

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



**PROJECT:** 6045

**SUBJECT PROPERTY:** 90 Dump Road; #7A-112.000

**PROPERTY OWNER:**

Stowe Electric Department/Town of Stowe  
435 Moscow Road  
Stowe, VT 05672

**APPLICANT:**

Susan Alexander  
LRSWMD  
29 Sunset Drive  
Morrisville, VT 05661

**APPLICATION:**

The Applicant, Susan Alexander on behalf of Lamoille Regional Solid Waste Management District (LRSWMD) (herein referred to as the "Applicant"), requests conditional use/flood hazard approval to expand the solid waste facility into the existing building located at 90 Dump Road. The building was formerly occupied by Stowe Electric Department and used for storage and maintenance. As proposed, the building at 90 Dump Road will be leased by LRSWMD and renovated to allow for the processing and storage of recycling and for office and meeting space for employees. The first floor will include a meeting room/office, reuse area, handicapped access bathroom, and an employee break room. The remainder of the first floor will be used for maintenance and recycling activities similar to those currently conducted on the site. The second floor will ultimately accommodate up to six (6) office for LRSWMD employees. Minor alterations to the exterior of the building include adding windows as shown on the provided plans. No physical changes to the existing site plan or building footprint are proposed.

The subject parcel, consisting of ±6.91 acres and located at 90 Dump Road (#7A-112.000), is in the Village Commercial 30 (VC30) Zoning District and the Flood Hazard Overlay District (FHOD). The property is served by Dump Road, a Class 3 Town Highway (TH100). The parcel is bound to the north by a ±1-acre parcel owned by Romah LLC and a ±1.16-acre parcel currently owned by Hamor, to the east by a ±224 acre parcel owned by the Town of Stowe, to the south by a ±13.1-acre parcel owned by West Branch of Stowe LLC, and to the west by a ±1.42 acre parcel owned by SAG LLC and a ±2.58-acre parcel owned by Clover Investment Limited, both containing a mix of commercial uses. 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 conditional use and flood hazard review. The subject parcel contains a community owned facility and therefore may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use [24 VSA 4413]. The application also requires review and approval as a substantial improvement under Section 7 [Flood Hazard District]. 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 conditional use/flood hazard review was filed by Applicant Susan Alexander on June 11, 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 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 Police Station, Municipal Library, and the Town Office. 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 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 participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Susan Alexander, LRSWMD, 29 Sunset Drive, Morrisville, VT 05661
- Willie Noyes, 100 Weeks Hill Rd, 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 6/11/2019;
2. Portions of plat showing location of building and property lines, no date;
3. Floor plans and elevation drawings prepared by T.F. Martin Design, Sheet A1, dated 4/25/2019;
4. ANR Natural Resources Map showing floodplain, dated 7/9/2019;
5. FEMA Firmette, dated 7/9/2019;
6. Comments from David Kresock (Stowe Electrical Department), dated 7/3/2019.

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 conditional use/flood hazard 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 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 Overlay District

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

1. The subject ±6.91-acre parcel is located at 90 Dump Road (#7A-112.000). The parcel contains a community owned facility. 24 VSA §4413 establishes limitations on municipal bylaws and states the following:

*"The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:*

*A. State- or community-owned and operated institutions and facilities.*

- B. Public and private schools and other educational institutions certified by the Agency of Education.*
- C. Churches and other places of worship, convents, and parish houses.*
- D. Public and private hospitals.*
- E. Regional solid waste management facilities certified under 10 V.S.A. chapter 159.*
- F. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a.”*

Given the existing use being a community owned facility, the Board’s review is limited to the items listed above and only to the extent that regulations do not have the effect of interfering with the intended functional use.

2. **Zoning District.** The subject parcel contains ±6.91 acres and is located within the Village Commercial 30 (VC30) Zoning District and the Flood Hazard Overlay District (FHO) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
3. No changes are proposed to any of the dimensional requirements, i.e. Lot Area, Lot Width, Setbacks, Maximum Building Coverage, or Height.
4. **Use.** The existing parcel contains a solid waste facility. The regulations define solid waste facility as ‘A use of land for the collection, sorting and shipment of solid waste.’ Solid Waste Facility is a conditional use in the VC zoning district. The Applicant proposes to expand the existing use into the vacant building located at 90 Dump Road. No changes to building footprint, location, or height are proposed.

