

**MEMO FOR ZONING FILE:**

**FROM:** Sarah McShane, Zoning Director

**DATE:** Thursday, February 14, 2019

*Sarah McShane*

**RE:** Project 5934- Correction to DRB Decision

The Development Review Board (DRB) decision dated 1/29/2019 involving Project 5934 generally described as 'Revise Previously Approved 8 Duplex Townhomes to 8 Triplex Units', incorrectly describes the Villas at Trapp Family Lodge Owner's Association as the property owner of the subject ±61-acre parcel. This property owner reference appears on pages 1 and 3 of the Board's decision. After receiving a copy of the Board's decision, the Applicant, Walter Frame, noticed the error and requested that it be corrected. As noted for the record, Trapp Family Lodge Inc. owns the land, excluding the land under the existing buildings. The Association has easement and related rights pursuant to the Grant of Easement and Maintenance Agreement. This memo serves to correct any misrepresentation of property ownership.

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



**PROJECT:** 5934

**SUBJECT PROPERTY:** Villa Drive, Stowe, VT (#06-121.030)

**APPLICANT & PROPERTY OWNER:**

Trapp Family Lodge  
Walter Frame, Applicant  
700 Trapp Hill Road  
Stowe, Vermont 05672

**APPLICATION:**

The Applicant, Walter Frame on behalf of Trapp Family Lodge (herein referred to as the “Applicant”), request modifications to the previously approved ‘Villa’ project. The Applicant request to modify eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to contain two (2) bedrooms and two (2) bathrooms and be constructed on the approximate previously approved building site. No changes to the total number of previously approved bedrooms are proposed. Triplex units, or multi-family dwelling units, as defined under the regulations are a conditional use in the RR5 district. The Applicant also proposes to construct eight (8) 37’ x 25’ carports to provide covered parking for each triplex building.

The ‘Villa’ project received original approval by the Stowe Planning Commission on August 27, 2002 (S-02-19) and the Board of Adjustment on September 3, 2002 (BA 6-121-4). The 2002 Board of Adjustment approval involved the construction of twenty-one (21) new structures. The twenty-one (21) structures were approved to include nineteen (19) duplex buildings (containing a total of thirty-eight (38) dwelling units and thirty-eight (38) lodging units), and two (2) single-family dwellings (containing two (2) dwelling units and two (2) lodging units); for a total of forty (40) dwelling units and forty (40) lodging units. In addition to the approved residential uses, the approval included a building containing shared amenities for the development including a reception/club house area and an outdoor swimming pool.

The ‘Villa’ project lies on a ±61-acre parcel owned by Villas at Trapp Family Lodge Owner’s Association, which is comprised of timeshare condominiums. The parcel is accessed from Villa Drive off from Trapp Hill Road. The property is within a SKI-PUD, the Rural Residential 5 (RR5) zoning district, and the Ridgeline and Hillside Overlay District (RHOD). The resort area sits on approximately ±2,700 acres of land which is subject to prior conditions of approval associated with the SKI-PUD. The application has been reviewed by the Development Review Board (DRB) for the purpose of determining conformance with the Conditional Use and Ridgeline and Hillside Overlay District (RHOD) provisions, and applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018), as well as prior DRB decisions and applicable conditions of approval including the following:

- S-02-19 approved on August 27, 2002- Original Planning Commission approval
- BA-6 121-4 approved on September 3, 2002- Original Board of Adjustment approval
- BA-6 121-4 approved on December 22, 2003- Modifications to original approval

- BA 6-121-6 approved on February 27, 2004 - Alterations to building design
- BA 6-121.030.1 approved on May 29, 2006 - Construction of Units 19, 20, 21
- BA-6-121.030.2 approved on July 11, 2006 – Construction of Villa 28
- Project 3384 approved on May 24, 2007- Modification of original design
- Project 3388 approved on March 25, 2008- Extension of permit to coincide with Act 250 schedule
- Project 5541 approved on February 28, 2017- Construct two (2) single-family dwellings instead of previously approved duplex #31/32.

