

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



PROJECT: 6010

SUBJECT PROPERTY: 0 Falls Brook Lane; #05-054.050
[e911 number to be determined]

PROPERTY OWNER: Joseph & Effie Kuti
484 Three Mile Road
Glastonbury, CT 06033

APPLICANT: David Silverberg
Silverberg Construction LLC
PO Box 3181
Stowe, VT 05672

APPLICATION:

The Applicant, David Silverberg of Silverberg Construction LLC on behalf of property owners Joseph & Effie Kuti (herein referred to as the "Applicant"), requests combined amended final subdivision review to revise the location of the previously approved building zone and floodplain, Ridgeline and Hillside Overlay District (RHOD) approval to construct a single-family dwelling, attached garage, and related improvements.

The subject ±5.10-acre parcel is owned by Joseph & Effie Kuti and located 0 Falls Brook Lane (#05-054.050). The parcel is within in the Rural Residential 5 (RR5) zoning district, the Ridgeline and Hillside Overlay District (RHOD), and contains lands within the Flood Hazard Overlay District (FHOD). The parcel is accessed via 25' right-of-way over the adjacent Lot A1, connecting to Falls Brook Lane, a privately owned and maintained road and encumbered by a 25' recreational easement to serve Lots A & C. The parcel, Lot B, was created in 2008 [Project 3876] approved by the Development Review Board under 3-Lot Phaneuf Final Subdivision. 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 amended subdivision review and under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of combined Floodplain, 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 combined amended subdivision, floodplain, and RHOD review was filed by Applicant David Silverberg of Silverberg Construction LLC on May 3, 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 June 4, 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 May 16, 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 June 4, 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 - David Silverberg of Silverberg Construction LLC, PO Box 3181, Stowe, VT 05672
- Joseph Kuti, 484 Three Mile Road, Glastonbury, CT 06033

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

- Town of Stowe Development Application (2 pages); dated 04/30/2019;
- Project narrative, dated 4/27/2019;
- Manufacturer Cut Sheets -Outdoor Light Fixtures (9 pages); no date;
- Photographs showing existing conditions (6 pages), no date;
- Building material list, dated 4/27/2019;
- Illustration showing proposed LED lighting, no date;
- FEMA LOMA (Non-Removal), dated 5/6/2015;
- ANR Natural Resources Atlas, dated 5/3/2019;
- Site plan, Sheet L1, no date;
- Site plan prepared by Silverberg Construction LLC, Lot B, Sheet A-1, dated 4/27/2019;
- Kuti Residence-95 Falls Brook Lane, dated 4/27/2019 including:
 - Sheet C1- Coversheet
 - Sheet A1- Site Plan
 - Sheet A2- Main Floor Plan
 - Sheet A3- Basement Floor Plan
 - Sheet A4- Foundation Plan
 - Sheet A5- Building Detail
 - Sheet A6- Floor Framing Plan
 - Sheet A7- Ceiling Framing Plan
 - Sheet A8- Roof Framing Plan
 - Sheet B1- South Elevation
 - Sheet B2- North Elevation
 - Sheet B3- West Elevation
 - Sheet B4- East Elevation
- Email comments from John Grenier, PE dated 5/22/2019;
- Email comments from Rebecca Pfeiffer, dated 5/21/2019;
- Lot B flood map prepared by Grenier Engineering, Sheet 1 of 2, dated 3/1/2015.

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 amended subdivision review 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

The Applicant's request for Floodplain and 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 7- Flood Hazard Area
- Section 9- Ridgeline and Hillside Overlay District
- Section 15- Parking Regulations

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

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). Portions of the parcel also include lands within the Flood Hazard Overlay District.
2. **Lot Area, Lot Width.** The subject parcel is ±5.10 acres and exceeds 400 ft in lot width. 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 Silverberg Construction LLC shows the location of the proposed dwelling, garage, related 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 single-family dwelling and attached garage. Single-family dwellings and accessory structures are a permitted use in the RR5 district.
6. **Density.** The RR5 district allows single-family dwellings at a density of 1 unit per 5 acres.
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 dwelling and garage. The elevation drawings note the proposed height of the garage addition to be 19'5" as measured to the peak of the roof and 16'2" to the peak of the gable on the dwelling. The provided site plan also shows the finished floor elevation of the garage and dwelling to be 752'. The bottom basement elevation is shown to be 742'.

