

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



**PROJECT:** 5985

**SUBJECT PROPERTY:** 1457 Mountain Road & 57 Meadow Lane; #06-090.000

**PROPERTY OWNER:** Edgar Road Partners LLC  
1457 Mountain Road  
Stowe, VT 05672

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

**APPLICATION:**

The Applicant, John Grenier on behalf of property owner Edgar Road Partners LLC (herein referred to as the "Applicant"), requests subdivision review for a boundary line adjustment between the parcels located at 1457 Mountain Road and 57 Meadow Lane. The subject three (3) lots are currently in common ownership. The Applicant proposes to relocate the internal property lines dividing the lots as follows:

- Lot #1 under its existing configuration contains  $\pm 0.83$  acres and the former Gables Inn, Carriage House, and related improvements located at 1457 Mountain Road. Following the proposed boundary line adjustments, the lot will be increased to  $\pm 1.73$  acres and contain said improvements.
- Lot #2 under its existing configuration contains  $\pm 1.0$  acres and is undeveloped. Following the proposed boundary line adjustment,  $\pm 0.10$  acres will be transferred to the 'River House Lot' with the remaining balance to merged into Lot #1 [1457 Mountain Road].
- The 'River House Lot' under its existing configuration contains  $\pm 0.57$  acres and the existing historic residence and related improvements located at 57 Meadow Lane. Following the proposed boundary line adjustment, the lot will be increased to  $\pm 0.67$  acres and contain said improvements.

Following the proposed boundary line adjustment two (2) lots will remain, Lot #1 [1457 Mountain Road] will be  $\pm 1.73$  acres and contain the former Gables Inn, Carriage House, and related improvements; the 'River House Lot' [57 Meadow Lane] will be  $\pm 0.67$  acres and contain the existing historic residence and related improvements. Lot #2 will be dissolved among said two (2) lots and no longer remain following the adjustment.

The subject parcel(s) (#06-090.000) are commonly owned by Edgar Road Partners LLC and accessed via Meadow Lane (Town Highway 38). Lot #1 and the 'River House Lot' are located within the Highway Tourist (HT) zoning district and both contain historic buildings protected under Section 10 of the town's zoning regulations; Lot #2 is a split lot, as defined under the regulations, and is located within the Highway Tourist (HT) and Rural Residential 3 (RR3) districts with portions lying within the Ridgeline and Hillside Overlay District (RHOD). The Source Protection Overlay District encompasses all three (3) lots. Lot #2 [ $\pm 1.0$  acres] was created under subdivision application #85-1 approved by the Planning Commission on January 7, 1985 and recorded in the Town of Stowe Land Records under MB 5/14. Said subdivision conveyed  $\pm 1.0$  acres from Raymond Cabral to the Gables Inn LTD. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Subdivision Regulations (as amended through July 16, 2012) for the purpose of subdivision/boundary line adjustment 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 subdivision review was filed by Applicant John Grenier on April 6, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the 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 submitted 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:

- Chris Austin, Grenier Engineering, PO Box 445, Waterbury, VT 05676
- John Grenier, Grenier Engineering, PO Box 445, Waterbury, VT 05676
- McKee MacDonald, 91 Main Street, Stowe, VT 05672

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

1. Town of Stowe Development Application, received 04/06/2019;
2. Cover letter from Grenier Engineering PC, dated 04/05/2019;
3. Lot Line Adjustment Plan 'Edgar Road Partners LLC Meadow Lane Stowe' Sheet 1 of 1, prepared Grenier Engineering PC, dated 04/01/2019.

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:**

The Applicant's request for subdivision review/boundary line adjustment was reviewed by the Stowe Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Subdivision Regulations (as amended through July 16, 2012) including the following:

- Section 2- General Provisions
- Section 3- Administration and Enforcement
- Section 4- Subdivision Requirements
- Section 5- Planning and Design Standards

During its review of the application, the Board made the following Findings of Fact:

1. As defined under the subdivision regulations, minimal alterations may be approved by the Zoning Administrator and are not required to follow the notice and hearing requirements for proposed subdivisions requiring DRB approval. *"Minimal Alteration shall mean a change to existing parcels that either 1) involve the alteration, reconfiguration or relocation of existing property lines between*

existing parcels in a manner which does not result in any additional lots, plots, parcels of land (also referred to as a lot line adjustment) or movement of town highway and does not result in more than a 20% change in existing area of any existing lots...." The Applicant proposes to relocate the internal property lines of the lots located at 57 Meadow Lane and 1457 Mountain Road. The proposed boundary line adjustments will result in a +20% change in existing lot area and therefore not eligible for administrative review as a minimal alteration.

