

TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 5881

SUBJECT PROPERTY: 0 Sanborn Rd; #11-080.000

APPLICANT & PROPERTY OWNER:

Jonathan Sigler /Sigler Family Trust
756 Lexington Ave.
Westmount, QC H3Y-1K7 Canada

APPLICATION:

(Application materials on file at the Stowe Town Office, procedural history attached.)

The Applicant, Jonathan Sigler (herein referred to as the “Applicant”), request approval under Section 9 of the Town of Stowe Zoning Regulations to construct a single-family dwelling and related appurtenances within the Ridgeline and Hillside Overlay District (RHOD). The subject lot is also known as Lot 1 (±6.7 acres) of the 162351 Canada Inc. three-lot subdivision approved by the Board in a written decision dated 03/07/2007 & 11/20/2007; Projects 3225 & 3608 respectively. In the Board’s decision for Project 3225, condition of approval #6 states “No zoning permits be issued until the DRB has approved the final limits of clearing for each lot. The Board may require additional landscaping or reforestation in order to achieve adequate screening and in order to meet RHOD standards.” In coordination with this project, the Applicant seeks to establish final clearing limits as required under previous conditions of approval (Projects 3255 & 3608).

The subject parcel (#11-080.000), located at 0 Sanborn Road, is in the Rural Residential 2 (RR-2), Rural Residential 5 (RR-5) and the Ridgeline and Hillside Overlay District (RHOD). The parcel contains approximately ±6.7 acres and is currently undeveloped. The property is bound to the south by Robinson Springs Road, to the west by Lot 2 (±5.3 acres) of 162351 Canada Inc. subdivision (2007) [Lot 2 is currently owned by the Applicant], to the north by Lot 3 (±13.3 acres) of the 162351 Canada Inc. subdivision (2007), and to the east by a ±12.61-acre parcel currently owned by the Applicant [previously owned by Lena G. Allen].

The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted June 12, 2017) for the purpose of determining conformance with the Ridgeline and Hillside Overlay District (RHOD) provisions and relevant past conditions of approval.

The Development Review Board’s procedural history and relevant findings are attached.

REVIEW PROCESS:

(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)

An application for RHOD review was filed by Applicant Jonathan Sigler /Sigler Family Trust on August 31, 2018. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah

McShane and referred to the Stowe Development Review Board for a public hearing. A public hearing of the DRB was scheduled for October 2, 2018 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on September 13, 2018. The Applicant provided a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on October 2, 2018 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Applicant & Property Owner, Jonathan Sigler, 756 Lexington Ave. Westmount, QC H3Y-1K7 Canada
- Max Sigler, MBA, ING., 1020 Rue William, Montréal, QC H3C 0M2 Canada

The following materials were submitted in support of the application and entered into the hearing record:

- Town of Stowe Development Application (2 pages); dated 8/21/2018;
- DRB Decision, Project 3255, dated 3/2/2007; (staff)
- DRB Decision, Project 3608, dated 11/20/2007; (staff)
- Recorded Subdivision Plat, dated 12/4/2007; (staff)
- Clearing Limits Site Plan prepared by Little River Survey Company, Sheet 1 of 2, last revised 9/25/2006; (staff)
- Bound application 'Sigler Residence Stowe, VT' (41 pages) prepared by nós architects, dated 8/30/2018;
- Street View Sequence prepared by nós architects (49 pages), dated 8/22/2018;
- ANR Natural Resources Atlas, dated 9/25/2018 (staff);
- Revised Building Elevations labeling the building height, as prepared by nós architects (pages 14-19), dated 8/30/2018.

Application materials are kept on file at the Town of Stowe Zoning Office.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

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

The Applicant's request for RHOD approval was reviewed by the Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted June 12, 2017), including the following:

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 9- Ridgeline and Hillside Overlay District