Section 7- Flood Hazard Area

The Applicant proposes to construct a single-family dwelling and attached garage. Portions of the parcel contain lands within the Flood Hazard Overlay District. Section 7.4 outlines when a permit is required within the Flood Hazard Area. A permit is required for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard. Prior to the issuance of a zoning permit, conditional use approval by the DRB is required for: (1) New buildings; (2) Substantial improvement of existing buildings; and (3) Development in a floodway.

8. **Review Required.** The regulations require that all development and subdivisions within the Flood Hazard District be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

Development as defined under the Flood Hazard Area District is "*any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, extraction or drilling operations or storage of equipment or materials.*" The Applicant proposes to construct a single-family dwelling and attached garage. As shown on the provided site plan and building elevations the lowest floor elevation is 742'. The Applicant provided a FEMA LOMA (Non-Removal), dated 5/6/2015 indicating the base flood elevation to be 733.4 ft.

9. **Section 7.5 Procedures.** In accordance with Section 7.5(1), a copy of the application and supporting information was submitted by the Zoning Director to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. §4424. A permit may be issued only following receipt of comments from the Agency or the expiration of thirty (30) days from the date the application was mailed to the Agency, whichever is sooner. Pursuant to Section 7.5(1), the application was referred to ANR Floodplain Coordinator Rebecca J. Pfeiffer on 5/3/2019 for review and comment in accordance with 24 V.S.A. §4424. ANR Floodplain Coordinator Rebecca J. Pfeiffer provided written comments (5/21/19) recommending that the elevation of the dwelling be confirmed, and a topographic plan prepared by a licensed surveyor/engineer be provided.

The regulations require that proposed development be reviewed by the Board to assure that all necessary permits have been received from those government agencies from which approval is required by Federal, State or Municipal law. No other Federal, State or Municipal permits were identified as required in the application or during the hearing.

10. **Section 7.7 Development Standards.** [Floodway Fringe] [B. Residential Development]

1. New construction and existing buildings to be substantially improved that are located in Zones A1-30, AE, and AH shall have the lowest floor, including basement, elevated to or above the base flood elevation. New construction and existing buildings to be substantially improved that are located in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in the feet on the community's FIRM or at least two (2') feet if no depth number is specified.

The Applicant provided a FEMA LOMA (Non-Removal), dated 5/6/2015 indicating the base flood elevation to be 733.4 ft. The building elevations show the lowest floor to be 742 ft as measured from the top of basement slab. The lowest floor is located above the base flood elevation and therefore satisfies the development standards for development within the floodway fringe. As a condition of approval, the Board will require that the lowest floor elevation, as defined under the

town's zoning regulations, be verified by a licensed surveyor or P.E. prior to the issuance of a Certificate of Occupancy.

SUBDIVISION REGULATIONS

SECTION 5.1 – GENERAL PLANNING STANDARDS:

11. **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 lot was created in 2008 under Project 3876. No new lots are proposed under this application.

Conclusion: This provision is not applicable.

12. **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 requests to amend the previously approved designated building zone. The proposed amended building zone is sited to meet the minimum setback requirements. The revised building zone is not expected to have an undue adverse impact on natural and scenic features. According to the ANR Natural Resource Atlas, the parcel contains prime agricultural soils.

Conclusion: The Board concludes the revised building zone 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.

13. **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 requests to relocate a previously designated

building zone. No wildlife habitat or natural communities are shown on the provided plan. Staff provided a copy of ANR Natural Resource Atlas. The ANR Natural Resources Atlas shows the subject parcel containing prime agricultural soils. No rare, threatened, or endangered species, deer wintering areas, or significant natural communities are shown on the parcel.

Conclusion: The Board concludes the revised building zone will not have an undue adverse impact on significant wildlife habitat and natural communities.

14. **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. No historic features are shown to exist on the lot. Section 5.1(4)(b)(i-vi) outlines methods for preserving rural character, including prohibiting building zones in visually prominent areas, requiring vegetated buffer to provide screening, among others. The Applicant proposes to reconfigure the previously approved building zone, encroaching into the RHOD district, to accommodate the proposed improvements.

