

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



PROJECT: 6044

SUBJECT PROPERTY: End of Brook Rd (Phase IV); #11-254.300

APPLICANT & PROPERTY OWNER:

R & Y Covered Bridge LLC
c/o Alain Youkel
PO Box 1503
Stowe, VT 05672

APPLICATION:

The Applicant, R & Y Covered Bridge LLC, (herein referred to as the "Applicant"), requests approval to revise previously approved Project 5866 to include the following minor modifications:

- Relocate the pond and dwelling #4 to incorporate the pond with the existing drainage channel;
- Separate driveway access for dwellings #9 and 10, in lieu of the previously approved shared driveway;
- Small adjustments to the location of the road and dwelling to preserve an existing tree in front of dwelling #16.

The Applicant received prior approval from the Board in a written decision dated 9/21/2018 for the construction of twenty (20) individual detached single-family dwellings along with a central shared development road, individual and shared driveways, and related improvements. The subject parcel (#11-254.300), located at the end of Brook Road, is in the Rural Residential 5 (RR-5) and the Ridgeline and Hillside Overlay District (RHOD). The undeveloped parcel contains approximately ±10.60- acres and is partially cleared. 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 amended Conditional Use and Ridgeline and Hillside Overlay District 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 amended conditional use/RHOD approval was filed by Applicant R & Y Covered Bridge LLC, on June 17, 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 Library, Town Office, and Police Station. 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, Alain Youkel, R & Y Covered Bridge LLC, PO Box 1503, Stowe, VT 05672

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

- Town of Stowe Development Application (2 pages); dated 6/12/2019;
- Landscaping Plan, Sheet L1 prepared by Youkel [architecture + development], last revised 6/11/2019;
- Site Grading Plan, Covered Bridge Phase IV, prepared by Grenier Engineering, Sheet C1, last revised 1/16/2019;
- DRB Decision Project 5866 & Previously approved site plan; (staff)

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 amended conditional use/RHOD approval was reviewed by the Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018), including the following:

- Section 2- Administration and Enforcement
 - Section 3- General Regulations
 - Section 4- Specific Use Standards
 - Section 5- Zoning Districts
 - Section 6- Uses, Dimensional Requirements and Density
 - Section 9- Ridgeline and Hillside Overlay District
 - Section 13- Planned Unit Development
 - Section 15- Parking Regulations
1. **Zoning District.** The subject parcel contains ±10.60-acres with direct access to Brook Road in 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 parcel is located in the RR-5 district. The provided site plan shows the overall shape and size of the parcel. The lot contains ±10.60-acres and exceeds 500' in width conforming to the minimum lot area and width, as defined under the regulations. [It is also noted that this parcel is part of an Agricultural Residential Development (PRD) approved by the Planning Commission as noted in prior Board decisions.]
 3. **Setbacks.** Required minimum district setbacks for the RR5 district are front (70'), side (75') and rear (75'). As noted above, this parcel is part of an Agricultural Residential Development (PRD) previously approved by the Planning Commission. Section 13.4(5)(C) states "*the minimum setback for one and two-family dwellings on individual interior lots shall be ten (10') feet. One and two-family dwellings shall be located at least twenty (20') feet from each other.*" The Applicant proposes to

relocate the pond and dwelling #4 to incorporate the pond with the existing drainage channel. The modified plans maintain required setbacks.

Section 3.7(2)(A) – Standards of review (Conditional Use Applications): The Development Review Board must determine that the use will conform to the standards outlined in Section 3.7(2)(A) and will not result in an undue adverse effect on capacity of existing or planned community facilities and services, traffic on roads and highways in the vicinity, the character of the area affected, regulations and ordinances in effect, utilization of renewable energy sources, and the additional standards outlined in Section 3.7(2)(B).

The Applicant requests approval to revise previously approved Project 5866 to include the following minor modifications:

- Relocate the pond and dwelling #4 to incorporate the pond with the existing drainage channel;
 - Separate driveway access for dwellings #9 and 10, in lieu of the previously approved shared driveway;
 - Small adjustments to the location of the road and dwelling to preserve an existing tree in front of dwelling #16.
1. The Applicant received prior approval (Project 5866) from the Board in a written decision dated 9/21/2018 for the construction of twenty (20) individual detached single-family dwellings along with a central shared development road, individual and shared driveways, and related improvements. The requested modifications to the previously approved project are not expected to result in an undue adverse effect on the above conditional use provisions.
 2. During the hearing the Applicant testified that they have received State of Vermont for Act 250 and Stormwater permits.

Conclusion: The Board concludes the requested modifications to a previously approved project will not result in an undue adverse effect on the capacity of existing or planned community facilities and services; traffic on roads and highways in the vicinity; the character of the area affected; regulations and ordinances then in effect; and utilization of renewable energy sources. Additionally the Board considered the standards outlined in Section 3.7(2)(B)(1-8) and finds the requested modifications to be consistent the relevant standards.

SECTION 9 – RIDGELINE AND HILLSIDE OVERLAY DISTRICT. (1) Under the provisions of the Town of Stowe Zoning Regulations (as adopted October 9, 2018), the application was reviewed under the applicable provisions of Section 9- Ridgeline and Hillside Overlay District.

1. The Applicant received prior approval (Project 5866) from the Board in a written decision dated 9/21/2018 for the construction of twenty (20) individual detached single-family dwellings along with a central shared development road, individual and shared driveways, and related improvements. The Applicant requests approval for minor modifications to an approved project. The requested modifications to the previously approved project are not expected to impact the applicable RHOD standards. Previously the Board concluded that the original proposal had been designed and sited in a manner that does not cause undue adverse impact to the visual/scenic landscape character, the physical environment of the town, and that it would not negatively impact public vantage points. During the hearing the Applicant testified that minor modifications to building location and/or position may be needed during construction in order to provide better siting, however none of the setbacks, utilities, roadways, etc. will not be impacted.

Conclusion: The Board concludes the requested modifications to a previously approved project are in conformance with all applicable RHOD standards and guidelines.

DECISION

Based upon the foregoing Findings of Fact, in RE: **6044** the Board finds (6-0) that the application meets the Stowe Zoning Regulations, as amended through October 9, 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 included in the plans as approved.
2. All conditions of previous approvals, except as amended herein, remain in full force and effect.
3. The Board approves the requested modifications as depicted on the following approved plans:
 - o Landscaping Plan, Sheet L1 prepared by Youkel [architecture + development], last revised 6/11/2019;
 - o Site Grading Plan, Covered Bridge Phase IV, prepared by Grenier Engineering, Sheet C1, last revised 1/16/2019;
4. 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 permittee 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, P.Aumand, T. Hand, M. Diender, A. Volansky, P. Roberts

Voting to deny: None

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

By: _____

Drew Clymer, Vice 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.

