Zuzana and Kevin Brochu
76 Slate Barn Drive
Williston, VT 05495

October 2, 2020

Dear Members of the Williston Development Review Board:

We are writing in follow up to the 9/22/2020 DRB meeting, particularly as it relates to HP 16-03 Amendment #1. We understand from the minutes that the egress was approved, and the skylights decision was left to the Zoning Administrator when the framing (roof and walls) is complete.

As you are aware, we had the opportunity to appeal the Town Planning Director's opinion letter, but chose against it. We are not looking to escalate the issue if we can be satisfied that our concerns are recognized, and that you have solid rationale for disagreeing with our review of the bylaws. You had assured us in the meeting that our voices are being heard, and we would like to take you at your word.

In the 9/22 meeting, we stated that, based on the Town bylaws, we believe that the changes requested require going through the discretionary permit process. A summary of the comments we provided in the meeting is attached for your reference, along with an outline of the pertinent bylaws and the rationale. We are not interested in being adversarial or litigious. We want to be heard, acknowledged, and we want to understand where our rationale doesn't hold up to your scrutiny – and why you chose to vote in favor of the requested changes without going through the discretionary permit process.

As the meeting minutes reflect, there was no acknowledgment by the Board of the facts that we presented to you in the meeting, and no discussion about them. Toward the end of the meeting, we stated that we felt our concerns have gone unheard – not just in that meeting, but throughout this project. The Board members assured us that we are being heard, and that our comments are being taken into account. As such, we would like to take you at your word and kindly ask that you please help us understand why you believe the changes the applicant requested do not require the discretionary permit process. All we are looking for is clear communication and transparency.

We are not quite certain what the protocol would be for the Board to share this kind of information, but we are open to any form of communication that you may deem appropriate. We just want to understand where you are coming from in approving these changes without going through the discretionary process, as our bylaws seem to require.

In closing, let us also share that we do not enjoy attending DRB meetings where back-handed comments are made about "the group involved," or outright accusations are cast that the project has been "harassed." What we have asked for, all along, is for the bylaws to be followed and for the process to be transparent. Given that you assured us in the last meeting that you are hearing our concerns, we respectfully ask that you please share with us why you didn't have this last request go through the discretionary permit process. We are reaching out in hopes of a collaborative approach, where all involved feel that they are being respected, and where no one feels they have to resort to appeals in order to be heard.

Thank you in advance. Sincerely,

Zuzana and Kevin Brochu

Cc: Matt Boulanger, Emily Heymann, Melinda Scott, Alex Pintair

Summary of Comments by Kevin and Zuzana Brochu
as Provided at the
Williston DRB Meeting on 9/22/2020

We believe that the requested changes, particularly the egress and the skylights, need to go through the **discretionary permit process**, rather than the administrative permit process. We come to this conclusion based upon a thorough review of the bylaws.

We believe there are 3 items to consider in making this determination, based on the bylaws: (1) Are these changes necessary? (2) Are they minor? (3) And are they permitted? We would like to outline each of those now in turn.

First: Why are we asking if the changes are necessary? Because these requests come after final plans have been approved, and while construction is in progress. And the bylaws governing changes at this stage – after approval of final plans and during construction – state that these changes ought to be necessary. To quote the bylaws:

First, Bylaw 6.10.1 clearly states: What if I want to change the approved plan before, or during, construction? **Final plans are binding, as approved**.

Bylaw 5.6.2 then says: Aren't minor changes inevitable in any development? The town recognizes that small changes may be **necessary** as construction proceeds….

And WDB 5.6 does allow some **exceptions** for minor changes. Specifically, under 5.6.2.2, an example is provided that is very telling in that the requests on the table DO NOT fall into the category of what can be approved through an administrative permit. To quote:

5.6.2.2 Dimensional Changes. The Administrator may permit small dimensional changes provided that they do not result in a violation of this bylaw or conditions imposed on previous permit approvals, or in a substantial change, as defined by WDB 5.6.3. For example, the Administrator could permit a builder to shift a door, and the sidewalk leading from the parking area to that door, by a few **feet in order to accommodate a change in a proposed building's floor plan.**

The proposed changes are clearly not what this bylaw describes. In summary, the bylaws state that "**Final plans are binding, as approved**." This is a valid recognition of the time, effort and thoughtfulness put into the Discretionary Permit, and refers to 5.6.2 for exceptions. Bylaw 5.6.2 states these changes are considered **"necessary as construction proceeds"** and goes on to give an example that supports that the change is predicated on accommodating a change in a proposed floor plan.

In this case, the addition of skylights and an egress is not predicated on any other change in the building phase and do not meet the requirements of being "necessary as construction

proceeds," therefore an amendment to the final plans is not the vehicle for executing these changes. These changes need to be addressed through the discretionary permit process.

Second – why are we asking if the changes are Substantial?

Staff has outlined the bylaws that address substantial vs minor work and we agree with the conclusion that "the addition of a window or a door" as "minor work". Although this may be a true conclusion for "the addition of a window or a door" it does not hold true for the addition of skylights and egress, as they are neither of these. An egress in this case will require excavation of the ground, retaining walls, some sort of access to the basement etc... None of which has been detailed in the application. The proposed skylights additionally are without important details such as the dimensions, the exact location, style, or other details. Further, there are bylaws that specifically call out skylights and thus distinguish them as their own entity – not to be interchanged with windows.

As such, the conclusion here is that an addition of skylights and a basement egress are to be considered substantial changes, which means they necessitate the discretionary permit process.

The third and final question is, are these changes Permitted?

Here we will speak specifically to the skylights. As far as skylights are concerned, the bylaws are clear that they are not allowed in the public byway. As the skylights will be clearly visible from Slate Barn Drive, Lansdowne Drive and the bike path, approval of these would go directly against the bylaw. I want to make a specific point here, in case this comes up as a counterpoint: Any partial seasonal shielding of the view from Slate Barn or the school by a large mature box elder cannot be taken into account, as this tree will sadly be soon lost, due to damage by recent excavating. And even with the tree in place, the skylights would still be clearly be visible from the street. The structure was designed to mimic a barn, and an addition of skylights to a barn-like structure is not in keeping with the look of the Village, especially since this structure is right next to an actual slate roof barn.

In summary, the proposed changes are not consistent with the bylaws as the construction phase has not necessitated the changes, the addition of skylights and egress are not listed as minor changes and are not equivalent to adding a door or window, and the skylights specifically are not allowed in the view of a public byway like Slate Barn, Lansdowne or the bike path.

We respectfully request that the Board have these changes go through the proper discretionary permit process, in keeping with the bylaws. We realize that this may be inconvenient for the builder, or perhaps cost more if done later, but the town has a process in place for a reason, and we respectfully ask that the board sees to it that that process be followed. Thank you.