[Note: The above list contains the identified applicable prior approvals; there may be additional prior approvals not noted above.]

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 conditional use/RHOD review was filed by Applicant Walter Frame on December 6, 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 January 15, 2019 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 December 27, 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 January 15, 2019 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, Walter Frame, 700 Trapp Hill Road, Stowe, Vermont 05672

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

1. Town of Stowe Development Application (2 pages), dated 12/5/2018;
2. Elevation drawings showing Duplex Villa North Elevation and Triplex Villa North Elevation, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
3. Trapp Villas Cover Sheet with code summary, no date;
4. First floor Plan, Sheet A1.1, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
5. Second floor Plan, Sheet A1.2, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
6. Carport Plans and Details, Sheet A1.4, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
7. Building Elevations, Sheet A2.1, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;

8. Building Elevations, Sheet A2.2, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
9. Overall Site Plan, Sheet C1.00, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
10. Layout Grading Utilities, Sheet C1.01, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
11. Layout Grading Utilities, Sheet C1.02, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
12. Layout Grading Utilities, Sheet C1.03, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
13. Layout Grading Utilities, Sheet C1.04, prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018;
14. Photographs (3 pages) showing approximate project location, no date;
15. Permit # 5349-9010.R VT DEC General Permit 3-9010, dated 8/14/2017;
16. Outdoor Lighting Cut-Sheets 'Ripley Collection' (Trapp Villas Entry & Deck Lighting), no date;
17. Amendment to Density Affidavit #17, dated 1/15/2019;
18. DPW Comments from Harry Sheppard, dated 1/14/2019 (email).

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 amended conditional use/RHOD approval was reviewed by the Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018), 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
  - Section 13- Planned Unit Development
  - Section 15- Parking Regulations
1. **Zoning District.** The subject parcel contains ±61 acres owned by Villas at Trapp Family Lodge Owner's Association, which is comprised of timeshare condominiums. The parcel has direct access to Villas Drive in the Rural Residential 5 (RR-5) and the Ridgeline and Hillside Overlay District (RHOD) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
  2. **Lot Area, Lot Width.** The parcel is located in the RR-5 district. No changes to lot width or lot area are proposed under this application.
  3. **Setbacks.** Required minimum district setbacks for the RR5 district are front (70'), side (75') and rear (75'). As noted above, this parcel is part of a SKI-PUD previously approved by the Planning

Commission. Section 13.6(4) outlines the requirements for setbacks within a SKI-PUD. Conditional uses are required to be separated no less than permitted by the Vermont Department of Fire Safety.

4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct eight (8) triplex buildings. Multi-family dwellings are a conditional use in the RR5 district. Multi-family dwelling unit is defined as “A building on a single lot containing more than two (2) dwelling units, each of which is totally separated from the other by an un-pierced wall extending from ground to roof or an un-pierced ceiling and floor extending from exterior wall, except for a common stairwell exterior to both dwelling units.”
6. **Density.** The Applicant seeks approval to modify a previously approved project [(S-02-19) & (BA 6-121-4)] to include the construction of eight (8) residential triplex buildings. As noted above, triplex units are considered a Multi-family Dwelling Unit as defined under the regulations. Original approved plans involved the construction of duplex buildings. Under this application the Applicant proposes to increase the density by a total of eight (8) dwelling units. Section 13.6 requires a density affidavit be provided stating the acreage available for density. The Applicant provided ‘Amendment to Density Affidavit #17, dated 1/15/2019.’ The affidavit states there are 1,662.23 acres available for density.
7. **Height.** The maximum building height in RR5 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 Applicant provided model building elevation designs for the proposed multi-family dwellings. The elevation drawings note the proposed height of the dwelling to be 23’ 11.5” to the peak of the roof, satisfying the district height requirements. The provided layout grading utilities plan also shows the finished floor elevations.

