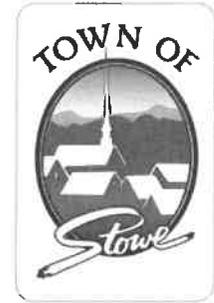


**TOWN OF STOWE**  
**DEVELOPMENT REVIEW BOARD**  
Findings of Fact & Conclusions of Law



**PROJECT:** 6143

**SUBJECT PROPERTY:** 516 Taber Ridge Road, Stowe, VT (#07-173.020)

**PROPERTY OWNER:**

Alison & Patrick Bomberg  
134 Stratford St.  
W. Roxbury, MA 02132

**APPLICANT:**

Sam Scofield, Architect AIA  
PO Box 773  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Architect Sam Scofield, on behalf of property owner, Alison & Patrick Bomberg (herein referred to as the "Applicant"), requests RHOD review to remove the existing dwelling and construct a new single-family dwelling on the lot. The existing driveway and garage are proposed to remain in the current locations. The subject parcel, consisting of  $\pm 6.79$  acres and located at 516 Taber Ridge Road, Stowe, VT (#07-173.020), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The parcel contains a single-family dwelling and related improvements permitted in 1984 (see Z-124-84) prior to the adoption of the Ridgeline and Hillside Overlay District provisions on 8/3/1998. The parcel also contains a detached garage with living space above permitted in 2016 (see Project 5459).

The subject parcel is bound to the north by Taber Ridge Road, to the east by a  $\pm 6.66$ -acre parcel currently owned by Barry & Gloria E. Sternthal, to the south by a  $\pm 72.5$  acre parcel currently owned by Friends Of Stowe Conservation Inc., and to the west a  $\pm 2.69$  acre parcel currently owned by William A. Kelk. The subject parcel is shown as Lot 8 on a survey prepared by Robert Frey (Land Surveyor) as recorded in 1984 on MB 4/144 and is subject to the terms and conditions of the Sundown Phase II subdivision approved by the Stowe Planning Commission on 10/1/1984 (S-83-9A). 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 Sam Scofield on October 18, 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 November 19, 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 October 31, 2019 and publicly posted on the property, at the Town Office, Library, and Police Station.

The public hearing to consider the application convened on November 19, 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:

- Sam Scofield, Architect AIA, PO Box 773, 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 10/18/2019;
2. Housing Main Floor, Sheet A-2, prepared by Sam Scofield Architect, dated 10/21/2019;
3. E/W Elevations, Sheet A-4, prepared by Sam Scofield Architect, dated 10/21/2019;
4. N/S Elevations, Sheet A-5, prepared by Sam Scofield Architect, dated 10/21/2019;
5. Site Plan, Sheet LS-1, prepared by Sam Scofield Architect, dated 10/21/2019;
6. Layout Materials and Grading Plan, Sheet L100, prepared by Wagner Hodgson, dated 7/1/2018;
7. Replacement Septic System Site Plan & Details, Sheet of 1, prepared by Grenier Engineer, dated 10/20/15;
8. Comments from Stowe Electrical Department, dated 11/13/2019;
9. E/W Elevations, Sheet A-4, prepared by Sam Scofield Architect, dated 11/06/2019;
10. Series of four (4) photographs depicting project location/existing visibility, no date;

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 ±6.79 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 remove the existing house and construct a new single-family dwelling in the existing cleared area on the lot. The existing driveway and garage are proposed to remain in their current locations. The Applicant provided a site plan prepared by Architect Sam Scofield, dated 10/21/2019. The setbacks are labeled on the site plan.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.

5. **Use.** The Applicant proposes to remove the existing dwelling and construct a new single-family dwelling. Single-family dwellings are a permitted use in the RR5 district. 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 ±6.79 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 dwelling to be 18'. The height does not appear to be labeled on the elevation drawings.