**Section 3.7(2)(A) – Standards of review (Conditional Use Applications):** The Development Review Board must determine that the use will conform to the following set of standards and will not result in an undue adverse effect on the following:

5. **Capacity of existing or planned community facilities and 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. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services. Stowe Electric Department noted that they can provide service.

**Conclusion:** 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the capacity of existing or planned community facilities and services cannot be considered or reviewed under 24 VSA §4413.

6. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to expand the solid waste facility into the existing building located at 90 Dump Road. The building was formerly occupied by Stowe Electric Department and used for storage and maintenance. As proposed, the building at 90 Dump Road will be renovated to allow for the processing and storage of recycling and for office and meeting space for employees. The project is not expected to impact traffic on roads and highways in the vicinity.

**Conclusion:** The Board concludes the proposal will not create an undue adverse impact on traffic on roads and highways in the vicinity.

7. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the VC30 zoning district. The general purpose of the VC district is *‘to promote the sound economic development of Stowe, to carry out the objectives of the Municipal Plan, to maintain Stowe Village as the center of community activity and to encourage the best use of land in central sections for general business.’* The specific purpose of the VC 30 district is *‘adjacent to the central core of the Village, to allow a more uncongested development pattern and, in appropriate areas, to allow for density bonuses to encourage compact settlement patterns.’*

**Conclusion:** The Board concludes 24 VSA §4413 establishes limits municipal bylaws. The character of area affected cannot be considered or reviewed under 24 VSA §4413.

8. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under applicable conditional use criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The application also requires review and approval as a substantial improvement under Section 7 [Flood Hazard District]. No other municipal bylaws or ordinances apply to this project.

**Conclusion:** The Board concludes the proposal is in conformance with the applicable Stowe Zoning Regulations, as adopted October 9, 2018. No other identified municipal bylaws or ordinances apply to this project. The project was reviewed under the limitations of 24 VSA 4413.

9. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

**Conclusion:** The Board concludes the project is not expected to interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

**Section 3.7(2)(B) – Other Standards of Review:**

10. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The Applicant proposes to expand the solid waste facility into the existing building located at 90 Dump Road. The building was formerly occupied by Stowe Electric Department and used for storage and maintenance. As proposed, the building at 90 Dump Road will be renovated to allow for the processing and storage of recycling and for office and meeting space for employees. The site is previously developed. No changes to building footprint are proposed under this application.

**Conclusion:** The Board concludes 24 VSA §4413 establishes limits municipal bylaws. The scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas cannot be considered or reviewed under 24 VSA §4413.

11. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant proposes to expand the solid waste facility into the existing building located at 90 Dump Road. The building was formerly occupied by Stowe Electric Department and used for storage and maintenance. As proposed, the building at 90 Dump Road will be renovated to allow for the processing and storage of recycling and for office and meeting space for employees. Under the provisions of Section 3.7(2)(B)(2) and 24 VSA §4413, the Board’s authority is limited to the review of noise. The proposed project will not impact the hours or days of operation and is not expected to generate an increase in noise.

**Conclusion:** 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the project will not result in undue noise pollution.

12. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by Dump Road, a town-maintained highway. No changes to existing access are proposed.

**Conclusion:** 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the existing access provides safe and adequate access for the intended use.

13. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Dump Road, a town-maintained highway. No changes to existing shared access are proposed.

**Conclusion:** 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the existing access provides safe and adequate access for the intended use.

14. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 14 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The Applicant proposes to expand the solid waste facility into the existing building located at 90 Dump Road. The building was formerly occupied by Stowe Electric Department and used for storage and maintenance. As proposed, the building at 90 Dump Road will be renovated to allow for the processing and storage of recycling and for office and meeting space for employees. The site is previously developed. No physical changes to existing circulation and parking are proposed under this application, however during the hearing the Board raised concerns with vehicular congestion and the potential for vehicular/pedestrian conflicts. The Applicant testified that one parking space in front of the building will be reserved for users to temporarily drop off items. Users intending on staying longer will be required to park in the existing parking spaces and walk over to the building. The Applicant testified that there are numerous parking and circulation signs throughout the site and that employees monitor users parking. The Board noted that there are no specific parking requirements for solid waste facilities under Section 15 of the regulations and that during peak times, the existing conditions of the site are sometimes congested.

**Conclusion:** The Board concludes no physical changes are proposed to the existing access and circulation. During peak times, the number of users can create congestion on the site. As a condition of approval, the Applicant will be required to submit an access, circulation, and signage plan depicting the existing circulation patterns, parking, and signage.

15. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided. The site is previously developed. Majority of users access the parcel via motor vehicle. No pedestrian circulation or access improvements are proposed under this application. During the hearing the Applicant testified that one parking space in front of the building will be reserved for users to temporarily drop off items. Users intending on staying longer will be required to park in the existing parking spaces and walk over to the building.

**Conclusion:** The Board concludes no pedestrian improvements are proposed under this application.

16. **Section 3.7(2)(B)(7) – Landscaping and Screening:** The regulations require landscaping details and screening of garbage collection areas, outdoor storage, commercial ventilation systems over

two square feet; loading and unloading areas and other outdoor utilities, including solar installations, be provided as part of proposed site development plans. The Applicant proposes to expand the solid waste facility into the existing building located at 90 Dump Road. The building was formerly occupied by Stowe Electric Department and used for storage and maintenance. As proposed, the building at 90 Dump Road will be renovated to allow for the processing and storage of recycling and for office and meeting space for employees. The site is previously developed. No changes to existing landscaping or screening are proposed.

**Conclusion:** The Board concludes no changes to existing landscaping or screening are proposed.

17. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction. The Applicant proposes to expand the solid waste facility into the existing building located at 90 Dump Road. The building was formerly occupied by Stowe Electric Department and used for storage and maintenance. As proposed, the building at 90 Dump Road will be renovated to allow for the processing and storage of recycling and for office and meeting space for employees. The site is previously developed. No changes in building footprint or storm drainage patterns are proposed under this application.

**Conclusion:** 24 VSA §4413 establishes limits municipal bylaws. The Board concludes stormwater management cannot be reviewed under the provisions of §4413.

18. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the Board shall be guided by the following standards when reviewing all site development plans in the designated zoning district. These standards apply to all site development plans, including those involving new construction, expansion, alteration or change of use. The Board may waive the specific requirements of this section when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts.

1. Additional MRV, MRC, VC, VR, MC and LVC Standards: Within the MRV, MRC, VC, VR, MC and LVC Districts, site plans shall re-enforce a compact development pattern defined by a pedestrian orientation, the functional and visual integration of neighboring properties, well defined streetscapes and a mix of uses. To help achieve these objectives, the following standards shall apply:
  - a) Driveways and Road Edge Treatment: The Board shall require curbing or other appropriate treatment along all road frontage(s) and to define driveway entrances. Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
  - b) Front Yard Treatment: Required front yards shall be limited to landscaping and yard area, sidewalks and public spaces and shall not be used for parking or outdoor storage. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997, and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
  - c) Parking: Parking shall be designed to re-enforce an internal street network by maximizing the use of parallel or diagonal parking on internal driveways and streets.

