



TOWN OF UNDERHILL

Development Review Board

PETER DUVAL
COURT ORDERED CONDITIONAL USE REVIEW
Docket #: DRB-17-16(2)

Applicant(s):	Peter Duval
Consultant/Representative:	Wilcox & Barton, Inc.
Property Location:	25 Pine Ridge (PR025)
Acreeage:	±5.00 Acres (Grand List) / ±5.23 Acres (ArcMap)
Zoning District(s):	Water Conservation

Background:

On June 29, 2018, the Development Review Board rejected Mr. Duval's (the "Applicant") conditional use review application to convert his single-family dwelling with an accessory dwelling (see § 5.4.B.4 regarding this assertion) to a multi-dwelling structure. After the denial of his reconsideration request, Mr. Duval subsequently appealed the decision to the Environmental Division of the Superior Court. After back and forth motions from both sides regarding the scope of his appeal, the Town submitted a motion to the court requesting the application be remanded back to the Town's Development Review Board for two reasons: 1) the DRB should have the opportunity in the first instance to review a complete set of the necessary application materials from Mr. Duval prior to the court's review, and 2) to help narrow the issues being litigated by hopefully disposing of unresolved issues. On May 21, 2019, the Court granted the motion (see Exhibit FFF), specifically stating:

"We . . . **GRANT** the Town's motion for remand and **REMAND** this matter back to the DRB for further review of the wastewater system design as it relates to conditional use standards. Mr. Duval shall submit the requested evidence within 60 days or risk dismissal of his application and appeal for a failure to prosecute. All other unrelated matters in this docket are stayed pending the conclusion of the DRB's actions on remand." *[Emphasis Added]*

On Monday, July 15, 2019, Mr. Duval submitted the enclosed materials for the Board to review, specifically:

- A copy of a Town's motion to the Court titled: "Memorandum in Opposition to Appellant's Motion for Reconsideration," and
- A copy of the attachments included in his motion to the Court titled: "Response to the Town's Motion to Remand."

Contained within those attachments to Mr. Duval's motion (titled: "Response to the Town's Motion to Remand") was a copy of a site plan that was part of a wastewater design prepared by Wilcox & Barton, Inc., dated January 30, 2019. The document on its face indicated it was page 1 of 2.

On Wednesday, July 17, 2019, Staff reached out to Mr. Duval advising that the submitted materials did not contain a complete wastewater system design, as only a site plan was involved in the submitted materials. Staff asked Mr. Duval to submit the second page of the plans and a complete set of the wastewater system design information. In addition, Staff also inquired if Mr. Duval could confirm that the wastewater system design complies with the recently adopted 2019 State wastewater rules & regulations (for reasons explained below). Lastly, Staff informed Mr. Duval that he would be writing a staff report on the information provided **BEFORE** the 60 day deadline (Saturday, July 20, 2019).

On Friday, July 19, 2019, Mr. Duval submitted Page 2 of his wastewater plan, while also making the following objections:

1. "The DRB does not have authority to regulate wastewater;
2. Giving specific attention to wastewater systems, the ULUDR are inconsistent with Vermont Laws;
3. Vermont law is clear regarding municipal involvement in wastewater systems – only notice of certain events and coordination of permits is allowed by statute;
4. The DRB makes new demands for information that is well-beyond the allowed scope of its review, even after having already reached a final decision." (see HHH)

In response to Staff's inquiry about the wastewater system design complying with the 2019 State wastewater rules & regulations, Mr. Duval stated the following:

"I filed my application with the DRB, November 2, 2017. The zoning ordinance that were in effect at that time are the ordinance that the DRB may use to review the project. I have provided an engineered drawing of a wastewater system design that I would like to build. The DRB asked for AFTER it made its final decision and well into the appeal process – an outrageous abuse of the process. The wastewater system design speaks for itself when the DRB is finished with its attempt to regulate the design, I will make my application to ANR and they will determine whether it merits a Wastewater System and Potable Water Supply Permit." (see Exhibit HHH)

Based on the correspondence outlined above, Staff infers that the Applicant believes that the Board does not have authority to consider whether his wastewater system design complies with current wastewater regulations when considering his conditional use application against the applicable criteria.