2. **Zoning District.** The subject lots are located in the Rural Residential 3 (RR3) and Highway Tourist (HT) Zoning Districts as shown on the Official Town of Stowe Zoning Map. The Source Protection Overlay District encompasses all three (3) lots. Lot #2 contains portions of lands lying within the Ridgeline and Hillside Overlay District (RHOD).
3. **Lot Area, Lot Width.** As described above, the Applicant seeks boundary line adjustment approval to relocate the internal property lines dividing the lots as follows:
  - Lot #1 under its existing configuration contains  $\pm 0.83$  acres and the former Gables Inn, Carriage House, and related improvements located at 1457 Mountain Road. Following the proposed boundary line adjustments, the lot will be increased to  $\pm 1.73$  acres and contain said improvements.
  - Lot #2 under its existing configuration contains  $\pm 1.0$  acres and is undeveloped. Following the proposed boundary line adjustment,  $\pm 0.10$  acres will be transferred to the 'River House Lot' with the remaining balance to merged into Lot #1 [1457 Mountain Road].
  - The 'River House Lot' under its existing configuration contains  $\pm 0.57$  acres and the existing historic residence and related improvements located at 57 Meadow Lane. Following the proposed boundary line adjustment, the lot will be increased to  $\pm 0.67$  acres and contain said improvements.

Following the proposed boundary line adjustment, Lot #2 will be dissolved into the adjacent two lots and no longer remain. The 'River House Lot' will increase in size to  $\pm 0.67$  acres with no changes to the existing lot width (approximately  $\pm 224'$ ). Lot #1 will increase in size to  $\pm 1.73$  acres and increase in lot width by approximately  $\pm 15.5'$  for a total frontage of approximately  $\pm 333'$ . The provided site plan shows the proposed reconfiguration of the subject parcels.

4. **Setbacks.** Required minimum district setbacks for the HT are front (50'), side (50') and rear (50'). Required minimum district setbacks for the RR3 are front (70'), side (60') and rear (60'). No new structures are proposed under this application. The existing buildings on Lot #1 and the 'River House Lot' are all entirely within the HT district.
5. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. There is no maximum building coverage in the RR3 district. No new structures are proposed under this application. Both Lot #1 and the 'River House Lot' are increasing in overall area.
6. **Use.** Lot #1 contains a lodging facility and accessory restaurant. The 'River House Lot' contains an existing two-family dwelling. Under a separate application the Applicant seeks approval for a change of use for the 'River House Lot' to a lodging facility (#5982). No changes of use are proposed under this application.

7. **Height.** The maximum building height in HT is 28' feet. No changes of height are proposed under this application.

## **SUBDIVISION REGULATIONS**

### **SECTION 3- GENERAL SUBDIVISION APPLICATION PROCEDURES**

8. **Section 3.1(3):** Minor subdivisions are defined as all subdivisions that propose less than five (5) lots, do not involve the construction of a public road, do not involve the construction of public utilities, and are not deemed to be a minimal alteration. Minor subdivisions allow the submission of one application and related materials to be reviewed by the Board. The proposed boundary line adjustments will result in a +20% change in existing lot area and therefore not eligible for administrative review as a minimal alteration (see above).

### **SECTION 5.1 – GENERAL PLANNING STANDARDS:**

9. **Section 5.1(1) – Character of Land for Subdivision:** Prior to the approval of a subdivision plat, the subdivider has the responsibility to satisfy the Board that the land to be subdivided is of such a character that it can be used for the intended purposes without undue adverse impact on public health or safety, or the environment or, neighboring properties or the rural and historic character of the community as outlined in the regulations. Subdivision plats shall conform to the zoning regulations, any interim zoning, subdivision regulations, and other applicable statutes, ordinances, bylaws and/or regulations. In addition, subdivision plans should be in general accordance with Stowe's Municipal Plan. The Applicant proposes to relocate the internal property lines of the lots located at 1457 Mountain Road and 57 Meadow Lane. Lot #1 and the 'River House Lot' are previously developed containing residential, lodging, and accessory restaurant uses and related appurtenances.

