

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



PROJECT: 6168

SUBJECT PROPERTY: 605 & 635 Maple Street; #7A-098.00 & 7A-099.000

PROPERTY OWNER & APPLICANT:

605 Maple LLC
PO Box 728
Stowe, VT 05672

APPLICATION:

The Applicant, 605 Maple LLC (herein referred to as the "Applicant"), requests conditional use and design review approval for the following improvements:

- Demolish the existing one-story garage/accessory structure located at 605 Maple Street;
- Construct a multi-family dwelling containing a total of nine (9) dwelling units;
- Construct and install related improvements including but not limited to a rear parking area, drainage and stormwater improvements, a shared access driveway, relocate an existing curb cut, landscaping, utility improvements, pedestrian walkways, etc.;
- Dissolve the shared property line separating the two (2) parcels.

The subject parcels are located at 605 & 635 Maple Street (#7A-098.00 & 7A-099.000) and contain lands within the Village Residential 20 (VR20) and Village Residential 40 (VR40) zoning districts. The parcel located at 605 Maple Street contains an existing single-family dwelling, a one-bedroom apartment, and related residential improvements. The parcel at 635 Maple Street contains a three-unit multi-family dwelling. Both parcels are served by Maple Street/VT-Route 100, a Class 1 town-maintained highway [portions]. The subject parcels are bound to the north by a ±7-acre parcel currently owned by Scott Moriarty; to the east by the Hillcrest condominium community; to the south by Maple Street/VT Route 100; and to the west by a ±0.33-acre parcel owned by Reid & Jane Grayson and a ±11.96-acre parcel owned by Lesley & William Adams. The application has been reviewed by the 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 design review approval.

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 and design review was filed by Applicant 605 Maple LLC on December 11, 2019. The application was initially referred to the Historic Preservation Commission (HPC) for review and recommendations. Upon receiving recommendations from the Historic Preservation Commission, the application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for February 4, 2020 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 January 16, 2020. 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 February 4, 2020 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Board member Tom Hand recused himself

given his professional involvement with the project. No other ex parte communications or conflicts of interests were reported. Board members who participated in the review included: Drew Clymer, Francis 'Paco' Aumand III, Chris Walton, Andrew Volansky, David Kelly, Leigh Wasserman, and Peter Roberts.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Applicant Graham Mink, PO Box 728, Stowe, VT 05672
- Project Engineer Tyler Mumley, 454 Mountain Road, Suite 4, Stowe, VT 05672
- Project Architect Brian Hamor, 458 Mountain Road, Stowe, VT 05672
- Tom Hand, 331 West Shaw Hill Road, Stowe, VT 05672
- Jane Grayson, 243 Morgan Drive, Shelburne, VT 05482 [583 Maple Street]
- Patricia Graner, 164 Hillcrest Road, Stowe, VT 05672
- David Bailey, PO Box 5127, Burlington, VT 05402 [180 Hillcrest Drive]
- William & Lesley Adams, PO Box 23, Stowe, VT 05672 [58 Cemetery Road]

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

1. Cover letter from Mumley Engineering, Inc., Re: Proposed multi-family Residential Development, 605 & 635 Maple Street, dated 12/11/2019;
2. Town of Stowe Development Application, dated 12/11/2019;
3. Google Earth Image of the existing detached garage building, no date;
4. SHPC written project recommendation, dated 1/9/2020;
5. Existing Conditions Plan '605 Maple St/621 Maple St' prepared by Mumley Engineering, Sheet C-1, last revised 1/10/2020;
6. Proposed Site Plan '605 Maple St/621 Maple St' prepared by Mumley Engineering, Sheet C-2, last revised 1/10/2020;
7. Utility and Landscape Plan '605 Maple St /621 Maple St' prepared by Mumley Engineering, Sheet C-3, last revised 1/10/2020;
8. Details '605 Maple St /621 Maple St' prepared by Mumley Engineering, Sheet C-4, last revised 1/10/2020;
9. Existing Conditions prepared by Mumley Engineering, dated 12/18/2019;
10. 2018 Aerial Image, prepared by Mumley Engineering, dated 12/18/2019;
11. Streetview #1, prepared by Mumley Engineering, dated 12/18/2019;
12. Streetview #1 (north), prepared by Mumley Engineering, dated 12/18/2019;
13. Streetview #1 (south), prepared by Mumley Engineering, dated 12/18/2019;
14. Exterior Elevations- East Elevation- prepared by Hamor Architecture, Sheet A2.00, dated 12/27/2019;
15. Exterior Elevations- West Elevation- prepared by Hamor Architecture, Sheet A2.01, dated 12/27/2019;
16. Exterior Elevations- North Elevation- prepared by Hamor Architecture, Sheet A2.02, dated 12/27/2019;
17. Exterior Elevations- South Elevation- prepared by Hamor Architecture, Sheet A2.03, dated 12/27/2019;
18. Basement Level Floor Plan- prepared by Hamor Architecture, Sheet A1.00, dated 12/27/2019;
19. Main Level Floor Plan- prepared by Hamor Architecture, Sheet A1.01, dated 12/27/2019;
20. Upper Level Floor Plan- prepared by Hamor Architecture, Sheet A1.02, dated 12/27/2019;
21. Exterior Door & Window Schedule- prepared by Hamor Architecture, Sheet A4.00, dated 12/27/2019;