Review of the Board's Rationale of Denial

Prior to his appeal to the Environmental Court, the Board denied Mr. Duval's conditional use review application for various reasons (see the Board's decision: DRB Decision #: DRB-17-16, Exhibit GGG), which are outlined directly below:

1. Mr. Duval failed to submit various items requested in the DRB's February 15, 2018 memorandum related to slopes, erosion control techniques, stormwater management, the wastewater system, and bedrooms in each unit.
2. Mr. Duval failed to satisfy or address various aspects of the zoning regulations:
 - a. The purpose statement of the Water Conservation District due to the lack of a wastewater system design (Article II, Table 2.4);
 - b. Various aspects of the parking, loading & service area requirements (§ 3.13);
 - c. The source protection area requirements due to the lack of a wastewater system

- design (§ 3.17);
 - d. Various aspects of the steep slopes requirements, mainly due to the lack of a wastewater system design (§ 3.18)
 - e. Various aspects of the surface waters & wetlands requirements (§ 3.19) due to the lack of a wastewater system design;
 - f. The water supply & wastewater system requirements (§ 3.22); and
 - g. Landscaping and screening requirements largely because of the inconsistencies between the submitted site plan at the time (previous Exhibit UU) and the “walk along videos (Exhibits VV – Exhibit CCC).
3. Mr. Duval failed to submit sufficient evidence that the project satisfied the character of the area of the Water Conservation District as it relates to the purpose statement of that district since a wastewater system design was not submitted;
 4. The Board found that the project did not conform with the character of the area as outlined in that decision under Section 5.4.B.2.
 5. The proposed project was not support by the Town Plan, which encourages denser, compact development in the traditional village centers.

The Board's Task as it Relates to the Court Order

Based on the materials that Mr. Duval submitted on July 15 and 19, the Board is to review the wastewater system design as it relates to the conditional use review criteria. This includes revisiting the aforementioned reasons for denial to determine if any findings have changed. Additionally, should any indirect conclusions be made as a result of the submitted wastewater design plan, the Board can update its previous findings on the issue.

**2018 UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS
RELEVANT REGULATIONS:**

- Article II, Table 2.6 – Mt. Mansfield Scenic Preservation (pg. 21)
- Article III, Section 3.2 – Access (pg. 30)
- Article III, Section 3.7 – Lot, Yard & Setback Requirements (pg. 38)
- Article III, Section 3.11 – Outdoor Lighting (pg. 41)
- Article III, Section 3.13 – Parking, Loading & Service Areas (pg. 44)
- Article III, Section 3.14 – Performance Standards (pg. 46)
- Article III, Section 3.17 – Source Protection Areas (pg. 55)
- Article III, Section 3.18 – Steep Slopes (pg. 56)
- Article III, Section 3.19 – Surface Waters & Wetlands (pg. 63)
- Article III, Section 3.23 – Water Supply & Wastewater Systems (pg. 68)
- Article V, Section 5.1 – Applicability (pg. 112)
- Article V, Section 5.3 – Site Plan Review (pg. 115)
- Article V, Section 5.4 – Conditional Use Review (pg. 120)
- Article V, Section 5.5 – Waivers & Variances (pg. 123)
- Article VI – Flood Hazard Area Review (pg. 127)

CONTENTS:

- a. Exhibit EEE - Duval Court Ordered Conditional Use Review Staff Report
- b. Exhibit FFF - Court Order

- c. Exhibit GGG - DRB Decision #: DRB-17-16
- d. Exhibit HHH - Email Correspondence from Mr. Duval, Dated 07/19/2019
- e. Exhibit III - Wastewater System Design Site Plan, Dated 01/30/2019
- f. Exhibit JJJ - Wastewater System Design Details, Dated 01/18/2019
- g. Exhibit LLL - ANR Atlas Surface Waters Map
- h. Exhibit MMM - Miscellaneous Materials Submitted by Mr. Duval
- i. Exhibit NNN - Correspondence from Halls
- j. Exhibit OOO - Duval (PR025) Court Ordered Conditional Use Hearing Procedures

