

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



PROJECT: 6011

SUBJECT PROPERTY: 1103 Luce Hill Road, Stowe, VT (#06-011.000)

PROPERTY OWNER & APPLICANT:

Warner & Stephanie Ferguson
1974 Iberis Road
Lancaster, VA 22503

APPLICATION:

The property owners, Warner & Stephanie Ferguson (herein referred to as the "Applicant"), requests RHOD review for a project involving the construction of a residential addition measuring 10' x 12' on the northern side of the existing single-family dwelling located at 1103 Luce Hill Road. The single-family dwelling was constructed circa 1978 prior to the adoption of the Ridgeline and Hillside Overlay District (RHOD).

The subject parcel, consisting of ±5.9 acres and located at 1103 Luce Hill Road (#06-011.000), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The property is served by Luce Hill Road, a Class 3 town-highway (TH-41). The subject parcel is bound to the north by Luce Hill Road; to the west generally by an unnamed stream running northwest/southeast; to the south by a ±2.75-acre parcel currently owned by Timothy & Nichola Siegler, and to the east generally by a ±3.35-acre parcel located at 1029 Luce Hill Road owned by Luce Hill Investments LLC and a ±2-acre parcel located at 845 Luce Hill Road and owned by Wendall & Carmen Kalsow. 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 Warner & Stephanie Ferguson on May 2, 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 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 provided 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 Stephanie Ferguson, 1974 Iberis Road, Lancaster, VA 22503

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

- Index of Zoning Application for 1103 Luce Hill Rd, no date;
- Town of Stowe Development Application (2 pages); dated 4/23/2019;
- Site Plan of 1103 Luce Hill Rd, dated 4/27/2019;
- Building site plan illustrating existing footprint and proposed addition, no date;
- Elevation drawings illustrating proposed addition, no date;
- Marvin glass specifications, no date;
- Integrity window specifications, no date;
- Photographs of existing dwelling from various positions (8 pages), no date;
- Location map, no date;
- Tax map, no date;
- ANR Natural Resources Map, dated 6/27/2016;
- Proposed Building Materials, no date;

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

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 ±5.9 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 provided with the application shows the location of the existing dwelling and proposed addition. The proposed addition appears to be located 115' from the edge of the Luce

Hill right-of-way. The parcel is ±5.9 acres. The side and rear setbacks are not shown however far exceed the minimum required side and rear setback of 75'. As a condition of approval, the Applicant will be required to submit documentation that the side setbacks are met.

4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct a residential addition measuring 10' x 20' on the existing single-family dwelling. Single-family dwellings are a permitted use in the RR5 district. No changes of use are proposed under this application.
6. **Density.** No changes of use are proposed under this application.
7. **Height.** The maximum building height in RR5 is 28' feet. The regulations define building height as the *"Vertical distance measured from the average elevation of the proposed finished grade at the front or rear of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the highest ridge and its contiguous eave for other types of roofs. On sloping sites the height will be measured on the uphill side."* The application materials indicate the proposed height of the addition to be 14' as measured to the peak of the roof.

SECTION 9 – RIDGELINE AND HILLSIDE OVERLAY DISTRICT. (1) Under the provisions of the Town of Stowe zoning regulations (as adopted October 8, 2018), the application was reviewed under the applicable provisions of Section 9- Ridgeline and Hillside Overlay District. Staff referred the application to the Board since the project is not eligible for an exemption under Section 9.4(2).

Section 9.5 RHOD Guidelines:

8. **Standard (1) General Requirements:** To protect the unique visual and environmental character of the RHOD, especially those characterized by steep slopes, prominent knolls, ridgelines and significant focal points, the regulations require that all development be designed and sited in a manner that does not cause undue adverse impact to the visual/scenic landscape character and the physical environment of the town. The Applicant proposes to construct a residential addition measuring 10' x 12' attached to the existing single-family dwelling. The proposed addition is located on the northern portion of the existing dwelling. The proposed addition is generally sited in areas previously cleared. 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 existing dwelling and project vicinity. No public vantage points are identified in the application, however based on the provided photographs the rear side of the dwelling is visible from Luce Hill Road. The proposed addition is positioned on the rear side of the dwelling and will only be visible from Luce Hill Road. The Board finds the proposal will not negatively impact public vantage points and will have no or very limited visibility.
10. **Standard (3) Standards and Guidelines:** Standard 3 provides guidelines and accompanying illustrations to guide development in a visually and environmentally sensible way without an undue adverse impact to scenic and environmental resources. The Applicant proposes to construct a residential addition measuring 10' x 12' 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 addition will not adversely impact the character of the scenic landscape and no further mitigation measures are warranted.

11. **Standard (4)** The regulations require that development not result in an undue adverse impact on fragile environments, including designated wetlands, wildlife habitats, streams, steep and extremely steep slopes and unique features. All efforts should be made to protect/preserve such areas and promote suitable buffers. The Applicant proposes to construct a residential addition measuring 10' x 12' attached to the existing single-family dwelling. The proposed addition will be located on the northern side 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 parcel is sited within a larger area identified as a deer wintering area. The parcel is previously developed. 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. The application materials indicate that the proposed addition is intended to match the general appearance of the existing residence and include compatible building materials including natural color siding painted. 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 northern side 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 illustrates the the existing and proposed improvements along with the existing treeline indicated as 'no cut'. Two existing pine trees are shown on the plan in the area of the proposed addition. During the hearing the Applicant testified that one tree will need to be removed as part of this project. 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. 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 addition to be 14' as measured to the peak of the roof. 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 the existing building materials and colors. The application materials indicate that the proposed addition is intended to match the general appearance of the existing residence and include compatible building materials including natural color siding and a grey standing seam roof. 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 application materials indicate that no additional outdoor lighting is proposed under this application. The Board finds these provisions do not apply.
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: **6011** 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:

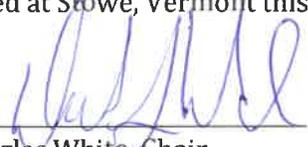
1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted 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 documentation to the Zoning Administrator that the proposed addition will meet the minimum side setbacks requirements.
4. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
5. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
6. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
7. 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.

8. 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.
9. 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.
10. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting favor: D. White, D.Clymer, 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.