

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



PROJECT: 5984

SUBJECT PROPERTY: 990 Taber Ridge Road, Stowe, VT (#08-041.040)

PROPERTY OWNER:
K.P. Properties
(Address not provided)

APPLICANT:
John Grenier PE
Grenier Engineering PC
PO Box 445
Waterbury, VT 05676

APPLICATION:

The Applicant, John Grenier on behalf of property owner K.P. Properties (herein referred to as the "Applicant"), requests RHOD review for a project involving the construction of a detached residential garage measuring 32' x 40' and a shed addition measuring 14' x 27' attached to the existing single-family dwelling located at 990 Taber Ridge Road. The single-family dwelling was constructed in circa 1994 prior to the adoption of the Ridgeline and Hillside Overlay District (RHOD).

The subject parcel, consisting of ±7.99 acres and located at 990 Taber Ridge Road (#08-041.040), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The property is served by Taber Ridge Road, a privately owned and maintained road. The subject parcel is bound to the north by portions of Taber Ridge Road and a ±5.86-acre parcel located at 1097 Taber Ridge Road currently owned by PCD Properties LTD; to the west by a ±4.47-acre parcel currently owned by Alain Youkel and a ±72.5-acre parcel currently owned by Stowe Land Trust; and generally to the east and south by a parcel a ±27.60-acre parcel located at 1254 Taber Ridge Road. 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 Chris Austin on behalf of Grenier Engineering on April 1, 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 May 7, 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 April 18, 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 May 7, 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 Representative Chris Austin, Grenier Engineering PC, PO Box 445, Waterbury, VT 05676
- Applicant Representative John Grenier, Grenier Engineering PC, PO Box 445, Waterbury, VT 05676

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

- Town of Stowe Development Application (2 pages); dated 4/1/2019;
- Cover letter/Project Narrative from Chris Austin, Grenier Engineering, dated 4/5/2019;
- Photographs showing the existing site conditions and location of proposed improvements (4 pages), no date;
- Elevation drawing showing the proposed one-bay garage addition (North/W Face), no date;
- Floorplan drawing showing the proposed one-bay garage addition, no date;
- Elevation drawing showing the proposed detached garage (SE Elevation), no date;
- Elevation drawing showing the proposed detached garage (West Elevation [South]), dated 3/16/2019;
- Google Earth Aerial Image showing proposed location and existing dwelling, no date;
- Site Plan 'Proposed Garage' K.P. Properties, prepared by Grenier Engineering, Sheet 1 of 1, dated 4/4/2019;
- ANR Natural Resources Atlas, dated 4/15/2019 (staff);
- Revised Elevation drawing showing the proposed detached garage (SE Elevation) [depicting lighting locations], no date;
- Revised Elevation drawing showing the proposed detached garage (West Elevation [South]) [depicting lighting locations], dated 3/16/2019;
- Fixture A- Lighting Cut Sheet, no date;
- Fixture B- Lighting Cut Sheet, no date;
- Comments from David Kresock, Stowe Electric Department, dated 4/23/2019.

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

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 ±7.99 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 plan prepared by Grenier Engineering shows the location of the existing dwelling, proposed improvements, and required front/sides/rear setback lines. The proposed improvements are located outside the required setbacks.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct a detached residential garage measuring 32’ x 40’ and a garage addition on the existing single-family dwelling. Single-family dwellings and accessory structures 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 garage addition to be 16’ as measured to the peak of the shed roof and 18’ to the peak of the gable on the detached garage. The provided site development plan also shows the finished floor elevation of the detached garage to be 1501’.

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 the construction of a detached residential garage measuring 32’ x 40’ and a shed addition measuring 14’ x 27’ attached to the existing single-family dwelling. The proposed detached garage is located to the north of the

existing dwelling. The attached garage addition is located on the eastern portion of the existing dwelling and garage. The proposed improvements are generally sited in areas previously cleared; only minor clearing is proposed in the immediate vicinity of the proposed improvements. 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. Staff visited the site with the Applicant on April 3, 2019. No public vantage points are identified in the application. The project narrative notes that given the proposed locations of the improvements and the existing treelines, the project will have "*virtually no off-site views.*" The parcel is located on the top of Taber Ridge 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 the construction of a detached residential garage measuring 32' x 40' and a shed addition measuring 14' x 27' attached to 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 the construction of a detached residential garage measuring 32' x 40' and a shed addition measuring 14' x 27' attached to the existing single-family dwelling. The proposed improvements will be located to the north and east of the existing dwelling on lands that are generally flat and previously developed. According to the ANR Natural Resources Atlas there are no fragile environments that would be impacted from the proposed project. The proposed project is sited in areas previously developed involving minor clearing. 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. The Applicant's narrative states that the proposed improvements are intended to match the general appearance of the existing residence/garage and include compatible building materials including cedar shingle siding. The Board finds the proposal will be minimally visible 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 and related improvements. The proposed improvements will be sited 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. The provided site plan prepared by Grenier Engineering, dated 4/4/19, illustrates the existing and proposed improvements along with the existing treeline. Two existing tamarack trees are shown on the plan to be removed in association with the development of the detached garage. Minimal clearing will be required along the eastern side of the existing garage to accommodate the proposed one-bay garage addition. 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 Applicant proposes to install a 12' gravel path leading to the 32' x 40' detached garage. The area is generally flat and does not involve grades exceeding 15%. No other changes to the existing driveway are proposed.
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 garage addition to be 16' as measured to the peak of the shed roof and 18' to the peak of the gable on the detached garage. The provided site development plan also shows the finished floor elevation of the detached garage to be 1501'. 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. The Applicant's narrative states that the proposed improvements are intended to match the general appearance of the existing residence/garage and include compatible building materials including cedar shingle siding. The proposed detached garage and one-bay garage 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. The Applicant provided cut-sheets for two outdoor light fixtures; A & B, and revised building elevations showing where the fixtures are proposed to be mounted. The detached garage will have a light fixture near the entrance door and one fixture above each overhead garage door. No outdoor lighting is proposed on the one-bay attached garage. The proposed light fixtures are shielded and down-cast. 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: **5984** the Board finds (7-0) that the application meets the Stowe Zoning Regulations, as adopted October 8, 2018, criteria for approval with the following conditions of approval:

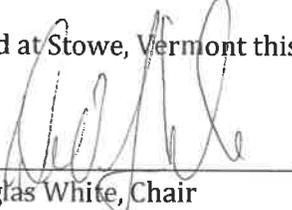
1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted 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 submit to the Zoning Administrator a revised site plan and legend clearly depicting the proposed clearing limits.
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 shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA) and 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. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided to ensure compliance with the provisions of Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
10. An adequate stormwater drainage system must be maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
11. 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.
12. 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, T. Hand, P.Aumand, T.Mumley, A.Volansky, C. Walton

Voting to deny: None

Dated at Stowe, Vermont this the 21 day of May 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.