1. **Zoning District.** The subject parcel contains approximately ±6.7 acres with frontage on Robinson Springs Road. The parcel is in the Rural Residential 2 (RR-2), Rural Residential 5 (RR-5) and the Ridgeline and Hillside Overlay District (RHOD) as shown on the Official Town of Stowe Zoning Map (effective July 3, 2017). As depicted on the Context Plan on page 7 of the application materials, approximately 52% of the dwelling will be in the RHOD district.
2. **Lot Area, Lot Width.** The ±6.7-acre parcel is located in the RR-2 & RR-5 districts. The provided survey plat (nós architects - Sigler Residence-page 28) indicates that the lot exceeds 300' in width conforming to the minimum lot area and width, as defined under the regulations.
3. **Setbacks.** Required minimum district setbacks for the RR-2 district are front (60'), side (50') and rear (50'). Required minimum district setbacks for the RR-5 district are front (70'), side (75') and rear (75'). The provided survey plat (nós architects - Sigler Residence-page 28) shows the location of a 'building zone' sited to meet the required district setbacks. The Applicant proposes to construct a single-family dwelling within the previously approved building envelope. The Applicant provided a Context Plan (nós architects - Sigler Residence-page 7) showing the location of the proposed single-family dwelling in relation to the previously approved building envelope and property lines. As shown on the provided Context Plan, the proposed single-family dwelling will be located in conformance with the district setback requirements.
4. **Maximum Building Coverage.** Does not apply to the RR-2 & RR-5 zoning districts.
5. **Use.** The Applicant proposes to construct a single-family dwelling (residential use). Single-family dwellings are a permitted use in RR districts.
6. **Height.** The maximum building height in RR-5 is 28' feet. The regulations define building height as the "*Vertical distance measured from the average elevation of the proposed finished grade at the front or rear of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the highest ridge and its contiguous eave for other types of roofs. On sloping sites the height will be measured on the uphill side.*" The proposed single-family dwelling is designed to have three prominent gable roofs. The revised application materials prepared by nós architects - Sigler Residence-pages 14-17 show elevation drawings (north, east, south, west) and indicate the total height as 23' 8", satisfying the building height requirements as defined under the town's zoning regulations.

SECTION 9 – RIDGELINE AND HILLSIDE OVERLAY DISTRICT. (1) Under the provisions of the Town of Stowe zoning regulations (as adopted June 12, 2017), the application was reviewed under the applicable provisions of Section 9- Ridgeline and Hillside Overlay District. Staff referred the application to the Board since the project is not eligible for an exemption under Section 9.4(2).

Section 9.5 RHOD Guidelines:

7. **Standard (1) General Requirements:** To protect the unique visual and environmental character of the RHOD, especially those characterized by steep slopes, prominent knolls, ridgelines and significant focal points, the regulations require that all development be designed and sited in a manner that does not cause undue adverse impact to the visual/scenic landscape character and the physical environment of the town. The Applicant seeks approval to construct a single-family dwelling. Approximately 52% of the dwelling will be in the RHOD district, as depicted on the Context Plan on page 7 of the application materials. The proposed dwelling will be sited in a

partially cleared area within the previously approved building envelope. The Board finds that the proposal has been designed and sited in a manner that does not cause undue adverse impact to the visual/scenic landscape character and the physical environment of the town.

8. **Standard (2) Designation of Vantage Points:** The regulations define vantage points as maintained (class 3 or higher) public roads, state highways and municipal properties. The Applicant provided a Street View Sequence evaluating the visibility of the project from multiple points on Sanborn Road. No other public vantage points were identified. During the hearing the Applicant testified the project will be partially visible from Sanborn Road and that given the topography of the area and existing mature forest, the dwelling will not be visible from other public vantage points. During its review, the Board considered the relative importance of the vantage points from which the project is visible and the scope of the project. The Board finds the proposal will not negatively impact public vantage points.
9. **Standard (3) Standards and Guidelines:** Standard 3 provides guidelines and accompanying illustrations to guide development in a visually and environmentally sensible way without an undue adverse impact to scenic and environmental resources. The Applicant proposes to construct a single-family dwelling within the previously approved building envelope. The provided drawings show the location of the proposed dwelling, building elevations, landscaping, lighting, and building materials. The Board reviewed the applicable standards and guidelines and finds that the proposal will not adversely impact the character of the scenic landscape and no further mitigation measures are warranted.
10. **Standard (4):** The regulations require that development not result in an undue adverse impact on fragile environments, including designated wetlands, wildlife habitats, streams, steep and extremely steep slopes and unique features. All efforts should be made to protect/preserve such areas and promote suitable buffers. The Applicant proposes to construct a single-family dwelling within the previously approved building envelope. The provided landscaping plans show the existing trees, proposed trees, and trees to be protected. Staff provided a copy of the ANR Natural Resource Atlas showing an inventory of the natural resources on the property. The property does not contain any mapped wetlands, streams, deer wintering areas, significant natural communities, or slopes greater than 15%. No impacts to fragile environments are proposed. The Board finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.
11. **Standard (5):** The regulations require if the project is on a forested hillside, there will be no significant exposure of buildings, and all development be minimally visible and blend in with surroundings in winter months. The amount and location of clearing adjacent to structures shall be limited; additional tree planting may be required in instances where planting is needed to visually interrupt the portion of structures visible from defined vantage points. The Applicant proposes to construct a single-family dwelling within the previously approved building envelope. The provided landscaping plans show the existing trees, proposed trees, and trees to be protected. The proposed dwelling will be partially shielded by the existing trees and vegetation and be constructed with compatible building materials and colors. The provided application materials (pages 12 & 13) show the proposed building materials. Materials and colors are earth tones including zinc, natural stone, and wood cladding finish. During the hearing, the Board noted that the dwelling has been designed to incorporate natural granite stone (Bethel White) appearing white in color. Although the visible appearance of the granite is not an earth-tone, the Board finds the natural stone acceptable and concludes the proposal will be minimally visible and conforms to Standard 5.

