

**TOWN OF STOWE  
DEVELOPMENT REVIEW BOARD**

**Findings of Fact & Conclusions of Law**

**IN RE: Paul E. Percy  
Stowe, Vermont 05672**

**BA 10-051.1**

**CC: Stowe Snowmobile Club  
Stowe, Vermont 05672**

**PROCEDURAL HISTORY:**

The Zoning Administrator received an application for a new conditional use on July 7, 2003. The application was ruled complete and warned in the Stowe Reporter and posted on July 24, 2003. A public hearing was held on August 19, 2003. This decision was rendered by the Board on September 16 2003.

**FINDINGS OF FACT & CONCLUSIONS OF LAW:** During its review of this application, the Board made the following Findings of Fact:

1. Paul E. Percy owns property located on Stagecoach Road.
2. Currently the VAST trail crosses the Percy property then joins with Tansy Hill Road to cross the East Branch of the Waterbury River before returning back onto private land. The current route of the trail brings the snowmobile traffic in close proximity to several homes on Tansy Hill Road, creating a concern over noise. On a busy day, the applicant testified that the trail might see as many as 700 to 800 snowmobiles.
3. The applicant proposes to construct a snowmobile bridge across the East Branch more or less behind the barn on the Old Ware Farm. The trail would then be re-routed over the bridge, and away from the neighboring homes.
4. The bridge is to be constructed by placing preformed concrete blocks on both banks and then placing steel girders across the river. The girders are then covered with a wooden deck with side rails. The bridge is approximately 60' in length, and is wide enough to allow snow cats and other maintenance equipment to cross.
5. The bridge is to be open only to the snowmobile traffic and will be closed off with a gate in the summer to prevent other use.
6. The entire Percy property is located in the RR 5 District as established by the Town of Stowe Zoning Regulations last revised June 13, 2002. The construction of a bridge for recreational use would be a permissible use under Section 6.6 of the Zoning Ordinance.
7. The application was reviewed by the Board for compliance with the standards of the Stowe Zoning Ordinance last revised June 13, 2002.
8. The plans and information presented do meet the minimum standards established in Section 4.7 – Conditional Use; and were of sufficient detail to allow the Board to judge the proposal and to apply conditions if approval were to occur.

**4.7(2)(A) – Standards of review (Conditional Use Applications):** Pursuant to the requirements of the Stowe Zoning Ordinance, all Conditional Use Applications are reviewed under the requirements of Section 4.7(2)(A):

9. **Section 4.7(2)(A)(1) – Capacity of existing or planned community facilities & services:** The application is for modifications to an existing private recreational trail system. These alterations appear to require no municipal or community services.

**Conclusion:** The Board concludes that there will be no adverse impact on the capacity of existing or planned community facilities and services as a result of this application.

10. **Section 4.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The current location of the trail requires snowmobiles to travel along a portion of Tansy Hill Road in order to cross the East Branch. In so doing, the snowmobiles travel on or near the traveled portion of the Town Highway. This application would take the snowmobile traffic off Tansy Hill Road.

**Conclusion:** The Board concludes that the proposed alterations to the trail system will have a positive impact on traffic congestion or safety on area roads and highways in the vicinity.

11. **Section 4.7(2)(A)(3) – The character of the area affected:** The trail crosses open farm lands in this area. The new bridge will be constructed with a relatively low profile and will be only a few feet above the natural grade in this area. The bridge is located behind the existing barns at the farm, and should be generally inconspicuous to passing motorists.

**Conclusion:** The Board concludes that the proposed use does not have an undue adverse impact on the character of the area affected.

12. **Section 4.7(2)(A)(4) – Bylaws then in effect:** The property is located entirely in the RR 5 Zoning District – Section 6 of the Stowe Zoning Ordinance and the proposed bridge will cross the East Branch in an area mapped as being part of the 100 year flood plain, regulated by Section 14 of the Ordinance. The applicant has obtained a permit for construction of this bridge from the State of Vermont Water Quality Division. There will be no fill placed within the FEMA designated floodway as part of this project.

**Conclusion:** The Board concludes that, the project as proposed, complies with the purpose and requirement of the Stowe Zoning Ordinance, and is in conformance with Bylaws then in effect.

**Other Standards of Review:**

13. **Section 4.7(2)(B)(1) - No undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The bridge will be located in an area of open farm lands along Stagecoach Road. The East Branch crosses the property, and its associated flood plain and streambed are natural areas. The bridge has been designed to prevent disturbance within the streambed, and to avoid impact on the floodplain.