**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 remove the existing house and construct a new single-family dwelling in the existing cleared area on the lot. The existing driveway and garage are proposed to remain in the current locations. The Applicant provided building elevations, site plans, etc. The proposed new structure is sited in the same vicinity of the current house footprint. The provided site plan shows the location of the existing and proposed dwelling. 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. Staff visited the property with the Applicant on October 29<sup>th</sup>. During the hearing the Applicant provided a series of photographs from Weeks Hill Road depicting the existing visibility and location of the parcel. Staff reported that if the existing dwelling is visible from any public vantage points, it is from such a distance that it would not be a significant visual impact. Prior RHOD approvals in this vicinity provided a visibility analysis taken from the end of the driveway on Weeks Hill Road and noted properties on Taber Hill Road to be approximately ±2.5 miles from the Weeks Hill Road location and not highly visible. The Board finds the proposed dwelling will have an insignificant visible impact 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 remove the existing house and construct a new single-family dwelling in the existing cleared area on the lot.

The existing driveway and garage are proposed to remain in their current locations. The Board reviewed the applicable standards and guidelines and finds that the proposed improvements will not adversely impact the character of the scenic landscape.

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 remove the existing house and construct a new single-family dwelling in the existing cleared area on the lot. The existing driveway and garage are proposed to remain in their current locations. The proposed new structure is sited in the same vicinity of the current house footprint. The parcel is previously developed. No fragile environments are expected to be impacted from the proposal. 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 Applicant proposes to remove the existing house and construct a new single-family dwelling in the existing cleared area on the lot. The existing driveway and garage are proposed to remain in their current locations. The parcel is previously developed. The proposed building materials include neutral, nonreflective earth tones to match the existing garage. During the hearing the Applicant testified that approximately 1000 sf is proposed to be added to the building footprint. 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 remove the existing house and construct a new single-family dwelling in the existing cleared area on the lot. The existing driveway and garage are proposed to remain in their current locations. No additional clearing is noted in the application. 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 remove the existing house and construct a new single-family dwelling in the existing cleared area on the lot. The existing driveway and garage are proposed to remain in their current locations. The Applicant provided a layout materials and grading plan prepared by Wagner Hodgson Landscape Architecture. The plan shows the existing landscaping and position of the proposed dwelling. According to the aerial images, the proposed removal and replacement of the single-family dwelling does not appear to require additional clearing. No additional clearing or removal of trees is proposed under this 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 Taber Ridge Road. No changes to the existing driveway are proposed under this application.

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 application materials indicate the proposed structure's finish floor elevation to 1075' 3" with a maximum building height of 18'. 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, proposed building materials, and manufacturer cut sheets for the proposed windows. The proposed materials will match those of the existing garage. 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 provided do not indicate the location of any outdoor light fixtures. During the hearing the Applicant testified that all of the proposed outdoor light fixtures will be located underneath the soffit and will not be visible. 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**

On a motion by C.Walton, seconded by P.Roberts, the Stowe Development Review Board hereby approves the Applicant's request to remove the existing dwelling and construct a single-family dwelling and related site improvements located at 516 Taber Ridge Road as indicated in the application dated 10/18/2019 and related submittals, subject to the following conditions of approval:

1. This project shall be completed according to the plans hereby approved and amended herein. 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. Prior to issuance of zoning permit, the Applicant shall submit to the Zoning Administrator the following information:

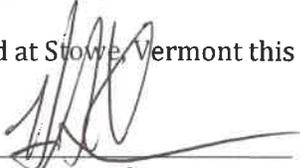
- Revised architectural elevations labeling the height of the dwelling.
- 4. Any additional building mounted or landscape lighting shall require additional review by the Board unless determined by the Zoning Administrator to be cut-off fixtures as defined by the Illuminating Engineering Society of North 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. 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.
- 6. Clearing shall be limited to the immediate areas surrounding the project site.
- 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. The Applicant shall provide Stowe Electrical Department with proposed load data.
- 13. 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.
- 14. 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.

Motion PASSED 7-0

Voting in favor: D. Clymer, F. Aumand, C. Walton, L. Wasserman, T. Hand, A. Volansky, P. Roberts

Voting to deny: None

Dated at Stowe, Vermont this the 3 day of December 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.