**Section 3.7(2)(A) – Standards of review (Conditional Use Applications):** The Development Review Board must determine that the use will conform to the following set of standards and will not result in an undue adverse effect on the following:

8. **Capacity of existing or planned community facilities and services:** Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, Police Department, EMS, and Parks and Recreation.

The Applicant request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to contain two (2) bedrooms and two (2) bathrooms and be constructed on the approximate same building site. Eight (8) 37’ x 25’ carports are also proposed to provide covered parking for each triplex building.

The Department of Public Works provided the following comments to staff via email (dated 12/26/18):

*5934-Trapp Villas*

1. *They have water/sewer allocations for 14-3 bedroom units (42 bedrooms) remaining. Spreadsheet which reconciled Trapp’s Allocations with the Brewery project attached. With 24-2 bedroom units, allocations for 6 additional bedrooms appears required. **Agreed***

2. *Dick please study site/utilities plan harder. Does any of the proposed units conflict with existing water/sewer utility. Each building is a triplex but they do not appear to have separate services for each unit???* ***All of the existing buildings have a single valve or curb stop. We should be clear that after the service valve is the responsibility of the building owner(s) as is in our water rules/regs. We also need to think about who is going to own the proposed service extensions to each building. I think we have easement on the water main but maybe not the branches going to individual buildings???. Not a lot of detail re: Water and Sewer construction/specs. This is probably the time to clean some things up if required. Much more detail required. We will need to verify the as built location of the 8” water main that passes between existing building #32 (33 East Villa Lane), and the proposed 261/262/263 triplex. We will require valves as close to our existing main as possible and terminate our “ownership” for each extension and service connection at the valve/curb stops (typ.). There is an existing 4” extension at 24 South Villa Lane, proposed triplex 301/302/303 that will need to be conveyed to us along with the future common 4” tap for 362 and 364 Villa Drive (shown here as 221/222/223, and 341/342/343). Gate valves for each service located close to the “split” terminating our “ownership”. The common 4” main for 361/2/3 – 383/4/5 (108 and 110 Villa Drive) is N.G. We need to have separate control of services to each building. All of this to be flushed out when more details are provided. Sewer looks o.k. as shown. As with water, more construction details needed.***

On January 14<sup>th</sup>, Harry Sheppard DPW Director provided the following updated comments:

***Trapp’s Villa Revisions:***

*I now concur that additional bedrooms are not being proposed so additional allocations is not required. I previously miss calculated because I did not realize and some of the existing buildings are single family dwellings, not duplexes.*

*There are a number of technical and easement issues that we need to be resolved with regards to the proposed water and sewer connections. The project engineer has recently submitted updated water and sewer utility plans and we will work with them directly before issuing Connection Permits to address these issues. Public Works recommends the following condition in any approval the DRB was inclined to give:*

1. *Final Plans, Details, Technical Specification and for proposed Water and Sewer Connections shall be approved by Public Works and Easements approved by the Water and Sewer Commissioners prior to issuance of Water/Sewer Connection permits.*

No additional comments were received for this application. No Municipal Department review forms returned indicated that the proposed development would have any undue adverse impact on existing or planned community facilities and services.

**Conclusion:** The Board concludes the proposal will not result in an undue adverse effect on the Town’s existing or planned facilities or services. As a condition of approval, the Applicant will be required to obtain all necessary municipal water and sewer allocation and connection permits from the Department of Public Works prior to the issuance of a Certificate of Occupancy.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. The Applicant did not provide the estimated number of vehicle trips. Under current ITE standards each proposed unit is expected generate no more than 10 additional trip ends per day, representing a nominal increase in traffic on each of the roads and highways in the vicinity.

**Conclusion:** The Board concludes the proposal represents a nominal increase in traffic on roads and will not create an undue adverse impact on traffic on roads and highways in the vicinity.

10. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the RR5 and Ridgeline & Hillside Overlay districts. The general purpose of the RR districts is as follows:

- A. To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.
- B. To promote the preservation of adequate open space through carefully planned cluster types of development.
- C. To encourage agricultural productivity of good farmlands and of forest resources.
- D. To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.