12. **Standard (6):** Development shall not detract from the sense of order or harmony of the landscape patterns formed by forests, agricultural fields and open meadows. The Applicant seeks approval to construct a single-family dwelling within a previously approved and partially cleared building envelope. During the subdivision review of the subject lot, the Board's findings noted that this area was heavily logged in 2006, removing many of the existing trees and creating significant clear cut areas. The Board's previous decision requires prior to the issuance of a zoning permit, final clearing limits be approved by the DRB. The Applicant proposes to construct a single-family dwelling within the building envelope. The building envelope meets the required property line setbacks and has been sited in the northern portion of the lot in a partially cleared area. The provided landscape plan shows the existing trees and treelines. The Board finds that the proposal has been designed and sited in a manner that will not detract from the sense of order or harmony of the landscape patterns.
13. **Standard (7):** During construction, trees identified on the landscaping plan are to be protected. The Applicant proposes to construct a single-family dwelling within the previously approved building envelope. The provided landscaping plans show the existing trees, proposed trees, and trees to be protected. Three trees are shown to be removed (page 21). As noted above, this area was heavily logged in 2006, removing many of the existing trees and creating significant clear-cut areas. Pages 4 of 5 of the application materials 'Sigler Residence Stowe, VT' (41 pages) prepared by nós architects depict the existing conditions of the site. The Context Plan on page 7 shows the building envelope, proposed residential improvements, reforested area, and limits of clearing. It is noted that only a portion of the building envelope is within the RHOD district. Pages 20 & 21 show the existing treelines to be protected. No additional clearing outside of the building envelope is proposed. During the hearing, the Board discussed the proposed concept landscaping plan and concluded that the proposed ornamental shrubbery and landscaping is not intended for screening and that the existing mature forest and proposed reforested area will adequately screen the proposed dwelling and related improvements. The Board finds the proposal preserves the surrounding forest and properly indicates the areas to be protected.
14. **Standard (8):** The regulations require that driveway grades not exceed fifteen (15%) percent and have an average grade that does not exceed twelve (12%) percent. Where necessary, limited steeper grades are acceptable if they serve to better minimize overall erosion potential and environmental/aesthetic impacts, provided adequate access is ensured for fire and rescue vehicles. The lot contains slopes of 0-15% as depicted on the ANR Natural Resources Atlas. As noted in the subdivision decision, under prior approval, the Board approved a single driveway entrance to serve the three lots. Under a separate application, the Applicant is proposing revisions to the driveway location. The revised location of the driveway is not located within the RHOD. As authorized under Section 3.1(4) of the Town of Stowe Subdivision regulations, the proposed relocation of the driveway can be administratively approved by the Zoning Administrator as a minimal alteration. Minimal alterations are defined as "*A change to existing parcels that either.... 2) involves the minor alteration, reconfiguration or relocation of existing approved driveways and related easements that are not within the RHOD or 3)...*" The Applicant is working with DPW and the Zoning Director to obtain all necessary approvals to relocate the driveway. The Board finds the proposed relocated driveway is located outside of the RHOD and will be reviewed by the Zoning Director and Department of Public Works under a separate application.
15. **Standard (9):** The regulations require that development not result in any building, roof or appurtenant structure being located in a manner which would allow the building, roof or structure to visually exceed the height of land or tree line if it is protected serving as the visual and physical backdrop to the structure as viewed from vantage points." The Applicant is proposing gable roofs

