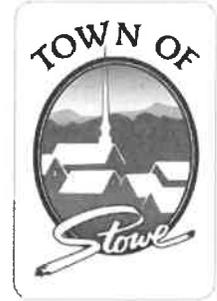


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6114

SUBJECT PROPERTY: 609 Taber Hill Road, Stowe, VT (#07-165.040)

PROPERTY OWNER:

Gary & Lois Alexander
609 Taber Hill Road
Stowe, VT 05672

APPLICANT:

Michael Perpall
Cushman Design Group
100 Mountain Road
Stowe, VT 05672

APPLICATION:

The Applicant, Michael Perpall of Cushman Design Group on behalf of property owners, Gary & Lois Alexander (herein referred to as the "Applicant"), requests RHOD review for exterior renovations to an existing single-family dwelling. The proposed project includes the following improvements: square-off diagonal corner of kitchen adding five (5) square feet of interior area; replace all windows and doors including reconfiguration and addition of windows; replace existing roofing with metal roofing and snow guards; extend front porch entry; paint existing siding; remove west facing second floor balcony; install six (6) wall mounted shade roofs above first floor windows; rebuild exterior deck; rebuild pool area arbor and stone patio; construct two (2) new pergolas ["new entry pergola" will be 12' x 12' /10' in height, "new west pergola" will be 9' x 9'/9.5' in height]; remove one chimney; and tree thinning throughout designated areas on the parcel. The dwelling was constructed in 1986 prior to the adoption of the Ridgeline and Hillside Overlay District (RHOD) standards.

The subject parcel, consisting of ±7.66 acres and located at 609 Taber Hill Road, Stowe, VT (#07-165.040), is a split parcel, as defined under the regulations, and includes lands within the Rural Residential 2 (RR2) and Rural Residential 5 (RR5) Zoning Districts and the Ridgeline and Hillside Overlay District (RHOD). The parcel is part of the Taber Hill Meadow Subdivision (PRD) approved by the Planning Commission under #81-41 & 83-11. The subject parcel is bound to the north by a ±10.1-acre parcel currently owned by Stanley & Sandra Ingersoll (Life Estate) and a ±35 acre parcel owned by the Town of Stowe; to the east by residential parcels accessed off Foster Farm Road; to the south a ±3-acre parcel currently owned by Ric A. Cabot & Alison R. Frye; and to the west by an ±8.2 acre parcel currently owned by Antoine & Sophi Brechu. The parcel is accessed via a 50' wide shared right-of-way over the adjacent parcel(s). The subject parcel is shown as Lot C on a survey prepared J.P.R. Associates Inc. Land Surveyors as recorded in 1983 on MB 4/67 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 Michael Perpall 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, 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. Board member John Beecy reported that he lives adjacent to the Applicant Michael Perpall but is able to make a fair and unbiased decision. Board members agreed. No other 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:

