

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



**PROJECT:** 5972

**SUBJECT PROPERTY:** 1303 North Hill Road, Stowe, VT (#02-193.040)

**PROPERTY OWNER:**  
Barbara Gordon  
1303 North Hill Road  
Stowe, Vermont 05672

**APPLICANT:**  
Andrew Volansky;  
Volansky Studio Architecture & Planning  
351 North Hollow Road  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Andrew Volansky on behalf of property owner Barbara Gordon (herein referred to as the "Applicant"), requests RHOD review and project classification of a proposal involving the relocation of the existing driveway and construction of an attached residential garage and addition on the existing single-family dwelling located at 1303 North Hill Road. The single-family dwelling was constructed in circa 1996 prior to the adoption of the Ridgeline and Hillside Overlay District (RHOD).

The subject parcel, consisting of ±10.11 acres and located at 1303 North Hill Road (#02-193.040), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The property is served by North Hill Road (TH-73), a Class 3 Town-Highway. The parcel is referenced as Lot #4 as recorded in MB 3/68 in the Stowe Land Records and presumed to be subdivided in approximately 1979. The subject parcel is bound to the north by a ±10.15-acre parcel located at 1357 North Hill Road currently owned by Binder Family Real Estate Trust and generally to the east and south by a parcel currently owned by Crazy Cow Holdings LLC. The application has been reviewed by the Stowe Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of Ridgeline and Hillside Overlay District (RHOD) review.

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 Andrew Volansky on March 18, 2019. 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 April 16, 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 March 28, 2019. 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 April 16, 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:

- Kathleen Thatcher-Architect, 351 North Hollow Road, Stowe, VT 05672

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

- Town of Stowe Development Application (2 pages); dated 03/18/2019;
- Outdoor Lighting Cut-Sheets- Lamps Plus (3 pages), dated 3/25/2019;
- Gordon Residence-1303 North Hill Lane- Sheet A0.1, prepared by Volansky Studio, dated 3/18/2019;
- Site Plan 'Barbara J Gordon Revocable Trust' Sheet 1 of 1, prepared by Grenier Engineering Associates, dated 11/02/2019 (last revised 2/7/2019);
- Gordon Residence-1303 North Hill Lane- Site Development Plan, Sheet A1.1, prepared by Volansky Studio, dated 3/18/2019;
- Gordon Residence-1303 North Hill Lane- Architectural Concrete Plan, Sheet A2.0, prepared by Volansky Studio, dated 3/18/2019;
- Gordon Residence-1303 North Hill Lane- Main Level Floor Plan, Sheet A2.1, prepared by Volansky Studio, dated 3/18/2019;
- Gordon Residence-1303 North Hill Lane- Existing Upper Level Floor Plan & New Roof Plan, Sheet A2.2, prepared by Volansky Studio, dated 3/18/2019;
- Gordon Residence-1303 North Hill Lane- Photographs, Sheet A3.0, prepared by Volansky Studio, dated 3/18/2019;
- Gordon Residence-1303 North Hill Lane- East & South Elevations, Sheet A3.1, prepared by Volansky Studio, dated 3/18/2019;
- Gordon Residence-1303 North Hill Lane- North Elevation, Sheet A3.2, prepared by Volansky Studio, dated 3/18/2019;
- Gordon Residence-1303 North Hill Lane- West and East Elevations, Sheet A3.3, prepared by Volansky Studio, dated 3/18/2019;
- Comments from Stowe Electrical Department, David Kresock, dated 4/2/2019;
- Comments from Harry Sheppard/DPW, dated 4/11/2019.

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 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

**REVIEW PROCEDURES:**

All land development in the RHOD, except for those activities exempt under Section 9.4(2), must comply with a hillside development plan reviewed and approved by the DRB in accordance with the RHOD procedures. At the outset of the 4/16 hearing, the Board agreed that given the scale and scope of the project, it did not qualify as a minor and proceeded with the full RHOD review.

**DIMENSIONAL REQUIREMENTS:**

1. **Zoning District.** The subject parcel is within 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 subject parcel is ±10.11 acres. 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'). The site development plan prepared by Volansky Studio shows the location of the existing house, required front/sides/rear setback lines, and the proposed garage and addition. Portions of the proposed improvements appear to be located on or close to the minimum side setback requirement. Section 2.10(1) provides the Zoning Administrator the authority to require reasonable proof from the applicant that all required setbacks have been satisfied when proposed structures are within fifteen (15') feet of any required setback. Reasonable proof may include a survey, certification of setbacks by a surveyor, or demonstrating physical location of property boundaries. The Board will require the Applicant to provide reasonable proof that the side yard setback has been maintained prior to the issuance of a Certificate of Occupancy.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct an attached residential garage and addition on the existing single-family dwelling located at 1303 North Hill Road. Single-family dwellings are a permitted use in the RR5 district. No changes of use are proposed under this application.
6. **Density.** No changes of use are proposed under this application.
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 building elevation designs for the proposed improvements. The elevation drawings note the proposed height of the addition to be 14' 1” as measured on the south and north elevations. The provided site development plan also shows the finished floor elevations.

