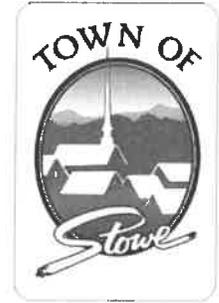


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6113

SUBJECT PROPERTY: 178 Thomas Pasture Road, Stowe, VT (#15-042.810)

PROPERTY OWNER:
Richard Clark Abbott
178 Thomas Pasture Road
Stowe, VT 05672

APPLICANT:
David Koschak/Milford Cushman
Cushman Design Group
100 Mountain Road
Stowe, VT 05672

APPLICATION:

The Applicant, David Koschak of Cushman Design Group on behalf of property owner, Richard Clark Abbott (herein referred to as the "Applicant"), requests RHOD review to construct an uninsulated detached barn/garage at 178 Thomas Pasture Road. The subject parcel, consisting of ±9.48 acres and located at 178 Thomas Pasture Road, Stowe, VT (#15-042.810), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The parcel contains a single-family dwelling approved by the Development Review Board on September 17, 2004 as a minor [see Z-04-131 (RHOD)]. The subject parcel is bound to the north by a ±5.01 acre parcel currently owned by Brian L. Heidelberger, to the east by Thomas Pasture Lane- a privately owned and maintained road, to the south by parcels in the Notchbrook residential development, and to the west by lands owned in common by the Notchbrook III Homeowners Association. The subject parcel is shown as Lot 81 on a survey prepared by Robert Frey (Land Surveyor) as recorded in 1989 on MB 8/40. The parcel boundaries were later revised as shown on a survey prepared by Daniel Mulligan recorded in 2006 on MB 16/55 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 Applicant David Koschak on September 16, 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, 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:

- David Koschak & Milford Cushman, Cushman Design Group, 100 Mountain Road, 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 9/16/2019;
- Viewshed – Aerial View ‘Abbott Barn’, Sheet A1, prepared by Cushman Design Group, dated 9/16/2019;
- Site Plan ‘Abbott Barn’, Sheet A1.0, prepared by Cushman Design Group, dated 9/16/2019;
- Landscape Plan ‘Abbott Barn’, Sheet A1.1, prepared by Cushman Design Group, dated 9/16/2019;
- Viewshed – Summer- Existing ‘Abbott Barn’, Sheet A2, prepared by Cushman Design Group, dated 9/16/2019;
- Floor Plans- Foundation & Main ‘Abbott Barn’, Sheet A2.0, prepared by Cushman Design Group, dated 9/16/2019;
- Floor Plans – Upper Level & Roof ‘Abbott Barn’, Sheet A2.1, prepared by Cushman Design Group, dated 9/16/2019;
- Viewshed – Summer- Proposed ‘Abbott Barn’, Sheet A2, prepared by Cushman Design Group, dated 9/16/2019;
- Exterior Alterations ‘Abbott Barn’, Sheet A3.0, prepared by Cushman Design Group, dated 9/16/2019;
- Viewshed – Winter- Existing ‘Abbott Barn’, Sheet A4, prepared by Cushman Design Group, dated 9/16/2019;
- Viewshed – Winter- Proposed ‘Abbott Barn’, Sheet A5, prepared by Cushman Design Group, dated 9/16/2019;
- Comments from David Kresock (Stowe Electric), dated 10/1/2019.

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 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 located 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 contains ±9.48 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 Applicant proposes to construct a detached barn/garage to the rear of the existing dwelling. The required setbacks are labeled on the site plan prepared by Cushman Design Group, Sheet A1.0, dated 9/16/2019.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct a detached barn/garage. Accessory structures are a permitted use in the RR5 district. The parcel contains a single-family dwelling. No changes of use are proposed under this application.
6. **Density.** The RR5 district allows single-family dwellings at a density of one (1) per five (5) acres. The subject parcel contains ±9.48 acres. No increases in density 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 barn/garage to be 20' 2".

