

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



PROJECT: 6038

SUBJECT PROPERTY: 1457 Mountain Road; #06-090.000

PROPERTY OWNER & APPLICANT:

Edgar Road Partners; Eric & Robin Gershman
PO Box 283
Stowe, VT 05672

APPLICATION:

The Applicant, Dee Davidson of Edgar Road Partners (herein referred to as the "Applicant"), requests design review approval to demolish the main inn building, formerly known as the Gables Inn. The subject parcel, consisting of ±1.79 acres and located at 1457 Mountain Road (#06-090.000), is in the Highway Tourist (HT) Zoning District and contains a historic building, as defined under the regulations. The property is served by Meadow Lane, a town-maintained Class 3 highway with access to Mountain Road. Portions of the lot are also within the Vermont Agency of Transportation (VTrans) right-of-way. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of design review approval. 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 design review was filed by Applicant Dee Davidson on June 5, 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 July 16, 2019 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on June 27, 2019 and publicly posted at the Town Office, Police Station, and Library. 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 July 16, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Applicant Representative- Dee Davidson PO Box 283, Stowe, VT 05672
- Barbara Allaire, 175 Moulton Lane, 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, dated 6/6/19;

2. Photographs depicting the existing condition of the building;
3. Structural Assessment prepared by Andy Harris, dated 6/6/2019;
4. HPC Recommendation form, dated 6/12/2019.

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 design review approval was reviewed by the Stowe 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 10- Stowe Historic Overlay District and Historic Buildings
 - §10.8 Demolition and Partial Demolition of Structures

Section 10.8 Demolition and Partial Demolition of Structures

(1) Within the overlay district and for Historic Buildings outside the district, the SHPC first shall review each application for the demolition or partial demolition of a building or structure and make a written recommendation to the DRB within fifteen (15) days of the completed presentation except when demolition is requested under items C, D and E. below, which go directly to the DRB. Demolition shall mean the act of deliberately destroying all or a portion of a building. The DRB then will conduct a public hearing to review the application and may approve the demolition if they find:

- A. The SHPC has determined that the structure does not have historical or architectural significance or does not make a positive contribution to the district's streetscape; or*
- B. The condition of the structure has deteriorated to such a degree that rehabilitation and use of the building is not feasible due to structural or building code issues. The structural or building code issues shall be significant enough to make rehabilitation not possible. For example, a building foundation cannot be repaired because it is not possible to jack up the building or interior ceiling heights are too low to meet code requirements and cannot be modified. It is the responsibility of the property owner to demonstrate to the SHPC and DRB's satisfaction that rehabilitation is not feasible; or*
- C. The condition of the structure has deteriorated to such a degree that it poses a threat to the public safety as determined by town or state officials and cannot be restored or repaired without causing undue financial hardship to the owner. The burden of proving this hardship is on the owner; or*
- D. The structure is determined to be a deterrent to a major improvement that will be a clear and substantial benefit to the community. This determination of substantial benefit will be made by the DRB.*
- E. The cost of rehabilitation is significant enough that it would be an undue financial hardship to the property owner. A determination of undue financial hardship may be granted only if the project complies with one of the following requirements of §10.8(E)(1-2).*

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

1. The subject parcel contains a historic building regulated under Section 10 of the zoning regulations.

2. The parcel contains an inventoried historic property (0808-125), the Gables Inn (c. 1840, c. 1938). The 1 ½ story with contemporaneous 1 ½ story wing gothic revival style farmhouse was remodeled c. 1938 as an inn.
3. The Applicant requests demolition review under Section 10.8(1). On June 12, 2019 the Applicant met with Historic Preservation Commission. The Commission unanimously approved the demolition with a positive recommendation to the Development Review Board. The Commission cited the proposal was eligible for demolition under Section 10.8[(1)(B,C, E(1))]. A copy of the HPC's recommendation was provided by staff.
4. The Applicant provided a structural assessment from a licensed structural engineer concluding that given the amount of work required to reinforce/rehabilitate the structure, it appears a more appropriate course of action to remove and replace the building with new construction.
5. The Applicant provided photographs showing the existing condition of the building.
6. During the hearing the Applicant provided testimony on the existing condition of the building, the structural defects, and the improvements needed for the building to meet code requirements.

Conclusion: Based on the above findings, the Board concludes the condition of the building has been compromised and deteriorated to such a degree that rehabilitation and use of the building is not feasible due to structural and building code issues.

DECISION

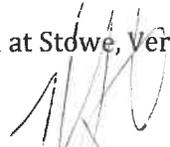
Based upon the foregoing Findings of Fact, in RE: 6038 the Board finds (6-0) the proposal meets the Stowe Zoning Regulations, as adopted October 9, 2018, subject to the following conditions of approval:

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 relevant prior conditions of approval, unless amended herein, remain in full force and effect.
3. Prior to demolition, the Applicant shall submit to the Zoning Administrator current photographs showing all four (4) sides of the building.
4. All demolition shall be completed with 30 days of commencement and, at a minimum, completion shall include: (1) All structural materials and debris shall be removed from the site; (2) The site shall be restored to a natural grade; (3) Any remaining foundation opening(s) shall be fenced or otherwise secured.
5. Future development of the parcel shall require review and approval under the regulations in effect at the time of application.
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 purpose of ascertaining compliance with the conditions of approval.

Voting favor: D. Clymer, T. Hand, P.Aumand, A. Volansky, M. Diender, P. Roberts

Voting to deny: None

Dated at Stowe, Vermont this the 29 day of July 2019.

By: 
Drew Glymer, Acting 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.