STAFF FINDINGS OF RELEVANT SECTIONS

ARTICLE II – ZONING DISTRICTS

	Water Conservation District Requirements	Existing Lot (Single-Family Dwelling)	Existing Lot (Proposed Development)
Lot Size:	5.0 Acres	±5.0 Acres	±5.0 Acres
Frontage:	300 Feet	±304 Feet	±304 Feet
Setbacks:			
• Front North	30 ft. (Prin) / 30 ft. (Acc)	±112 Feet	±74
• Side 1 West	50 ft. (Prin) / 20 ft. (Acc)	±26 Feet	±75
• Side 2 East	50 ft. (Prin) / 20 ft. (Acc)	±97 Feet	±97
• Rear South	50 ft. (Prin) / 20 ft. (Acc)	±813 Feet	>400
Max. Building Coverage:	20%	Assumed Met	Assumed to be Met
Max. Lot Coverage:	30%	Assumed Met	Assumed to be Met
Maximum Height:	35 Feet	Assumed Met	Assumed to be Met

ARTICLE II, TABLE 2.4 – WATER CONSERVATION DISTRICT (PG. 15)

Purpose Statement: To protect the important gravel aquifer recharge area in Underhill Center.

The Applicant has submitted a site plan (Exhibit III), dated January 30, 2019, depicting the location of the wastewater system, as well as the information relating to the details of the wastewater system, dated January 18, 2019 (Exhibit JJJ). Staff notes that the wastewater system design submitted for review predates the Agency of Natural Resources (ANR) new Wastewater System & Potable Water Supply Rules – effective as of April 12, 2019. As a result, since the Applicant did not submit a Wastewater System & Potable Water Supply Permit application prior to the new wastewater regulations being promulgated, should the Applicant submit the current design to ANR, there is no assurance that the design subject to this review will be approved and a permit issued.

The Board typically relies on a wastewater design, designed under current State Wastewater System Regulations, to satisfy the presumption that the wastewater system will not pollute the surrounding environment. This policy is supported by the following findings in its decision (DRB-17-16, Exhibit GGG):

- Section 3.22, regarding Water Supply & Wastewater Systems:

“The Board largely relies on a wastewater system and potable water supply design plan or correspondence from the Department of Environmental Conservation as evidence that adequate wastewater capacity and water supply will be provided.”

- Section 3.17, regarding Source Protection Areas, of that decision, the Board stated the following:

“The Board finds that the attainment of a State of Vermont, Department of Environmental Conservation Wastewater System & Potable Water Supply Permit, or the submission of a wastewater system design plan, creates the presumption that the applicant will not contaminate the nearby soils, surface water, and groundwater.”

Based on the information above, as well as the submitted information, the Board will need to evaluate whether the Applicant has satisfied the Board’s own policy regarding the presumption that the wastewater system design will not pollute to surrounding environment.

ARTICLE II – ZONING DISTRICTS

ARTICLE III – GENERAL REGULATIONS

SECTION 3.2 – ACCESS (PG. 27)

Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU).

SECTION 3.3 – CONVERSION OR CHANGE OF USE (PG. 30)

Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU), and that the applicant has already satisfied the requirements of this section.

SECTION 3.4 – EQUAL TREATMENT OF HOUSING (PG. 31)

Staff finds that the Board’s findings relating to this Section were in response to various assertions made by the Applicant during its previous review. Review at this time seems unnecessary.

SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS (PG. 35)

Staff finds that the proposed use remains the same – a four-unit, multi-family dwelling. As proposed, the structure will satisfy the dimensional requirements, which includes the frontage and setback requirements (see Table Above). No district dimensional waivers in accordance with Section 3.7.E have been requested.

SECTION 3.11 – OUTDOOR LIGHTING (PG. 38)

Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU), and that the Applicant has already satisfied the requirements of this section.

SECTION 3.13 – PARKING, LOADING & SERVICE AREAS (PG. 41)

Staff finds that no new information relating to this Section has been submitted, and that the issues identified in the Board’s decision (DRB-17-16, Exhibit GGG) remain unresolved. The Board found the following issues with the parking:

- The utilization of tandem parking;
- Vehicular circulation encroaching upon the handicapped parking space, and vice versa;
- The snow removal area being located in an area not easily accessible; and
- The lack of evidence relating to the number of bedrooms, which could impact the number of parking spaces required.