**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:

8. **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 proposes to relocate the driveway and construct an attached residential garage and addition on the existing single-family dwelling located at 1303 North Hill Road. The proposed improvements are to be located on the north and eastern portions of the dwelling. 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.
9. **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. No public vantage points were identified in the application. Staff visited the site with the Applicant on March 8, 2019. The parcel is located on the top of North Hill Road and is surrounded by existing mature treelines. The Board finds the proposal will not negatively impact public vantage points and will have no or very limited visibility.
10. **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 relocate the driveway and construct an attached residential garage and addition on the existing single-family dwelling. The parcel is previously developed with a dwelling, driveway and parking, and associated improvements. 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.
11. **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 relocate the existing driveway and construct an attached residential garage and addition on the existing single-family dwelling. The proposed improvements will be located to the north and east of the existing dwelling. According to the ANR Natural Resources Atlas there are no fragile environments that would be impacted from the proposed project. The proposed project will be in an area previously cleared and involves the removal of one existing mature tree. The Board finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.
12. **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. No defined vantage points were identified in the application materials. Sheet A3.0 provides photographs of the existing dwelling and surrounding topography. Sheet A3.2 provides an exterior building material legend. The Applicant testified that her client has chosen to use the same color palette and texture to match

the existing dwelling. The Board finds the proposal will be minimally visible, involves compatible building materials and colors, and conforms to Standard 5.

13. **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 parcel is previously developed and contains an existing dwelling. The proposed improvements will be attached to the north and east of the existing dwelling. 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.
14. **Standard (7)** During construction, trees identified on the landscaping plan are to be protected. Sheet A1.1 illustrates the site development plan and shows the existing and proposed improvements including the extended residential gravel driveway. One existing tree is shown on the plan to be removed in association with the development of the driveway. No other clearing or removal of trees is proposed under this application.
15. **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 project involves extending the existing driveway to the north of the dwelling to connect to the proposed attached garage. The grade of the proposed gravel driveway was not provided or noted in the application. During the hearing the Applicant testified that the extended driveway will wrap around the dwelling and will be generally flat.
16. **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 provided building elevation designs for the proposed improvements. The elevation drawings note the proposed height of the addition to be 14' 1" as measured on the south and north elevations. The provided site development 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.
17. **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 for the proposed residential improvements. During the hearing the Applicant testified that her client has chosen to use the same color palette and texture to match the existing dwelling. The proposed garage and addition will be subordinate to the existing dwelling. 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.
18. **Standard (11)** Offsite light impacts shall be minimized. Outdoor lighting must comply with the standards contained in Section 4.8 of the regulations. Sheet A1.1 notes the location of four fixtures on motion sensors. The Applicant provided manufacturer details for the proposed outdoor lighting. Sheet A.1. shows the location of seven (7) lantern style wall scones to be located on the existing dwelling and proposed garage and addition. The wall sconce is noted to use one maximum 75-watt standard medium base A19 bulb. Three (3) light post are shown to follow the southern edge of the

relocated driveway. The bulb type for the three (3) light post was not provided. The Applicant testified that the lighting fixtures will contain frosted glass so the light bulb will not be visible. 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.

19. **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: **5972** the Board finds (4-0) 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. 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 include in the plans as approved.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall provide revised building elevation drawings labeling the proposed finished floor elevation and an updated building material legend indicating proposed materials and colors.
4. All outdoor lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.
5. Exterior lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150-watt incandescent bulb).
6. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
7. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
8. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
9. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that is has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations. Per Section 2.10(1), prior to the issuance of a Certificate of Occupancy the Applicant shall provide reasonable proof that all required setbacks have been satisfied. Reasonable proof may

include a survey, certification of setbacks by a surveyor, or demonstrating physical location of property boundaries.

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 this approval, the Applicant 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, P.Aumand, T.Mumley

Voting to deny: None

Dated at Stowe, Vermont this the 26 day of April 2019

By: 

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.