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 detached barn/garage to the rear of the existing dwelling. While the proposed barn will primarily be screened by the existing dwelling, the barn will be visible from Mountain Road and therefore not eligible for administrative review under Section 9.2(4) of the regulations. The Applicant provided a viewshed analysis depicting existing and proposed conditions as seen from Mountain Road. The dwelling was approved by the Development Review Board in a decision dated 9/17/2004. In the Board's 2004 decision the construction of the single-family dwelling project was deemed a minor under the RHOD guidelines. 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 project vicinity and existing and proposed conditions. The visual analysis indicates the only possible public vantage point is from Mountain Road (VT-108)- approximately 3000' from the existing dwelling. The visual analysis contains photographs of existing conditions in both summer and winter months and proposed conditions in

winter months. The barn/garage is proposed to be located to the rear of the existing dwelling and will be constructed with compatible building materials to match the existing dwelling. The Board finds the proposal will have very limited visibility from public vantage points.

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 detached barn/garage to the rear of the existing dwelling. The proposed garage/barn is generally sited in areas previously cleared requiring minimal removal of trees. The existing driveway enters the site from Thomas Pasture Road, to the rear of the existing dwelling. The proposed barn/garage will be accessed by an extended driveway as depicted on the site plan. 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.
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 garage/barn and related driveway improvements. The proposed garage/barn is sited in an area previously cleared and on lands that are generally flat. 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 parcel is previously developed containing a single-family dwelling and related improvements. The proposed garage/barn is sited in an area generally previously cleared requiring minimal removal of trees. Building materials are included on the architectural drawings and in supporting photographs. The Applicant provided a Landscape Plan depicting the project location in relation to existing tree lines, trees, and trees proposed to be removed. 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 Applicant proposes to construct a garage/barn and related driveway improvements. The proposed garage/barn is generally sited in areas generally previously cleared on lands that are relatively flat. 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 Applicant proposes to construct a garage/barn and related driveway improvements. The provided Landscape Plan shows a number of existing maple, beech, and yellow birch trees in the vicinity of the proposed barn/garage. One 18" beech tree is noted to be removed. During the hearing the Applicant testified that all proposed clearing is in the general vicinity of the garage/barn and driveway. No other clearing or removal of trees is noted in the 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. The existing driveway enters the parcel from Thomas Pasture Road. As part of this project, the driveway will be extended to serve the proposed barn/garage and include a turn-around. No additional 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 barn. The elevation drawings note the proposed height of the barn/garage to be 20' 2". The architectural drawings indicate the finished floor elevation to be approximately ±1497' 4". 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 architectural drawings of the proposed barn/garage. Proposed materials and colors similar and compatible with the existing dwelling and surrounding landscape. 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 elevation drawings prepared by Cushman Design Group depict the location of outdoor light fixtures including surface mounted lights beneath the roof overhang and awning. No additional lighting is proposed under this application. During the hearing the Board reviewed the specifications and proposed lighting. The Board finds the proposed lighting is in conformance with Section 4.8 of the regulations and has been designed to minimize impacts.
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: 6113 the Board finds (6-0) 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

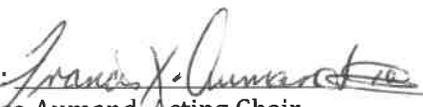
modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.

2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Should new electrical service be installed in the barn/garage, the Applicant shall submit a line extension application to Stowe Electrical Department.
4. All outdoor 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.
5. Exterior lighting shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA). Exceptions to this standard to accommodate a particular "period" or architectural style are allowed, providing the maximum initial lumens generated by each fixture not exceed 2,000 (equivalent to a 150-watt incandescent bulb).
6. Clearing shall be limited to the immediate areas surrounding the project site and as depicted on the Landscape Plan prepared by Cushman Design Group, dated 9/16/2019.
7. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
8. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
9. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
10. 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.
11. 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.
12. 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.
13. 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: P.Aumand, C. Walton, A. Volansky, E.Frey, J. Beecy, P.Roberts

Voting to deny: None

Dated at Stowe, Vermont this the 8th day of ~~October~~ ^{November} 2019

By: 
Paco Aumand, 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.