**Conclusion:** The Board concludes there is minimal potential for adverse effects on the historic, scenic qualities, or aesthetics of the area.

14. **Section 4.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The bridge has been designed so that excavation will not occur within the streambed nor will there be any construction that would destabilize the stream bank. The machinery required to construct the bridge will not be required to operate within the stream itself which further minimizes the potential for water pollution.

The applicant testified that the trail, on busy days, might see as many as 700 to 800 snow machines a day. These machines have the potential to cause an undue impact due to noise pollution as they pass neighboring homes. The applicant's plan to relocate the trail away from neighboring homes has the effect of minimizing noise pollution on these homes and reducing this impact.

**Conclusion:** The Board concludes that there will be no undue water, noise or air pollution.

15. **Section 4.7(2)(B)(3)/Section 4.9(1)(A)** - Compatibility with the Stowe Municipal Plan. The Board is reviewing this application under the current Town Plan, last revised November 3, 1998. The plan supports the development of a year round resort economy which includes all forms of snow sports, including the V.A.S.T. trail network.

**Conclusion:** The Board concludes that the proposal is in keeping with the goals of the Town Plan as it provides for the continuation and improvement of a winter-time recreational activity which has potential benefits for the community as a whole.

16. **Section 4.7(2)(B)(4)/4.9(1)(B)** – Adequacy of Driveway Access: This project requires no traditional vehicular access. Access for construction will be over the existing driveway and farm roads. No new driveways are proposed.

**Conclusion:** The Board concludes that this criterion is not applicable.

17. **Section 4.7(2)(B)(5)/4.9(1)(C)** – Shared Access: The property is served by an existing driveway to the farm which will be used for construction and if any maintenance were required.

**Conclusion:** The Board concludes that there is shared access on this property.

18. **Section 4.7(2)(B)(6)/4.9(1)(D)** – Circulation and Parking. This application requires no parking once it is completed. Construction traffic will be able to park at the existing farm.

**Conclusion:** The Board concludes that no parking is required.

19. **Section 4.7(2)(B)(7)/4.9(1)(E)** – Pedestrian Circulation and Access. This application is for a snowmobile trail. No pedestrian facilities are required or proposed.

**Conclusion:** The Board concludes that this criterion does not apply.

20. **Section 4.7(2)(B)(8)/4.9(1)(F)** - Landscaping. There is no landscaping existing or proposed.

**Conclusion:** The Board concludes that there is no need for additional landscaping to mitigate the effects of this proposal.

21. **Section 4.7(2)(B)(9)/4.9(1)(G)** - Stormwater Management. The construction of this snowmobile bridge is not expected to create any significant stormwater runoff. The bridge has been designed so that during its construction disturbance to the stream bank is avoided or minimized.

**Conclusion:** The applicant has made adequate provisions for stormwater management.

## **DECISION**

Based upon the foregoing Findings of Fact, in **RE: BA 10-051.1 (Paul E. Percy/Stowe Snowmobile Club, Inc.)**, the Board took the following action:

A motion was made by Mr. Brink and seconded by Mr. Aumand to approve the application with the following conditions:

1. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required.
2. This application is approved pursuant to the plans, specifications, and site plans admitted into evidence. The project shall be completed in a manner which is consistent with the Board's findings and conclusions and the approved plans and specifications.
3. The Board concludes that the letter from the Agency of Natural Resources (dated 8/5/03 by Christopher Brunelle) satisfies the requirements under Section 14 and the conditions outlined in that letter are also conditions of this approval.

Voting in favor: Mr. Aumand, Mr. Beddow, Mr. Brink, Mr. Coppock, Mr. Izzo & Mr. Walton Voting to deny: None. Voting to abstain: None. Absent: None. (Note: There is one vacancy on the Board at the time of this hearing)

The motion carries, the application is approved.

Dated at Stowe, Vermont this the 16<sup>th</sup> day of September, 2003.

By: \_\_\_\_\_  
Allan J. Coppock, Chairman  
Stowe Development Review Board

Any interested person may appeal this decision to the Vt Environmental Court within thirty days in accordance with 24 V.S.A. S 4471.

The foregoing represents the decision of the Development Review Board, and is NOT a permit. A zoning permit will not be issued by the Administrative Officer until all necessary approvals have been obtained and a survey has been filed with the Stowe Town Clerk. Commencement of the activities described within this decision without a valid permit constitute a violation of the Stowe Zoning Regulations as provided in Section 23.4.

The use or occupancy of any building or activity approved in this decision requires the issuance of a Certificate of Occupancy. No Certificate of Occupancy will be issued until such time as all of the conditions of this decision have been fulfilled.