- d) **Pedestrian Circulation and Sidewalks:** Adequate provision for pedestrian circulation within the site, and for pedestrian access to adjacent properties, shall be required. In addition to internal pedestrian circulation, all site plans shall be designed in a manner, which allows a minimum five feet (5') wide sidewalk along all frontage roads.
- e) **Internal Road Network and Traffic Mitigation:** Site plans shall be designed in a manner that facilitates the development of an interconnected network of village streets. In instances where a connector ("side") street is deemed appropriate, internal driveways shall be designed as side streets, shall be separated from parking areas with curbing, sidewalks, landscaping, buildings or other physical features, and shall be configured to provide access to adjacent properties. In instances where driveways will not touch upon adjacent properties, a condition of site plan approval may be the establishment of a right-of-way to provide access to and through adjacent properties; in instances where such access has been provided on adjacent properties as part of a prior permit condition, the DRB may require the applicant to connect to the existing driveway (side street).
- f) **Orientation of buildings within the site:** Buildings shall define a streetscape through a consistent building line and setbacks. Buildings shall front towards and relate to public streets, both functionally and visually, and shall not be oriented toward a parking lot. The Board may impose a maximum setback to achieve a consistent streetscape. The front elevation shall include a main entryway, pedestrian access and appropriate front-yard landscaping. Drive-thru lanes and drive-up windows, where allowed, shall be located in the rear of buildings. Buildings may be clustered around a common focal point, such as a green or public courtyard, providing that an appropriate visual and functional relationship with public roads is maintained.

**Conclusion:** The Board concludes the project can only be reviewed under the limitations of 24 VSA 4413. The site is previously developed containing a community owned facility. No changes to the building footprint or site plan are proposed under this application. The provisions of this section are not applicable.

#### **Section 4: Specific Use Standards.**

23. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the following standards:

- A. Sodium vapor lights are prohibited.
- B. All 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.
- C. The mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation directly below the fixture to the bottom of the lighting fixture. The height shall be the minimum necessary to illuminate the project area, and in no case shall exceed sixteen (16') feet for parking lot lighting.

During the hearing the Applicant testified that is their intention to use the existing outdoor building lighting. No changes to the existing outdoor lighting are proposed under this application.

**Conclusion:** The Board concludes no changes to the existing outdoor lighting are proposed under this application.

**Section 7- Flood Hazard Area.** 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.

24. **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.”*

Substantial Improvement as defined under the Flood Hazard Area District is *“Cumulative Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, during any five (5) year period, the cumulative cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.”* The Applicant did not provide detailed project costs, but in working with Staff has concluded that the project will likely exceed the 50% of the market value of the structure. In accordance with Section 7.4(3), staff referred the application to the Board for conditional use review since the project involves a substantial improvement.

25. **Section 7.5 Procedures.** In accordance with Section 7.5(1), Staff and the Applicant have been working closely with 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. Staff and the Applicant have been working with ANR Floodplain Coordinator Sacha Pealer. Initially the proposed improvements were believed to be below the 50% fair market value of the building. Given the fair market value assessment of the building, it is now believed that project costs will exceed 50% and therefore meet the definition of substantial improvement. The Applicant is therefore required to document that the project meets the town’s Flood Hazard Regulations by either obtaining a LOMA removing the building from the Special Flood Hazard Area [SFHA] or documenting that the building already meets substantial improvement requirements (i.e. Elevation Certificate shows lowest floor, including basement, is already above base flood elevation [BFE]).

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.

**DECISION**

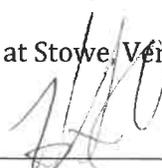
Based upon the foregoing Findings of Fact, in RE: **6045** the Board finds (6-0) the proposal meets the Stowe Zoning Regulations, as adopted on October 9, 2018, subject to the following conditions of approval:

1. The 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 the issuance of a zoning permit, the Applicant shall complete the following:
  - o Obtain a Letter of Map Amendment [LOMA], with a copy provided to the Zoning Administrator, removing the building from the Special Flood Hazard Area [SFHA]; or
  - o Provide a completed Elevation Certificate prepared by a licensed surveyor or engineer showing the lowest floor, including basement, is already above base flood elevation [BFE]. Should the Applicant complete the Elevation Certificate option, the zoning permit shall be issued only following receipt of comments from the Agency of Natural Resources or expiration of thirty (30) days from the date the application was mailed to the Agency, whichever is sooner.
  - o Submit to the Zoning Administrator an access, circulation, and signage plan depicting the existing circulation patterns, parking, and signage.
4. 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.
5. 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, P.Aumand, T.Hand, A. Volansky, M. Diender, P. Roberts

Voting to deny:

Dated at Stowe, Vermont this the 24 day of July 2019

By:   
Drew Clymer, 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.