- Michael Perpall & 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;
- RHOD District Viewshed Locator Plan – ‘Gary & Lois Alexander, Sheet A1.1, prepared by Cushman Design Group, dated 9/18/2019;
- Site Plan ‘Gary & Lois Alexander’, Sheet A1.2, prepared by Cushman Design Group, dated 9/16/2019;
- Detail Site Section ‘Gary & Lois Alexander’, Sheet A1.2a, prepared by Cushman Design Group, dated 9/18/2019;
- Landscape & Light Fixture Plan ‘Gary & Lois Alexander’, Sheet A1.3, prepared by Cushman Design Group, dated 9/16/2019;
- Viewshed Study ‘Gary & Lois Alexander’, Sheet A1.4, prepared by Cushman Design Group, dated 9/16/2019;
- Existing & Proposed Renovation Floor Plans ‘Gary & Lois Alexander’, Sheet A2.1, prepared by Cushman Design Group, dated 9/16/2019;
- Existing Renovation Roof Plans ‘Gary & Lois Alexander’, Sheet A2.2, prepared by Cushman Design Group, dated 9/16/2019;
- Existing & Proposed Renovation Building Elevations ‘Gary & Lois Alexander’, Sheet A3.1, prepared by Cushman Design Group, dated 9/16/2019;
- Existing & Proposed Renovation Building Elevations ‘Gary & Lois Alexander’, Sheet A3.2, prepared by Cushman Design Group, dated 9/16/2019;
- Window Schedule ‘Gary & Lois Alexander’, Sheet A6.1, prepared by Cushman Design Group, dated 9/16/2019;
- Door Schedule ‘Gary & Lois Alexander’, Sheet A6.2, prepared by Cushman Design Group, dated 9/16/2019;
- Manufacturer Cut Sheets- Louvered Brick Light (Ext. SL1), Hinkley Lighting, no date;
- Manufacturer Cut Sheets- Aria Light (Ext. WM1), Hinkley Lighting, no date;
- Manufacturer Cut Sheets- Aria Light (Ext. WM2), Hinkley Lighting, no date;
- Manufacturer Cut Sheets- Simpson Front Door (Ext. WM1), 4/30/2008;
- Manufacturer Cut Sheets (5 pages)- Windows- Casements, Awnings, & Casement Pictures with Ebony exterior finish- Wood-Ultrex Casement/Awning, 10/29/2019.

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 2 (RR-2)/ 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 ± 7.66 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 renovations to the existing dwelling and related improvements. The required setbacks are labeled on the site plan prepared by Cushman Design Group, Sheet A1.2, dated 9/16/2019. Two (2) new pergolas are also proposed, both meeting the required setbacks for the district.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes renovations to the existing 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 is ± 7.66 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 overall building height is not proposed to be increased under this application. Two (2) new pergolas are proposed including a "new entry pergola" measuring 12' x 12' /10' in height and a "new west pergola" measuring 9' x 9' /9.5' in height, satisfying district height requirements.

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).

The Applicant requests RHOD review for exterior renovations to an existing single-family dwelling. The Applicant specifically requests approval for the following improvements: square-off diagonal corner of

kitchen adding five (5) square feet of interior area; replace all windows and doors including reconfiguration and addition of windows; replace existing roofing with metal roofing and snow guards; extend front porch entry; paint existing siding; remove west facing second floor balcony; install six (6) wall mounted shade roofs above first floor windows; rebuild exterior deck; rebuild pool area arbor and stone patio; construct two (2) new pergolas [one of the pergolas is less than 100 sf and 10 ft in height and thereby exempt from RHOD review]; remove one chimney; and tree thinning throughout the parcel.

The Applicant provided a viewshed analysis depicting the view from the end of the driveway on Weeks Hill Road near the Percy barn. The subject dwelling is located approximately ±2.5 miles from this location. The Viewshed Study prepared by Cushman Design Group depicts the existing house location and the proposed viewshed. At ±2.5-mile distance, the dwelling is approximately 3/16" in width. No other public vantage points were identified in the application.

Per Section 9.4(3)(C): Project Classification Criteria- The DRB shall classify a development project as minor upon finding that the project meets the standards of Section 9.5 and that the following conditions are met:

"3. The proposed project involves the renovation or expansion of a building constructed prior to August 3, 1998, providing said renovation or expansion does not result in an increase in the total aggregate floor area of the building in excess of one hundred twenty-five (125%) percent of the total floor space in existence as of August 3, 1998."

The dwelling was constructed in 1986 prior to the adoption of the Ridgeline and Hillside Overlay District (RHOD) standards. The Applicant proposes renovations to the exterior of the existing dwelling and related residential improvements. No significant increases in building footprint or height are proposed. Given the scope of the project, the Board agreed the proposal meets Section 9.4(3)(C) and therefore should be classified as a minor.