The specific purposes of the RR5 district are:

- A. To eliminate undue demand for new or extended municipal services in outlying areas which would cause a burden on the town.
- B. To maintain the rural character and beauty of the existing neighborhoods.
- C. To discourage intensive development in areas where slopes or soil conditions dictate otherwise.

Existing uses within the general area include a mix of residential, resort, recreation, forestry, and open space. The Applicant is proposing to revise previously approved project to include the construction of eight (8) triplex multi-family dwelling units.

**Conclusion:** The proposal will not adversely affect the character of the area as defined under the town's zoning regulations.

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application is being reviewed under the Conditional Use and RHOD standards. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant proposes to connect to municipal services under the Town's Sanitary Sewer Ordinance. No other known municipal bylaws or ordinances apply to this project.

**Conclusion:** The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant will be required to obtain a municipal water/sewer connection permit(s).

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant proposes to revise a previously approved project to include the construction of eight (8) triplex buildings, or multi-family dwellings as defined under the regulations. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

**Conclusion:** The Board concludes the project is not expected to interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

**Section 3.7(2)(B) – Other Standards of Review:**

13. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The project area is located in the RR5 and RHOD districts. The project received original approval by the Planning Commission and Board of Adjustment in 2002. The original approval included the construction of twenty-one (21) structures containing a mix of lodging units and dwelling units. Majority of the project has been constructed. Under this application, the Applicant proposes to modify eight (8) of the originally approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) to be triplex units containing three (3) dwelling units each. The proposed buildings will be located on the approximate previously approved building site. Considerations for the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas were considered and incorporated in the original approvals by the Planning Commission and Zoning Board of Adjustment. Clearing limits were established under prior approvals and remain in full force and effect.

**Conclusion:** The Board concludes the proposal, as conditioned, will not adversely affect the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

14. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant proposes to modify eight (8) originally approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) to be triplex units containing three (3) dwelling units each. The proposed buildings will be located on the approximate previously approved building site. The proposed modifications are not expected to result in undue water, noise, or air pollution.

**Conclusion:** The Board concludes the project, if constructed as approved, will not result in undue water, noise, or air pollution.

15. **Section 3.7(2)(B)(3) –Access Management:** The project is served by the existing private road- Villas Drive. Each triplex (multi-family dwelling) will have a shared drive with three (3) surface parking spaces and three (3) parking spaces within a 37' x 25' carport. See discussion below- RHOD Standard 8.

**Conclusion:** The Board finds that the existing access and proposed driveway improvements are adequate for the intended use.

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by an existing private access road serving the project area. No changes to the existing shared access are proposed under this application. Each triplex unit will be served by a private shared driveway.

**Conclusion:** The Board finds that the proposed access is sufficient for the intended and existing use.

17. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require that parking be provided per the requirements of Section 14 and be designed to minimize the off-site visibility of parking areas through the location, landscaping and screening of such areas. The Applicant proposes to construct eight (8) multi-family dwellings (each with three dwelling units) served by individual shared driveways and parking areas as discussed above. The dwellings have been designed with a detached carport to provide parking for three (3) vehicles. Table 15.2 outlines the minimum parking requirements and requires two (2) parking spaces for multi-family dwelling units. The provided site plan shows the general location of the driveway, carport, and parking areas. Each dwelling unit appears to contain sufficient space to accommodate two (2) parking

spaces; one (1) covered parking space and one (1) surface parking space. The proposed driveway serving each triplex building appears to be 18' in width. Parking spaces appear to be 9' x 18'.

**Conclusion:** The Board finds the proposed circulation and parking improvements represents safe and adequate access and circulation for the intended use.

18. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided. The proposed site plan does not include internal sidewalks or other pedestrian improvements, however proposed walkways are shown connecting the driveway and parking area to each of the three building entrances. No additional pedestrian improvements are proposed under this application.