While the wastewater system design denotes that the system will be designed for a four unit, multi-family building, with 3 bedrooms per unit (i.e. a 12 bedroom structure), no documentation explicitly stating so has been submitted. Additionally, Staff is unable to say with certainty that the proposed wastewater system design will conform with the newly promulgated 2019 Wastewater Rules (effective as of April 12, 2019), potentially resulting in a system that can only serve a structure with a smaller demand.

SECTION 3.14 – PERFORMANCE STANDARDS (PG. 43)

In regards to this Section, Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU). Additionally, the Board found that the Applicant has already satisfied the requirements of this section.

SECTION 3.17 – SOURCE PROTECTION AREAS (PG. 52)

Staff finds that the Applicant has submitted a wastewater system design, dated January 18 & 30, 2019. As outlined in the Board’s decision (DRB-17-16, Exhibit GGG), a submitted wastewater system design designed under the current wastewater regulations typically creates the presumption that the project will not harm the source protection area, in this case an active groundwater source protection area. As explained above, the submitted design predates the newly promulgated 2019 Wastewater Rules (effective as of April 12, 2019), and therefore, Staff is unable to say with certainty that the aforementioned presumption is satisfied.

Based on the information above, as well as the submitted information, the Board will need to evaluate whether the Applicant has satisfied the requirement that the wastewater system design does not pollute to surrounding environment.

SECTION 3.18 – STEEP SLOPES (PG. 53)

Staff finds that the Applicant has submitted a wastewater system design, dated January 18 & 30, 2019. As outlined in the decision (DRB-17-16, Exhibit GGG), areas of steep slope (15%-25%) or very steep slopes (>25%) on the property have been identified. As explained above, the submitted design predates the newly promulgated 2019 Wastewater Rules (effective as of April 12, 2019), and therefore, Staff is unable to say with certainty that the site location presented on the site plan (Exhibit III) will remain the same should any amendments to the system be required.

As currently configured, the system is 60 ft. wide and is proposed to be sited in an area that rises between 9 and 9.5 ft. Therefore, the depicted wastewater system seemingly impacts a slope of 15.0% to 15.8%. The Board should determine whether they have enough information to evaluate the project as it relates to this Section. Staff also notes that this information was requested by the Board in its February 15, 2018 memorandum to the Applicant as Request Item #1.a., which the Applicant has still failed to submit.

Lastly, Staff notes that if the Board concludes that the wastewater system impacts steep slopes, then the Board would be reviewing the impact to steep slopes, not reviewing the wastewater design system itself, as the Applicant contends.

SECTION 3.19 – SURFACE WATERS & WETLANDS (PG. 60)

Staff finds that the Applicant has submitted a wastewater system design, dated January 18 & 30, 2019. As outlined in the Board’s decision (DRB-17-16, Exhibit GGG), the Board was unable to say with certainty that the “approximate proposed leach field area” would meet the setback requirements from Crane Brook, especially since Crane Brook was not identified on the site plan. The Board also noted that Crane Brook is within a floodplain, and therefore, the leach field would need to be sited at least 100 ft. from the “top of bank” In accordance with §§ 3.19.D.1 & 3.19.D.4.

In reviewing the submitted site plan (Exhibit III), it fails to identify Crane Brook, thus complicating the review process. When comparing the Site Plan (Exhibit III) and the ANR Atlas Website, specifically the depiction of Crane Brook (Exhibit LLL), Staff found that there is sufficient evidence to reasonably believe that the edge of the wastewater design system is within the 100 ft. buffer requirement under §§ 3.19.D.1 & 3.19.D.4; however, notes that there is uncertainty due to the lack of information provided on the site plan.

The aforementioned measurement is based on the assumption that the current layout conforms with the 2019 Wastewater Rules. However, as outlined in this staff report, there is no certainty that the current design will remain the same should any modifications be required should the design not meet aspects of the 2019 State Wastewater Regulations.