Conclusion: The Board concludes that there are no known historical resources located on the parcel and the proposed building zone has been designed to minimize undue adverse impact on rural character of the area.

15. **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 changes to previously approved access are proposed under this application.

Conclusion: The provision does not apply.

16. **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 previously approved building zone. The proposed clearing area is shown on the plans.

Conclusion: The Board concludes the proposed building zone provides sufficient screening and landscaping.

17. **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.

Conclusion: This provision is not applicable.

18. **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. No new lots are proposed.

Conclusion: This provision is not applicable.

19. **Section 5.1(9) – Municipal Facilities:** The Board must find that the proposed subdivision will not create an undue burden on municipal facilities or create an unreasonable demand for municipal 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 is proposing on-site septic and potable water. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on municipal facilities and services.

Conclusion: The Board concludes the proposal will not create an undue burden on the Town’s existing or planned facilities or services.

20. **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. No changes to lot size, shape, or configuration are proposed under this application.

Conclusion: This provision is not applicable.

21. **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. The Applicant proposes to relocate the previously approved building zone. As mentioned above, the building zone appears to meet the required setbacks. The regulations define Building Zone as *‘The area designated on a plat within which shall be located the principal building and/or house site.’* The proposed building zone provides adequate building site for the proposed improvements.

Conclusion: The Board concludes the revised building zone provides an adequate building site for the intended purpose.

22. **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. No changes to previously approved access are proposed under this application.

Conclusion: This provision does not apply.

23. **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. No future development plans are proposed under this application.

Conclusion: This provision does not apply.

24. **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 Applicant proposes to relocate a previously approved building zone.

Conclusion: This provision does not apply.

25. **Section 5.2 – Prominent Hillside and Ridgelines (RHOD)-** The subject lot is within the RHOD. The Applicant proposes to modify the previously approved building zone. As proposed, the modified building zone will encroach into the RHOD district to accommodate the proposed garage. Limits of clearing are shown surrounding the building zone and the septic system areas. The Applicant is also seeking combined RHOD approval to construct the proposed dwelling and garage.

Conclusion: The Board concludes the revised building zone is in conformance with the RHOD standards. The Applicant has submitted an application to construct the proposed dwelling and attached garage, which is subject to additional review under Section 9 of the town’s zoning regulations.

26. **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.

Conclusion: This provision is not applicable.

27. **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 changes to previously approved access are proposed under this application.

Conclusion: This provision is not applicable.

28. **Section 5.5 – Utilities and Stormwater Management:** All subdivisions shall make adequate provisions for stormwater and required utilities.

The DRB is authorized to require the underground installation of power and telephone lines wherever it is appropriate to maintain and protect the visual character and property values of an area or neighborhood. In addition, the DRB may place restrictions on the location and design of utility transformers, trans closures, meter boards and related equipment in order to minimize adverse visual impact. The provided subdivision plan does not show the location of power and telephone lines to serve the proposed lots. The Applicant testified that they are currently working with Stowe Electric to determine necessary steps to provide utilities.

The DRB is authorized to require the installation of street lighting in any subdivision in the Stowe Village or commercial areas. Lighting shall be installed in accordance with the Stowe Zoning Regulations. The subject parcel is in the RR5 district. This provision does not apply.

All stormwater management activities required by the Town shall adhere to current State of Vermont erosion prevention and sediment control standards and to the requirements of Section 3.12 of the Stowe Zoning Regulations. The site plan shows erosion control details.

Monuments shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors. No change in lot dimensions or boundaries are proposed under this application.

Conclusion: The Board concludes the proposal provides adequate provisions for stormwater and required utilities.

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:

29. **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 construct a single-family dwelling and attached garage within a relocated building zone. Portions of the attached garage are within the RHOD, the dwelling is not located within the RHOD. The proposed improvements are generally sited in areas previously cleared; only minor clearing is proposed in the immediate vicinity of the proposed improvements and relocated building zone. 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.