**Conclusion:** The Board finds the proposed site layout, including pedestrian circulation and access, represents safe and adequate pedestrian access and circulation for the intended use.

19. **Section 3.7(2)(B)(7) – Landscaping and Screening:** The regulations require landscaping details and screening of garbage collection areas, outdoor storage, commercial ventilation systems over two square feet; loading and unloading areas and other outdoor utilities, including solar installations, be provided as part of proposed site development plans. No changes to previously approved landscaping are noted in the application. Areas for trash storage and mechanical equipment are not shown. During the hearing the Applicant testified that trash and recycling will be stored within each carport and Trapp Family Lodge has a central trash management contract available to the Villas.

**Conclusion:** The Board concludes there are no proposed changes to the previously approved landscaping and screening.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12 outlines the requirements for Stormwater and Erosion Control. The Applicant provided a copy the VT DEC General Permit 3-9010 for this project.

**Conclusion:** The Board finds the Applicant has obtained a State of Vermont Stormwater Permit. The Board concludes, if constructed and maintained as approved, the proposed improvements will not cause an undue adverse impact on neighboring properties, town highways or surface waters.

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the DRB shall be guided by the following standards when reviewing all site development plans in the designated zoning district. These standards apply to all site development plans, including those involving new construction, expansion, alteration or change of use. The DRB may waive the specific requirements of this section when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts.

1. Additional HT, **RR**, MOD, UMR Standards: Within the Highway Tourist (HT), (**Rural Residential (RR)**, Meadowland Overlay (MOD)) and Upper Mountain Road (UMR) Districts, site plans shall re-enforce efficient traffic circulation, preserve such important landscape features as open fields, scenic vistas, natural and cultural focal points and a well landscaped highway corridor.

To help achieve these objectives, the following standards shall apply:

- a. Front Yard Treatment: A continuous strip not less than twenty (20') feet deep, measured from the edge of the highway right of- way, shall be maintained between the street line and the balance of the lot, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. In addition, no portion of the front yard may be used for storage or for any purpose except as provided herein.
- b. Parking: Parking shall be located in the rear and/or side of all commercial and multi-family residential properties, except as provided under Section 14.3 of the regulations. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997 and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
- c. Driveway Access: Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
- f. Additional RR Standards: Within the Rural Residential (RR) Districts the following is required:
  - i. Treatment of front yard and driveways for all conditional uses in the RR districts: A continuous strip not less than twenty (20') feet deep shall be maintained between the street line and the balance of the lot in all RR Districts, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. Not more than fifty (50%) percent of the required front yard may be used for driveways and parking. No portion of the required front yard may be used for storage or for any purpose except as above provided. Exceptions to these standards may be granted by the DRB in cases involving pre-existing buildings and/or uses when undue hardship is likely to exist. Cases will be reviewed on an individual basis, taking into account the unique features/circumstances of a site while still providing proper landscaping.

**Conclusion:** The Board finds the proposal is in conformance with applicable sections of 3.7(2)(c). The proposal involves a residential development consisting of eight (8) triplex units and related improvements. Where appropriate, the Board waived the specific requirements when it was found that mitigation through design, screening or other mitigation has accomplished the objectives of the RR5 and RHOD districts.

22. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the standards outlined in Section 4.8. The Applicant provided outdoor lighting cut-sheets for the entrance area and decks. No other lighting is proposed under this application.

**Conclusion:** The Board concludes the proposed outdoor lighting is in conformance with Section 4.8, has been designed to minimize spill into the night sky, and is appropriate for the intended use and site location.

23. **Section 15 Parking Regulations.** – See discussion above.

