire hydrant would not be feasible given the property's features.
 - [7:32] No public comment was offered upon Chair Van Winkle's announcement of opening the hearing for public comment.
 - [7:32] Board member Towle made a motion to close the evidentiary part of the hearing and proceed to deliberate in open session for a limited time before moving into closed session. Board member Green seconded the motion, which passed unanimously.
 - [7:32] Board member Towle and Chair Van Winkle explained that the applicant should remove from the Mylar the building envelope and driveway outside of the right-of-way.
 - [7:38] Mike Fullum discussed the frustration engineers are having due to the inconsistency of what the Town wants to see in its plans.
 - [7:40] Chair Van Winkle took a straw vote for approving the subdivision. All were in favor.
 - [7:41] Board member Towle made a motion to transition into closed Deliberative Session and continue the discussion at the end of the evening, which was seconded by Board member Green. The board approved unanimously.

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- **Note** – the Stones asked the Chamberlins, who agreed, to switch hearing times due to a scheduling conflict.
 - [7:45] Chair Van Winkle began the hearing by explaining the procedure for the Sketch Plan hearing. The applicant and family were in attendance. Board member Miller stated that she knew the applicant; however, she knows that she will make an impartial decision.
 - [7:47] The Applicant provided an overview of the project, including the following background information: the lot has been in the family since the early 19th century; a one acre preexisting “floating” lot exists; the applicant wishes to share the driveway with the “floating” lot and keep the driveway where it currently exists in an effort to preserve the culvert and not to disturb the natural draining patterns; a shared driveway easement can be obtained; the applicant has contemplated the inclusion of a mother-in-law apartment.
 - [7:53] A discussion ensued between Board member Towle and the applicant regarding why a boundary line adjustment is not feasible and why a share driveway is more suitable.
 - [7:56] A discussion between the Board and the applicant ensued over whether the entire lot needed to be surveyed or if just the three acre parcel needed to be surveyed. Chair Van Winkle confirmed that the DRB only needs to review the three acre parcel.
 - [7:57] The board discussed the implications of Land Contracts.
 - [7:59] Board member Towle commented that the application seemed straight forward. Chair Van Winkle commented that the applicant should obtain the necessary State subdivision permits
 - [8:04] A discussion regarding accessory dwellings ensued, where Chair Van Winkle commented that a conditional use permit could potentially be required for the accessory dwelling unit. Planning Coordinator, Andrew Strniste, commented that the regulations appear to require site plan approval for all accessory dwelling units, thereby adding additional requirements to the subdivision review process should the applicant wish to construct a mother-in-law apartment.
 - [8:06] Board member Towle acknowledged that creating easements on neighboring lots can potentially cause friction between current or subsequent land owners. The applicant responded by stating that once the lot comes out of the land contract, he would pursue a boundary line adjustment.
 - [8:10] The applicant and board discussed the lot’s previous subdivisions where the Board learned that there was one subdivision in the 1970s and another in the 1990s.
 - [8:13] Chair Van Winkle informed the applicant that he would need to gain an access permit from the Selectboard.
 - [8:14] Chair Van Winkle asked the Board if the subdivision should be classified as a Major or Minor Subdivision. All agreed that the subdivision should be designated as a Minor Subdivision.
 - [8:14] Chair Van Winkle provided the applicant an explanation of the subdivision review process and advised the applicant that he has the option of waiving the preliminary subdivision review process. The applicant stated that he wished to have preliminary subdivision review.
 - [8:17] Board member Towle made a motion to close the evidentiary part of the hearing and deliberate in Open Session for a limited time before moving into closed Deliberative Session. Board member Green seconded the motion. The board approved unanimously.
 - [8:18] Chair Van Winkle took a straw vote for approving the subdivision. All were in favor.

- [8:19] Chair Van Winkle provided the next steps that the applicant should expect in the review process.
- [8:20] Board moved into a Deliberative Session.

**8:24 PM – Chamberlin – Sketch Plan: Subdivision Review:
RV097 (97 River Road)**

Docket# DRB 16-06

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- **Note** – the Stones asked the Chamberlins, who agreed, to switch hearing times due to a scheduling conflict.
 - [8:24] Chair Van Winkle began the hearing by explaining the procedure for the Sketch Plan hearing. The applicant, Andrew, and family were in attendance.
 - [8:26] Paul, a family member of Andrew's, provided a brief overview of the project explaining that he wanted to grant a building lot to his grandson Andrew. Andrew then explained that the subdivision would involve seven acres. He continued to explain that he has received preliminary access approval from the Selectboard.
 - [8:30] Board member Towle inquired about the number of bedrooms that would be serviced by the driveway upon construction. Board member Towle proceeded to explain to the applicant that a shared agreement for road maintenance and snow removal should be incorporated into the subdivision as to prevent friction between current and/or subsequent property owners in the future.
 - [8:35] Board member McKnight inquired about the submitted exhibits, and what various structures were on the lot.
 - [8:37] The Board and applicant discussed the implications of extracting land from a land contract that was situated in two zoning districts. Chair Van Winkle explained to the applicant that the DRB recently changed its interpretation in that the zoning requirements of the district where the activity is taking place applies.
 - [8:41] Board member Green clarified that the land contract states the amount of land that could be extracted from the land contract is 150% of the district with the stricter regulations. The applicant inquired about limitations regarding the subdivision of land, e.g. if an island lot could be created.
 - [8:47] Chair Van Winkle advised the applicant of the right-of-way (of the driveway) requirement as well as other constraints the applicant may encounter.
 - [8:50] Chair Van Winkle asked the Board if the subdivision should be classified as a Major or Minor Subdivision. All agreed that the subdivision should be designated as a Minor Subdivision. Chair Van Winkle then provided the applicant an explanation of the subdivision review process and advised the applicant that he has the option of waiving the preliminary subdivision review process. The applicant stated that he wished to have preliminary subdivision review.
 - [8:51] Board member Towle made a motion to close the evidentiary part of the hearing and deliberate in Open Session for a limited time before moving into closed Deliberative Session. Board member Green seconded the motion. The Board approved unanimously and then identified the following issues/concerns: the location of the two zoning districts and the implications of removing a perspective lot from a land contract that lies in two districts; the inclusion of a road agreement/easement to river road that includes the 30' right-of-way; a member of the public, Nate Sullivan, identified that the culverts would have to be enlarged going forward; steep slopes, flood hazards; stream water setbacks; the orientation of the proposed house.
 - [8:59] Chair Van Winkle took a straw vote for approving the subdivision. All were in favor.

- [9:00] Board moved into a Deliberative Session.

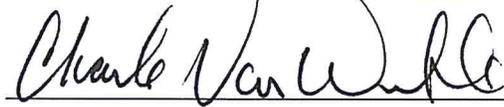
9:02 PM – Old Business

- [9:02] Board member Towle made a motion to approve the minutes of the previous Development Review Board meeting (June 20, 2016). Board member McKnight seconded the motion. Motion approved unanimously.
- [9:02] Board member Towle made a motion to move into a deliberative session. Board member Green seconded the motion. Motion approved unanimously.

These meeting minutes reflect a summary of the topics discussed at the Monday, July 18, 2016 hearings. An audio recording of the hearing is available to the public.

Submitted by:
Andrew Strniste, Planning Coordinator

These minutes of the 07/18/2016 meeting of the DRB were accepted
this 19 day of SEPTEMBER, 2016.



Charles Van Winkle, Chairperson

These Draft minutes are subject to correction by the Underhill Development Review Board. Changes, if any, will be recorded in the Final meeting minutes of the meeting of the DRB.