SECTION 3.22 – WATER SUPPLY & WASTEWATER SYSTEMS (PG. 65)

Staff finds that the Applicant has submitted a wastewater system design, dated January 18 & 30, 2019. As outlined in the decision (DRB-17-16, Exhibit GGG), the Board acknowledges that it typically relies on a wastewater system design as evidence that adequate wastewater capacity and water supply will be provided. Staff is unable to verify that the wastewater system design submitted by the Applicant will not be subsequently amended after this review if the submitted design requires amendments in order to conform with the 2019 State Wastewater Regulations.

ARTICLE VI – SPECIFIC USE STANDARDS

SECTION 4.12 – HOME BUSINESS (HOME OCCUPATION, HOME INDUSTRY) (PG. 82)

Staff finds that no new information relating to this Section has been submitted, and notes that the Applicant acknowledged that he abandoned this idea during the previous review process (DRB-17-16, Exhibit GGG). Should the Applicant reengage with the home business idea, further review may be required.

ARTICLE V – DEVELOPMENT REVIEW

SECTION 5.1 – APPLICABILITY (PG. 105)

Staff finds that conditional use review is required per Article II.

SECTION 5.3 – SITE PLAN REVIEW (PG. 108)

Section 5.3.A – Purpose (pg. 108): When reviewing a conditional use review application, site plan review is also required per Section 5.4.C.

Section 5.3.B – Standards (pg. 108): The Board may wish to consider and impose appropriate safeguards, modifications and conditions relating to any of the following standards:

Section 5.3.B.1 – Existing Site Features (pg. 108): Staff finds that the Applicant has submitted a wastewater system design, dated January 18 & 30, 2019. As outlined in the decision (DRB-17-16, Exhibit GGG), the Board found that the previously submitted site plan depicting a “proposed approximate leach field” was conceptual in nature, thereby inhibiting the Board from making positive findings regarding the standards enumerated within this section.

Staff is unable to verify that the wastewater system design submitted will not be subsequently changed after this review should modifications be needed in order to comply with the 2019 Wastewater Rules. As a result, Staff is unable to definitively say that the system will not adversely impact the existing site features enumerated within this subsection, specifically steep slopes (§ 5.3.B.1.a.iii) and surface waters and associated buffers (§ 5.3.B.1.a.iv).

Other issues that remain unaddressed from the Board’s previous decision are:

- Drainage Patterns (§ 5.3.B.1.a.i);
- Wetlands and associated buffers (§ 5.3.B.1.a.iv); and
- Special flood hazards areas under Article VI (§ 5.3.B.1.a.v)

Section 5.3.B.2 – Site Layout & Design (pg. 108): Staff finds that no new information relating to this Section has been submitted, and that the Applicant has already satisfied some of the requirements of this section. However, the Applicant has still failed to satisfy other requirements of this section (see the Board’s decision: DRB-17-16, Exhibit GGG), specifically in regards to surface waters. While the Applicant did submit a wastewater system design, dated January 18 & 30, 2019, Staff is unable to verify that the proposed wastewater system design will conform to the buffering requirements for Crane Brook (see Section 3.19 above). The submitted site plan still lacks the information needed to determine if the wastewater system is out of the 100 ft. setback requirement for Crane Brook.

Section 5.3.B.3 – Vehicle Access (pg. 109): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU).

Section 5.3.B.4 – Parking, Loading & Service Areas (pg. 110): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU).

Section 5.3.B.5 – Site Circulation (pg. 110): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU).

Section 5.3.B.6 – Landscaping and Screening (pg. 111): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU).

Section 5.3.B.7 – Outdoor Lighting (pg. 112): See Section 3.11 above.

Section 5.3.B.8 – Stormwater Management and Erosion Control (pg. 112): Staff finds that no

new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU).

SECTION 5.4 – CONDITIONAL USE REVIEW (PG. 113)

Section 5.4.A – Purpose (pg. 113): Conditional use review is required to ensure compliance with standards addressing the potential impacts of the proposed development on adjoining properties, the neighborhood, and/or zoning district in which the development is located, and the community at large. Typically, land uses that are subject to conditional use review require that review because of their scale, intensity and potential for off-site impacts.

