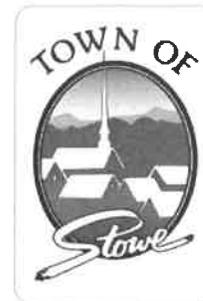


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6112

SUBJECT PROPERTY: 0 Notchbrook Road, Stowe, VT (#14-021.050)

PROPERTY OWNER:

Peter Catalado
32 McLane Road
Stowe, VT 05672

APPLICANT:

John D. Grenier, PE
Grenier Engineering PC
PO Box 445
Waterbury, VT 05676

APPLICATION:

The Applicant, John Grenier of Grenier Engineering on behalf of property owner, Peter Catalado (herein referred to as the "Applicant"), requests RHOD review for site drainage improvements and associated minor tree clearing within the Ridgeline and Hillside Overlay District. The subject parcel, consisting of ±2.01 acres and located at 0 Notchbrook Road (e911 to be assigned), Stowe, VT (14-021.050), is entirely within the Rural Residential 5 (RR5) Zoning District. The Ridgeline and Hillside Overlay District (RHOD) bisects the parcel. While the proposed single-family dwelling is located on lands outside of the RHOD district and not subject to review under Section 9, minor site drainage improvements and related clearing is proposed within the RHOD which, under Section 9, requires review by the Development Review Board. The subject parcel is part of the Notchbrook III Planned Residential Development approved by the Stowe Planning Commission in 1979. The parcel is bound to the north and east by lands owned and maintained in common by the Notchbrook III Homeowners Association, to the west by a ±1.73-acre parcel currently owned by Brian & Jill Mullin, and to the south by Notchbrook Road- a privately owned and maintained road. The subject parcel is shown as Lot 5 (2.01 acres) on a survey prepared by Spear Surveying as recorded in 1979 on MB 3/53 in the Town of Stowe Land Records. 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 property owner Peter Catalado on September 13, 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 October 15, 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 September 26, 2019 and publicly posted on the property and at the Town Office, Library, 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 October 15, 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:

- John Grenier, Grenier Engineering PC, PO Box 445, Waterbury, VT 05676

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

- Town of Stowe Development Application (2 pages); dated 8/24/2019;
- Project narrative by Grenier Engineering, dated 9/13/2019;
- Photographs (4) depicting existing conditions, no date;
- Septic System Site Plan 'Lot 5 Notchbrook Peter Cataldo' prepared by Grenier Engineering, dated 9/10/2019;
- [Revised] Septic System Site Plan 'Lot 5 Notchbrook Peter Cataldo' prepared by Grenier Engineering, dated 9/20/2019.

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 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 5- Zoning Districts
- Section 9- Ridgeline and Hillside Overlay District

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:

1. **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 site drainage improvements and associated minor tree clearing. 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.
2. **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 and existing conditions. The Applicant proposes site drainage improvements and associated minor tree clearing; the single-family dwelling will be located on lands outside of the RHOD and not subject to the provisions of Section 9. Staff visited the site on October 10th and testified that there were no public vantage points visible from the impacted area. The Board finds the proposal will not negatively impact public vantage points.

3. **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 site drainage improvements and associated minor tree clearing. 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.
4. **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 site drainage improvements and associated minor tree clearing. According to the ANR Natural Resources Atlas, there are no mapped wetlands, streams, or deer wintering areas. The parcel contains slopes between 5%-20% and portions lie within a higher priority habitat block. The proposed project is not expected to impact designated wetlands, wildlife habitats, streams, steep and extremely steep slopes, and/or unique features. The Board finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.
5. **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 RHOD boundary bisects the parcel. The proposed dwelling is sited on lands outside of the RHOD. Site drainage improvements and associated minor tree clearing are the only project components located in the RHOD. The Board finds the proposal will be minimally visible and conforms to Standard 5.
6. **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 Applicant proposes site drainage improvements and associated minor tree clearing. The parcel contains existing forested lands. 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.
7. **Standard (7)** During construction, trees identified on the landscaping plan are to be protected. The Applicant proposes site drainage improvements and associated minor tree clearing. Existing and proposed treeline/clearing limits are shown on the site plan. During the hearing the Applicant testified that the clearing is needed in the vicinity of a 100 ft drainage ditch which will carry water to an existing culvert under Notchbrook Road. No other clearing or removal of trees is proposed under this application.
8. **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 proposed driveway enters the parcel from Notchbrook Road and is not located within the RHOD. This standard does not apply.
9. **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 proposes site drainage improvements and associated minor tree clearing. The proposed single-family dwelling is located outside of the RHOD and not subject to the RHOD standards. The Board finds Standard 9 not applicable to this application.

10. **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 proposes site drainage improvements and associated minor tree clearing. The Board finds Standard 10 not applicable to this application.
11. **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 proposes site drainage improvements and related clearing. The Board finds Standard 11 not applicable to this application.
12. **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: 6112 the Board finds (6-0-1) 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 included in the plans as approved.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Clearing within the Ridgeline and Hillside Overlay District shall be limited to the areas depicted on the Site Plan [Revised] prepared by Grenier Engineering, dated 9/20/2019.
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.

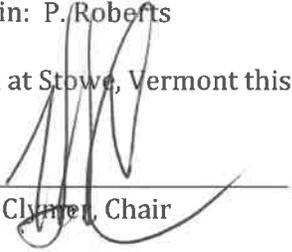
8. An adequate stormwater drainage system must be maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
9. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board.
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. Clymer, C. Walton, A. Volansky, E. Frey, P. Aumand, J. Beecy

Voting to deny: None

Abstain: P. Roberts

Dated at Stowe, Vermont this the 5 day of ~~October~~ ^{November} 2019

By: 
 Drew Clymer, 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.