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 various renovations to the existing dwelling. The dwelling was constructed in 1986 prior to the adoption of the Ridgeline and Hillside Overlay District (RHOD) standards. The Applicant provided a visibility analysis depicting views from the end of the driveway on Weeks Hill Road. As depicted, the existing dwelling is approximately ±2.5 miles from this location and not highly visible. 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 a visibility analysis taken from the end of the driveway on Weeks Hill Road. As depicted, the existing dwelling is approximately ±2.5 miles from this location and not highly visible. No other public vantage points were identified in the application. The Board finds the proposal will not negatively impact public vantage points and will have no or 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 various renovations to the existing dwelling. The dwelling was constructed in 1986 prior to the adoption of the Ridgeline and Hillside Overlay District (RHOD) standards. The Applicant is proposing alterations to the existing dwelling and related site improvements. The proposed tree thinning is clearly discernable on the provided plans. 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 various renovations to the existing dwelling. The proposed improvements are on lands previously cleared and developed. The Board finds that the proposal, if completed 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 improvements include alterations to the existing dwelling and in areas of close proximity to the dwelling. The proposed alterations are depicted on architectural drawings prepared by Cushman Design Group. The Applicant also proposes to thin the existing mature forest to remove up to 50% in designated areas. The tree thinning areas are depicted on Sheet A1.2. 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 various renovations to the existing dwelling. The proposed improvements are on lands previously cleared and developed. 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 various renovations to the existing dwelling. The proposed improvements are on lands previously cleared and developed. The Applicant also proposes to thin the existing mature forest to remove up to 50% in designated areas. The tree thinning areas are clearly depicted on Sheet A1.2. Area identified as 'W1' contains the existing cleared area. Area identified as 'W2' is a zero-cut area around the perimeter. Area identified as 'W3' is proposed to include removal of 20% of existing trees. Area identified as 'W4' is proposed to include removal of 40% of existing trees. Area identified as 'W5' is proposed to include removal of 50% of existing trees. No additional clearing or removal of trees is noted in the application. During the hearing the Applicant provided a detailed overview of the thinning process and noted the proposed clearing is intended to allow the understory to filter in and open viewsheds. The proposed thinning will not expose the ground or result in a visibly broken canopy.
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 Taber Hill Road. No 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 proposes various renovations to the existing dwelling. The proposed improvements are on lands previously cleared and developed. No significant changes to building footprint or building height are proposed under this application. 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 proposes various renovations and exterior alterations to the existing dwelling. The proposed improvements are on lands previously cleared and developed. The Applicant provided proposed building color samples including a green, grey, and black palette and testified that the proposed window and door glazing is non-reflective standard window/door glass. 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 Landscape & Light Fixture Plan (Sheet A1.3) prepared by Cushman Design Group shows the location of existing recessed lighting and proposed outdoor light fixtures keyed to match the provided manufacturer cut sheets. The Applicant proposes three (3) exterior light fixtures including a louvered brick light (SL1), a large wall mount lantern (WM1), and a small post mount lantern (WM2). During the hearing the Applicant reviewed the specifications and proposed lighting and noted the proposed fixtures are dark sky compliant. The louvered brick light will be mounted within two (2) feet of the surrounding ground level. The building mounted light fixtures are proposed to be installed less than ten (10) feet above grade. The Board finds the proposed outdoor 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

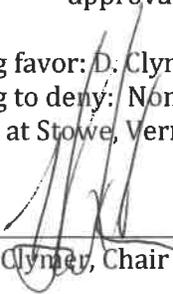
Based upon the foregoing Findings of Fact, in re: 6114 the Board finds (7-0) that the application meets the Stowe Zoning Regulations, as adopted October 8, 2018, criteria for approval with the following conditions of approval:

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. 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.
4. 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).
5. Tree thinning shall be limited to the areas depicted on the Site Plan (Sheet A1.2) prepared by Cushman Design Group, dated 9/16/2019.
6. A Certificate of Occupancy must be obtained from the Zoning Administrator following the completion of the project but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board. Prior to the issuance of a Certificate of Occupancy, the Applicant shall submit written confirmation from a forester licensed to practice in the State of Vermont certifying that the completed tree thinning conforms to approved plans prepared by Cushman Design Group (Sheet A1.2), dated 9/16/2019
7. 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, P. Aumand, A. Volansky, P. Roberts, J. Beecy, E. Frey

Voting to deny: None

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