**Conclusion:** The Board concludes proposed reconfigured parcels can be used for the intended purposes without undue adverse impact on public health or safety, or the environment or, neighboring properties or the rural and historic character of the community.

10. **Section 5.1(2) – Natural and Scenic Features:** All subdivisions shall be designed to prevent undue adverse impact on: brooks, streams, water bodies, ground water resources and wetlands; prime agricultural soils, farmland resources and scenic meadowland; important forest resources; aesthetic resources and scenic vistas, including views onto and arising from subject property. In order to preserve natural and scenic features, the Board is authorized to:
  - a) Establish or limit the building site or other improvements to avoid the parcelization, isolation, or destruction of natural features;
  - b) Require setbacks from property boundaries or identified natural features greater than specified in the Zoning Regulations in order to create buffer zones and prevent degradation to significant natural features;
  - c) Establish preserve areas where development is restricted or prohibited, and specific land management techniques are employed to protect or enhance significant natural features.

The Applicant proposes to relocate the internal property lines of the lots located at 1457 Mountain Road and 57 Meadow Lane. The lots are previously developed. No construction activities are proposed under this application.

**Conclusion:** The Board concludes the proposed boundary line adjustment has been designed to prevent undue adverse impact on natural and scenic features as noted under Section 5.12(C) of the town's subdivision regulations.

11. **Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities:** All mapped significant wildlife habitat areas are required to be shown on subdivision site plans. If any portion of a proposed subdivision is within an identified significant wildlife habitat area the Board may require the submission of a wildlife habitat assessment, prepared by a wildlife biologist or comparable professional, to identify potentially impacted habitat and provide recommended management strategies. Vermont Fish and Wildlife Department staff may also be consulted to provide guidance with this review. The Applicant proposes to relocate the internal property lines of the lots located at 1457 Mountain Road and 57 Meadow Lane. The lots are previously developed containing residential, lodging, and accessory restaurant uses and related appurtenances. Staff provided an ANR Natural Resources Atlas map showing fragile areas, amphibian and reptile crossings, rare threatened endangered species, uncommon species, deer wintering areas, and natural communities. The lots contain a low priority habitat block and deer wintering areas. The proposed boundary line adjustment does not appear to impact any said habitats or communities.

**Conclusion:** The Board concludes the proposed boundary line adjustments will not have an undue adverse impact on significant wildlife habitat and natural communities.

12. **Section 5.1(4) – Historic Resources and Community Character:** Subdivisions are required to minimize undue adverse impact on historic sites and the rural character of the Town. Subdivisions in rural areas shall result in minimum undue adverse impact on the rural landscape as characterized by open fields, forested mountains and hillsides. The rural character exists due to the scenic vistas, large uninterrupted forested areas, open fields along public roads, and limited development along roads. Individual lots and building zones shall be delineated so as to mitigate the visual impact of new development on views from existing roadways, adjacent properties, and offsite vantage points. Lot #1 and the 'River House Lot' both contain historic buildings protected under Section 10 of the town's zoning regulations. No exterior alterations or site improvements are proposed under this application. The Applicant proposes to dissolve internal lots lines between three (3) parcels resulting in two (2) reconfigured and larger lots.

**Conclusion:** The Board concludes Lot #1 and the 'River House Lot' both contain historic buildings protected under Section 10 of the town's zoning regulations, neither of which are proposed to be altered under this application. The Board finds the boundary line adjustments have been designed to minimize undue adverse impact on rural character of the area.

13. **Section 5.1(5) – Reserved Strips:** No privately-owned reserved strip which controls access to any part of the subdivision or to any other parcel of land from any street or from any land dedicated to public use shall be permitted. No reserved strips are proposed.

**Conclusion:** This provision is not applicable.

14. **Section 5.1(6) – Screening and Landscaping:** The DRB is authorized to require the planting or preservation of trees or other vegetation to provide visual screening of development or to otherwise soften and/or lessen the impact of development on natural features and scenic vistas. Street trees along public or private roadways may also be required in order to establish a canopy effect in developed areas and where existing street trees are already present in the vicinity. The size, type, or location of such trees shall depend on the particular land parcel. Section 4.6

(Landscaping Standards) of the Zoning Regulations shall be used as a guideline for any required landscaping. A maintenance plan of all existing and proposed landscaping shall be prepared and submitted for review. Such a plan shall address specific measures to be taken to ensure the survival, and if necessary, replacement, of designated landscaping during and after the construction; parties to be responsible for ongoing maintenance; and any Town obligations for maintenance. The Applicant proposes to relocate the internal property lines of three (3) existing lots. The involved parcels contain existing mature landscaping and screening. No changes to the existing landscaping or screening are proposed under this application.