Section 5.4.B – General Standards (pg. 114): Conditional Use Review shall be granted only if the Board finds that the proposed development will not result in an undue adverse effect on any of the following subsections:

Section 5.4.B.1 – The Capacity of Existing or Planned Community Services or Facilities (pg. 114): Staff finds that the Applicant has submitted a wastewater system design, dated January 18 & 30, 2019. As outlined in the decision (DRB-17-16, Exhibit GGG), the Board acknowledged that it was unable to make findings about the wastewater system depicted in the previous site plan (see Exhibit UU) due to the conceptual nature of the design, and therefore, was unable to confirm that the proposed project would not adversely affect the soils, surface waters, and groundwater in the vicinity.

Staff is unable to verify that the wastewater system design submitted by the Applicant will not be changed following this review should it not conform to the 2019 Wastewater Rules. Therefore, Staff cannot say with certainty that the system will not adversely affect the soils, surface waters, and groundwater in the vicinity.

Section 5.4.B.2 – The Character of the Area Affected (pg. 114): Staff finds that the Applicant has submitted a wastewater system design, dated January 18 & 30, 2019. As outlined in the decision (DRB-17-16, Exhibit GGG), the Board made various findings under this subsection. The two main findings provided under this subsection were:

- The Applicant failed to provide a wastewater system design that demonstrates that a wastewater system will not be adverse to the important gravel aquifer recharge area in Underhill Center, as defined by the Water Conservation District's purpose statement.
- The Applicant failed to submit an application that conforms with the character of area as outlined in Section 5.4.B.2 of that decision (see DRB-17-16, Exhibit GGG for the Board's rationale).

In regards to the first finding directly above, Staff is unable to verify that the submitted wastewater system design will not be adverse to the Water Conservation District's purpose statement (protecting the important gravel aquifer recharge area in Underhill Center) since there is uncertainty as to whether changes will occur following this review. Changes could potentially be required to the submitted designed system should it not meet aspects of the 2019 State Wastewater Regulations. See Table 2.4 and Section 3.22 above for more information.

In regards to other aspects of this subsection, especially in regards to the location, scale,

type, density and intensity, Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU).

Section 5.4.B.3 – Traffic on Roads and Highways in the Vicinity (pg. 114): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU), and that the Applicant has already satisfied the requirements of this section.

Section 5.4.B.4 – Bylaws in Effect (pg. 115): Since the Board’s previous decision, there is sufficient evidence to believe that the Applicant has installed an accessory dwelling without the proper permitting prior to the initial filing of his application (November 2, 2017).

Section 5.4.B.5 – The Utilization of Renewable Energy Resources (pg. 115): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU). Additionally, the Board found that the Applicant already satisfied the requirements of this section.

Section 5.4.C – Site Plan Review Standards (pg. 116): Under this subsection, site plan review is required as part of conditional use review. Analysis can be found above under Section 5.3.

Section 5.4.D – Specific Standards (pg. 116): The Board may consider the following subsections and impose conditions as necessary to reduce or mitigate any identified adverse impacts of a proposed development:

Section 5.4.D.1 – Conformance with the Town Plan (pg. 116): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU). Staff refers the Board to their decision (DRB-17-16, Exhibit GGG) for more information.

Section 5.4.D.2 – Zoning District & Use Standards (pg. 116): See Table 2.4 above.

Section 5.4.D.3 – Performance Standards (pg. 116): See Section 3.14 above.

Section 5.4.D.4 – Legal Documentation (pg. 116): Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU). Staff refers the Board to their decision (DRB-17-16, Exhibit GGG) for more information.

SECTION 5.5 – WAIVERS & VARIANCES (PG. 113)

Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU). The Applicant has not requested any additional reviews.

ARTICLE VI – FLOOD HAZARD AREA REVIEW

Staff finds that no new information can be inferred from the submitted site plan pertaining to the wastewater system design (Exhibits III & JJJ) as compared to the previous site plan (Exhibit UU). Additionally, the Board found the Applicant already satisfied the requirements of this section.