

Approved  
Town of Wallingford, VT Development Review Board (DRB)  
Findings of Fact, Conclusions of Law, Decision & Order(s)

**Application #17-12 :** Request for a two lot subdivision; with access to one parcel by private Right-of-Way  
**Applicant:** Pike Industries Inc.                      Postal address: 346 Avenue A Williston, VT 05495  
**Subject Property Location:** 139 Creek Road, Wallingford VT 05773                      Town Parcel: 0020139

**INTRODUCTION**

The Zoning Administrator (ZA) received an initial application on 5/5/2017, which was reviewed per Article V of Wallingford Zoning Regulations (effective Sept. 2015). The ZA determined that the application required DRB review and was denied. An Appeal of the ZA decision was received on 5/5/2017, and the application referred to the DRB. Abutting property owners were notified on 5/26/17 (documented by Certificate of Mailing) that a Public Hearing was scheduled for 6:30 pm, 6/13/2017, at Town Offices, 75 School St. Wallingford Village. Public Notice was also given by Rutland Herald on 5/27/2017, property location POSTER, and in two other public buildings.

Accordingly, a Public Hearing was convened by the DRB on 6/13/17, with a quorum of Members in attendance. The Zoning Administrator; James Manley (manager for Applicant), and a number of Interested Parties (identified by Meeting Minutes & attendance roster) were present.

Jurisdiction was taken by Article V, of the Zoning regulations, regulating required frontage or access to public roads, and Article IV, with attention to the Industrial Zoning District Regulations.

After hearing testimony from Applicant and all Interested Parties; the DRB voted to close the Hearing to testimony, and deliberated the following:

**FINDINGS of FACT**

1. The 133.25 acre subject property has served as an aggregate quarry and an asphalt processing plant. These were conditional uses in the Industrial Zoning District, and subject to Act 250 Land Use permits.
2. The property has not been used for a number of years. The Applicant testified that the Act 250 reclamation requirement was nearly complete; with the unfinished work to be scheduled for Fall 2017. A portion of the property is within a FEMA Floodway or Floodplain,
3. Applicant requests a two lot subdivision. The Eastern portion (Lot A) is to include 49.58 acres, with road frontage on Creek Road. This was the general location of the past industrial uses and buildings. The Western portion (Lot B) is comprised of the remaining 83.67 acres, includes a portion of the past quarry, and is mainly steep wooded terrain.
4. Access to Lot B would be by a permanent (deeded) 50 foot wide Right of Way (ROW) along an existing interior (private) road starting on Creek Road and running through Lot A. This ROW location is detailed on a Survey by Short Surveying Inc. (Middlebury, VT), titled "Survey Plat of Proposed Subdivision of Properties of Pike Industries Inc.; Westerly of Creek Road and River Street, Wallingford, Rutland County, VT", dated 2/10/2004. This survey was submitted as the Site Plan for Application #17-12.
5. The purpose of the subdivision request is to facilitate resale of the property.
6. A VT D.E.C Wastewater & Subdivision permit has been approved and recorded in Wallingford Land records.

**CONCLUSIONS OF LAW**

1. That Lot A conforms to the minimum dimensions, area, and road front requirements for a parcel in the Industrial Zoning District.
2. That Lot B conforms to the minimum dimensions and area for a parcel in the Industrial Zoning District. The permanent 50 foot wide ROW, as detailed in the Survey referenced, conforms with the Town zoning requirement for access

**DECISION & ORDER**

Based on the Application documentation, Testimony of Record, and Review of the applicable regulations, the Wallingford Development Review Board here by **APPROVES APPLICATION #17-12 with the CONDITION** that all other VT and federal permit requirements are satisfied by the Applicant, or its heirs and assigns.

The majority of the Wallingford Development Board approves this Decision, which is to be attached to final Conditional PERMIT #17-12, and orders the Zoning Administrator to issue said permit as follows:

William Brooks: Approve    Erika Berner: Approve    Jillian Burkett: Approve    Carol Ann Martin: Absent

This Town approval does not release the Applicant from obtaining any other local, state, or federal approval or permit their application may require. Any alteration to the approved application without written prior Town approval, misrepresentation to the facts presented in the application & public testimony, or failure to comply to other VT & federal permits required are grounds to revoke this local permit.

Any Decision by an Appropriate Municipal Panel is subject to appeal by an Interested Party to the VT Environmental Court, within 30 days of the formal decision, as defined in the Town Regulations, and 24 VSA 4471(a), with a copy submitted to the Town, in accordance with the Act.

William H Brooks , 7/3/2017, William Brooks , Chairman, DRB

Received by Zoning Administrator: JM Beasly 7/7, 2017