**Conclusion:** This provision is not applicable. The lots are previously developed. No changes to the existing landscaping or screening are proposed under this application.

15. **Section 5.1(7) – Pedestrian Access:** The Board is authorized to require rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses. The Applicant is not proposing any pedestrian access improvements under this application. The Applicant proposes to relocate the internal property lines resulting in two (2) reconfigured lots. No changes to pedestrian access are proposed under this application.

**Conclusion:** This provision is not applicable.

16. **Section 5.1(8) – Traffic:** The regulations require traffic to be generated by the proposed subdivision not to create unreasonable traffic congestion or cause unsafe conditions regarding use of existing roadways. To satisfy this standard, the Board is authorized to request the preparation of a traffic impact study to address all concerns relative to traffic impact and safety. The Applicant proposes to relocate the internal property lines of three (3) existing lots. The involved parcels (Lot #1 and the 'River House Lot' are previously developed. Lot #2 is undeveloped. No changes or increases in use are proposed under this application.

**Conclusion:** This provision is not applicable. Any future proposal to develop the reconfigured lots will require review under the Regulations in effect at time of application.

17. **Section 5.1(9) – Municipal Facilities:** No municipal department review forms returned indicated that the proposed boundary line adjustment would have any adverse impact on their respective departments.

**Conclusion:** The project will not create an undue burden on the Town's existing or planned facilities or services.

18. **Section 5.1(10) – Lot Configuration:** Flag lots, elongated lots, and other odd shaped lots which include narrow strips of land are prohibited unless the Board finds the configuration is appropriate given the existing topography and natural features, existing development, or the existing configurations of internal or adjacent lots. The Applicant proposes to relocate the internal property lines of three existing parcels. The proposed property lines are straight with the exception of the proposed internal property boundary including the ±0.10 acres of Lot #2 proposed to be transferred to the 'River House Lot'. During the hearing the Board discussed the proposed lot configuration and whether it satisfies the provisions of Section 5.1(10). The Applicant testified that dissolving the lot line between Lot 1 and Lot 2 allows for the existing drainage ditch to remain with Lot 1 and provide the necessary drainage for the existing parking area on Lot 1. The Applicant noted the irregular configuration of the existing lots and that under the proposal, Lot 1 will be reconfigured to meet the minimum lot area for the HT district.

**Conclusion:** The Board concludes the amended lot configuration is appropriate given the unique existing conditions.

19. **Section 5.1(11) – Building Zone:** The Board must find that the proposed subdivision provides adequate building sites for each proposed lot. Such sites may be restricted to a specific building zone, to be depicted on the plat, located and sized to ensure compliance with all of the provisions of Section 5 of the regulations. Lot #2 [ $\pm 1.0$  acres] was created under subdivision application #85-1 approved by the Planning Commission on January 7, 1985 and recorded in the Town of Stowe Land Records under MB 5/14. Said subdivision conveyed  $\pm 1.0$  acres from Raymond Cabral to the Gables Inn LTD and does not include a designated building zone. Both Lots #1 and the 'River House Lot' are assumed to have been created prior to the town adopting subdivision regulations. Neither lot contains, or is proposed to include, a designated building zone. Both lots are previously developed.

**Conclusion:** The Board concludes the revised lots are adequate for their intended purpose and existing uses.

20. **Section 5.1(12) – Fire Protection Facilities:** The regulations require adequate water storage or distribution facilities for fire protection to be available. This may include the installation of ponds and dry fire hydrants and the extension of public water with fire hydrants. Where practicable, or where required by the Board, fire hydrants shall be installed by the subdivider. Construction of driveways and roads shall be in general compliance with the Stowe Fire Department Construction Standards where applicable. All lots shall be designed to allow for reasonable access by emergency vehicles to the building zones. The Applicant proposes to relocate the internal property lines of three (3) existing lots, resulting in two reconfigured parcels. Lots 1 and the 'River House Lot' are previously developed. No changes to fire protection facilities are proposed under this application.

**Conclusion:** This provision is not applicable. Any future proposal to develop the reconfigured lots will require review under the Regulations in effect at time of application, including fire protection facilities.

21. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** Whenever a subdivider submits a proposal for development on only a portion of a parcel, the Board is authorized to require a general indication of the intended uses of the remaining portion of land. Such an indication shall include access, type of use, intensity of use, and phasing. The Board is authorized to require the execution of a development agreement between the applicant and Town which ensures the ongoing integration of future development with each phase of subdivision or may require a note on the plat restricting future development of the remaining land without further review by the Board.

**Conclusion:** This provision is not applicable. Any future proposal to develop the reconfigured lots will require review under the Regulations in effect at time of application.

22. **Section 5.1(14) – Private Enforcement Mechanisms:** As a condition of subdivision approval, the Board may require the formation of a homeowner's association, consisting of the owners of all properties within the subdivision, to ensure the continual maintenance of shared driveways and other shared facilities. The Board shall require that such enforcement mechanisms be recorded before any zoning permits are issued. The lots are currently in common ownership.

**Conclusion:** This provision is not applicable.

23. **Section 5.2 – Prominent Hillside and Ridgelines (RHOD)**- All subdivisions located within the RHOD shall conform to the submission requirements, standards, and guidelines of Section 9 of the Stowe Zoning Regulations. Portions of the existing Lot #2 contains lands within the Ridgeline and Hillside Overlay District. As proposed under this application, these lands will be transferred into Lot #1. No development (i.e. construction of buildings or structures) is proposed under this application. Any future development within this area will require review and approval under the regulations in effect at the time of application.

**Conclusion:** The Board concludes the proposed boundary line adjustment meets the applicable requirements of Section 5.2.

24. **Section 5.3 – Open Space and Cluster Development:** Except for exemptions granted under Section 5.3(6), the Board shall, in subdivisions having lots or potential dwelling sites for five (5) or more family dwelling units (excluding accessory apartments), and for all Planned Residential Developments (PRDs), require that the subdivision plat designate one (1) or more areas of character, size, shape and location suitable to be used as open space, park or playground. The Applicant proposes to relocate the internal property lines amongst three (3) existing lots resulting in two reconfigured parcels. This provision does not apply.

**Conclusion:** This provision does not apply.

25. **Section 5.4 – Road Standards and Coordination with Public Highways:** All proposed public and private roads shall be designed to ensure the safe and efficient movement of vehicles. Roads shall be logically related to topography so as to produce usable lots and reasonable road grades and shall be in harmony with existing and proposed public highways. Wherever extensions of proposed roads could rationally provide public access to adjacent properties or connection to existing public State or Town highways, a right of way across the subdivider's property may be required. No new road or driveways are proposed under this application.

**Conclusion:** The Board concludes no changes to the existing access road/driveway are proposed under this application.

26. **Section 5.5 – Utilities and Stormwater Management:** All subdivisions shall make adequate provisions for stormwater and required utilities. No changes to stormwater or utilities are proposed under this application.

**Conclusion:** The Board concludes no changes to existing utilities and stormwater management improvements are proposed under this application.

## **DECISION**

Based upon the foregoing Findings of Fact, in RE: **5985** the Board finds (6-1) the requested boundary line adjustment meets the Town of Stowe Subdivision Regulations (as amended through July 16, 2012) subject to 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. The subdivision survey plat depicting the approved boundary line adjustment shall be submitted for recording in the land records of the Town of Stowe within 180 days of the date of this approval, or the approval shall expire. The Applicant shall file two (2) paper copies of said plat with the Zoning Administrator.
4. The Applicant shall file the Mylar plat, signed by the Chair or other authorized representative of the Development Review Board, with the Stowe Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17 and the Stowe Subdivision Regulations. No land development associated with this subdivision shall be commenced until such time as the survey plat has been duly signed and filed in the Land Records.
5. The final survey plat as recorded shall carry the following notation:

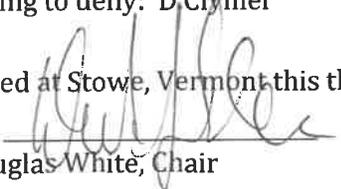
*"This plat is subject to the terms and conditions of subdivision approval by the Stowe DRB per the Subdivision Regulations of the Town of Stowe. The terms and conditions of the approval and related information are on file in the Stowe Zoning Office".*

6. 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 purposes of ascertaining compliance with the conditions of approval.

Voting favor: D. White, T. Hand, P.Aumand, A. Volansky, T.Mumley, C.Walton

Voting to deny: D.Clymer

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.