**SECTION 9 – RIDGELINE AND HILLSIDE OVERLAY DISTRICT.** (1) Under the provisions of the Town of Stowe zoning regulations (as adopted October 8, 2018), 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:**

24. **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 request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to be constructed on the approximate previously approved building site. The Applicant also proposes to construct eight (8) 37' x 25' carports under this application. 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.
25. **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 several photographs showing the project vicinity. Under prior approvals and decisions, the Board noted that the visual impact of the entire development and proposed modifications were not expected to increase the visibility. Portions of the project area are previously cleared. The Board finds the proposal will not negatively impact public vantage points and will have no or very limited visibility.
26. **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 request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to be constructed on the previously approved building site. The Board reviewed the applicable standards and guidelines and finds that the proposed revisions will not adversely impact the character of the scenic landscape and no further mitigation measures are warranted.
27. **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 request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to be constructed on the approximate previously approved building site. The project areas are previously cleared. The Board finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.
28. **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 request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to be constructed on the previously approved building site. The dwellings are proposed to be constructed with compatible building materials and colors to be minimally visible. The Board finds the proposal will be minimally visible and conforms to Standard 5.

29. **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 request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to be constructed on the approximate previously approved building site. 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. The general layout of the project area, roadway, and utilities was previously approved.
30. **Standard (7)** During construction, trees identified on the landscaping plan are to be protected. The Applicant testified that the area was previously cleared. Staff provided the previously approved Villas Site Plan (S-02-19) which depicts the clearing limits. Previously approved limits of clearing remain in effect.
31. **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 proposed modifications will be served by the existing Villas Drive. The main internal access to the dwellings has been constructed.
32. **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 request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to be constructed on the approximate previously approved building site. The Applicant provided building elevation designs for the proposed multi-family dwellings. The elevation drawings note the proposed height of the dwelling to be 23' 11.5" to the peak of the roof, satisfying the district height requirements. The provided layout grading utilities plan also shows the finished floor elevations. The Board finds the proposal is in conformance with Standard 9 and has been designed in a manner that will not visually exceed the height of the land or tree line.
33. **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 request to modify the eight (8) previously approved duplex buildings (3/4; 22/23; 24/25; 26/27; 33/34; 35/36; 37/38; and 39/40) into triplex units containing three (3) dwelling units each. Each unit is proposed to be constructed on the approximate previously approved building site. The Applicant provided architectural elevations for the dwellings. The proposed triplex buildings will be identical in architectural design. 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.

34. **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 provided manufacturer details for the proposed outdoor lighting (entrance and deck lighting). No other lighting is proposed. 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.
35. **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%. 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: **5934** the Board finds (6-0) that the application meets the Stowe Zoning Regulations, as adopted October 8, 2018, 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 prior approvals, except as amended herein, remain in full force and effect.
3. The Applicant shall obtain individual zoning permits for the eight (8) triplex buildings and associated carports. No additional DRB approval, including RHOD, is required for the dwellings and carports so long as they are generally sited as represented in the application and depicted on plans prepared by Guillot Vivian Viehmann Architects, dated 11/19/2018 and provided with the application.
4. The Board's approval shall be extended to expire on January 7, 2023. All zoning permits shall be obtained prior to this date or reapproval is required.
5. As required under Section 13.6, prior to the issuance of any zoning permit, the Applicant shall record in the Town of Stowe Land Records the updated density affidavit stating the acreage available for density. The affidavit shall be signed by the DRB Chair prior to recording.
6. Any significant exterior changes or alterations to the proposed architectural designs as depicted in plans prepared by Vivian Viehmann Architects dated 11/19/2018 provided with the application, shall require additional review and approval of the Board. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.
7. All garbage and trash collection shall be stored inside the individual carports or in a common screened collection area approved by the Zoning Administrator.
8. Final plans, details, and technical specifications for proposed Water and Sewer Connections shall be approved by Public Works and Easements approved by the Stowe Water and Sewer Commissioners prior to issuance of Water/Sewer Connection permits.

9. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction of each triplex building 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.
10. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of a 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, D.Clymer, T. Hand, P.Aumand, P.Roberts, T.Mumley

Voting to deny: None

Dated at Stowe, Vermont this the 29 day of January 2019

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 a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.