on the single-family dwelling. The application materials prepared by nós architects - Sigler Residence-pages 14-17 show elevation drawings (north, east, south, west) and indicate the total height. As previously noted, the overall height of the dwelling, as defined under the regulations, is 23' 8". The Context Plan & Site Plan on pages 7 & 8 shows elevation contours. The Applicant provided views from Sanborn Road showing the existing topography, the existing tree canopy, and proposed dwelling. The proposed dwelling appears to be partially visible from Sanborn Road. During the hearing the Board reviewed the elevation of the dwelling and concluded that the construction elevations are tied to 1310' above sea level. The Board finds the proposal is in conformance with Standard 9 and will not visually exceed the height of the land or tree line.

16. **Standard (10):** The regulations require that massing of a project be designed to minimize visual impacts and contribute to, and harmonize with, the scenic quality of the surrounding landscape. The Applicant provided architectural elevations and proposed building materials for the dwelling. The building designs include multiple gable rooflines and a mixture of natural tone building materials and glass. The Board finds the proposal is in conformance with Standard 10 and has been designed to minimize visual impacts and compliment the scenic quality of the surrounding landscape.
17. **Standard (11):** Offsite light impacts shall be minimized. Outdoor lighting must comply with the standards contained in Section 4.8 of the regulations. The Applicant proposes to construct a single-family dwelling. The Applicant provided manufacturer cut-sheets for the proposed outdoor lighting (Annex D, pages 32-41). The Applicant is proposing accent lighting to be installed in the trees pointing downward (page 32 & 33), accent lighting mounted downward on the building (pages 34 & 35), ground mounted bollards with a maximum height of 3', and ground/ceiling mounted lights as depicted on page 41. The provided materials and photographs show the expected illumination and distribution levels. Page 23 of the application materials prepared by nós architects depict the location of all proposed outdoor lighting. During the hearing the Applicant testified that internal lighting has not been designed. The Board discussed internal lighting with respect to the large window openings and concluded that the location of the dwelling and surrounding mature forest would minimize the impacts of any internal lighting. The Board finds proposed lighting has been designed to minimize offsite light impacts and complies with Standard 11 and Section 4.8 of the regulations.
18. **Standard (12):** The regulations require that the minimum area for all lots in existence prior to August 3, 1998 be as established for the underlying district. Minimum area for any lot created after August 3, 1998 shall be as established for the underlying district, excluding any portion of the lot with an average steepness (slope gradient) in excess of twenty (20%) percent. The lot area must have an area four times (4x) the minimum lot area identified in the underlying district for that portion of the parcel exceeding 20%. The subject lot contains ±6.7 acres. No change in lot area is proposed under this application. The provisions of this section do not apply.

Conclusion: The Board concludes the proposed development is in conformance with all applicable RHOD standards and guidelines.

DECISION

Based upon the foregoing Findings of Fact, in RE: **5881** the Board finds (6-0) that the application meets the Stowe Zoning Regulations, as amended through July 3, 2017, criteria for approval with the following conditions of approval:

1. This project shall be completed according to the plans hereby approved. 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. All conditions of previous approvals, except as amended herein, remain in full force and effect.
3. Final clearing limits shall be limited to the building zone as depicted on the submitted application materials and on Lot 1 of the subdivision plat prepared by Little River Survey Company dated July 2007 as recorded in the Town of Stowe Land Records and signed by the DRB Chair (12/4/2007- Projects 3255; 3608). Any additional clearing beyond the building zone shall require review and approval by the Development Review Board. This condition does not pertain to the removal of dead, dying, or hazardous trees.
4. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations. Prior to the issuance of a certificate of occupancy, the Applicant shall demonstrate compliance with all relevant prior conditions of subdivision approval.
5. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting favor: D.White, T. Hand, P.Aumand, M. Diender, A.Volansky, T.Mumley

Voting to deny: None

Abstain: None

Dated at Stowe, Vermont this the 8th day of October 2018

By: *Douglas White*
Douglas White, Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke this permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.