30. **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. Given the project location, the only public road in the vicinity is Nebraska Valley Road. The Applicant provided photographs of the site and views from Nebraska Valley Road. The parcel is previously partially cleared. Only minor clearing is proposed under this application. The Board finds the proposal will not negatively impact public vantage points and will have no or very limited visibility from public vantage points.
31. **Standard (3) Standards and Guidelines:** Standard 3 provides guidelines and accompanying illustrations to guide development in a visually and environmentally sensible way without an undue adverse impact to scenic and environmental resources. The Applicant proposes to construct a single-family dwelling and attached garage. The parcel is undeveloped with a roughed in driveway. The Board reviewed the applicable standards and guidelines and finds that the proposed improvements will not adversely impact the character of the scenic landscape and no further mitigation measures are warranted.
32. **Standard (4)** The regulations require that development not result in an undue adverse impact on fragile environments, including designated wetlands, wildlife habitats, streams, steep and extremely steep slopes and unique features. All efforts should be made to protect/preserve such areas and promote suitable buffers. The Applicant proposes to construct a single-family dwelling and attached garage. The proposed improvements will be located within the revised building zone. 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 cleared involving minor clearing. The Board finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.
33. **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. Nebraska Valley Road is the only identified possible public vantage point. The garage and the dwelling are both proposed to have a finished floor elevation of 752'. The proposed building height is 19' 5", as measured to the peak of the garage. The Applicant provided architectural drawings and a building material list. The proposed materials include earth tones and natural building materials such as hemlock timber frame trim and stone accents. The Board finds the proposal will be minimally visible and conforms to Standard 5.
34. **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 undeveloped. The Applicant proposes to construct a single-family dwelling and attached garage, with portions lying within the RHOD. 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.
35. **Standard (7)** During construction, trees identified on the landscaping plan are to be protected. The provided site plan illustrates the proposed improvements along with the existing and proposed treeline. The building zone is located within a partially cleared area. The provided site plan shows the location of the treeline. Minimal clearing will be required within the building zone and in the replacement septic system areas. No other clearing or removal of trees is proposed under this application.

36. **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 area is generally flat and does not involve grades exceeding 15%. The right-of-way and location of the driveway were previously approved under subdivision project 3876.
37. **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 to be 19' 5" as measured to the peak of the attached garage. The provided site development plan also shows the finished floor elevation of the garage and dwelling to be 752'. 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.
38. **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 proposed dwelling and garage will be constructed of earth tone materials in a previously cleared area. 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.
39. **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 and building elevations showing the placement of said fixtures. As proposed, the front door entrance will have two building mounted sconces and a hanging porch light. A building mounted sconce is proposed on the sides of the garage doors. During the hearing the Applicant testified that the proposed LED hidden light tape to illuminate the gable wall of the front door entrance and the garage wall in the gable has been removed from the project. A LED motion sensor security light is proposed near the side door entrance of the garage. A series of building mounted LED wall sconces are proposed on the southern elevation along with an LED motion sensor security light. The regulations require that all outdoor lighting shall be installed in accordance with the standards listed in Section 4.8. 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.
40. **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: **6010** the Board finds (7-0) that the application meets the Stowe Zoning Regulations, as adopted October 8, 2018 and 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. 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.
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 complete the following:
 - o A subdivision survey plat depicting the revised building zone 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.
 - o 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.
 - o The final survey plat as recorded shall carry the following notation:

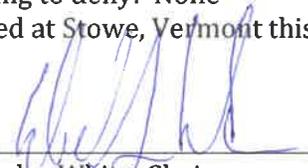
"This plat is subject to the terms and conditions of subdivision approval by the Stowe DRB per the Subdivision Regulations of the Town of Stowe. The terms and conditions of the approval and related information are on file in the Stowe Zoning Office".
4. All outdoor lighting fixtures shall be shielded 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). Exceptions to this standard to accommodate a particular "period" or architectural style are allowed, provided the maximum initial lumens generated by each fixture not exceed 2,000 (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 it has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations. Prior to the issuance of a Certificate of Occupancy, a licensed surveyor or P.E. shall certify the lowest floor elevation, as defined under the town's zoning regulations, is constructed in accordance with the approved plans and meets the base flood elevation.
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, M. Diender, T.Mumley, C.Walton, A. Volansky

Voting to deny: None

Dated at Stowe, Vermont this the 17 day of June 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.