22. Window and Door Detail- prepared by Hamor Architecture, Sheet A5.00, dated 12/27/2019;
23. Exterior Can Light Baffle- prepared by Hamor Architecture, Sheet A6.00, dated 12/27/2019;
24. Rendering- View North-prepared by Hamor Architecture, Sheet A3.00, dated 12/27/2019;
25. Rendering- View South-prepared by Hamor Architecture, Sheet A3.01, dated 12/27/2019;
26. Comments from Fire Chief Kyle Walker, dated 1/29/2020;
27. Comments from David Kresock, Stowe Electrical Department, dated 1/27/2020;
28. Email Comments from Jane Grayson, dated 2/3/2020;
29. Comments from DPW Director Harry Shepard, dated 1/29/2020;
30. Two photographs provided by abutter David Bailey; received 2/4/2020;
31. Proposed Site Plan '605 Maple St/621 Maple St' prepared by Mumley Engineering, Sheet C-2, last revised 2/3/2020;
32. Utility and Landscape Plan '605 Maple St /621 Maple St' prepared by Mumley Engineering, Sheet C-3, last revised 2/3/2020.

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-

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

The Applicant’s request for conditional use and design review 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 10- Stowe Historic Overlay District
- Section 15- Parking Regulations

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The parcel located at 605 Maple Street is considered a split lot, as defined under the regulations, with lands in the Village Residential 20 (VR20) and Village Residential 40 (VR40) zoning districts. Rear portions of the parcel also include lands in the Flood Hazard Overlay District (i.e. Special Flood Hazard Area). The parcel located at 635 Maple Street is entirely within the Village Residential 20 (VR20) zoning district. Both parcels are within the Stowe Historic Overlay District (SHOD), as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The subject parcels contain ±6.03 and ±0.27 acres respectively. The proposed development will be exclusively located within the Village Residential 20 (VR20) which requires a minimum lot area of 20,000 sf and 100 ft minimum lot width. The Applicant proposes to dissolve the shared property line between the parcels and combine the parcels into a single lot. No other changes to lot area or lot width are proposed under this application.
3. **Setbacks.** As noted above, the subject parcel at 605 Maple Street is a split lot as defined under the regulations. Section 3.6(6) states “(6) *In such split lots, the required setbacks shall be those established*

for the zoning district in which a structure or building is located.” The proposed building will exclusively be located within the VR20 district. Required minimum district setbacks in the VR20 are front (20’), side (10’) and rear (40’). Section 3.4 defines how setbacks are measured as “The distance from the street line to the closest portion of any structure, including rooflines, porches and sills, except steps.” The required district setbacks are shown on the provided site plan.

The Applicant proposes to demolish the existing single story detached garage which encroaches within the 20’ front yard setback. The existing structure was constructed circa 1973, prior to the adoption of the zoning regulations and, as such, is considered a lawful nonconforming structure. The proposed multi-family dwelling is positioned and located to meet the front yard 20’ setback, however the proposed front porch encroaches within the 20’ front yard setback requirement. Section 3.9(2) addresses the expansion of lawful nonconforming structures and allows nonconforming structures to be enlarged up to 50% of the length of the existing nonconforming structure so long as the degree of nonconformance is not increased [“A nonconforming structure that does not comply with established setback requirements may be altered, enlarged, relocated and/or replaced with a new structure or structures in a manner which does not achieve full compliance with the setback requirements of these regulations providing the degree of non-compliance is not increased except as provided below and no other setback requirements are infringed upon. In no case shall the length of cumulative total of all proposed and future expansions or alterations exceed 50% of the length of the existing nonconforming portion of the structure at the time the structure became nonconforming.”] The length of the existing garage is approximately 36’, all of which encroaches within the front setback. Under the current regulations, the Applicant could expand the porch within the front setback to a length no longer than 54’. The proposed porch is approximately 20’ 10” according to the architectural plans, satisfying the requirements. Per Section 3.9(2)(E), the Development Review Board finds that the requested encroachment meets the nonconforming structure provisions related to expansions and replacements.

Except as noted above, no structures are proposed to be located within the required setback areas, however the proposed multi-family dwelling appears to be located directly on the minimum setback line. Section 2.10(1) provides the Zoning Administrator the authority to require reasonable proof from the Applicant that all required setbacks have been satisfied when proposed structures are within fifteen (15’) feet of any required setback. Reasonable proof may include a survey, certification of setbacks by a surveyor, or demonstrating physical location of property boundaries. The Board will require the Applicant to provide reasonable proof that the required setbacks have been maintained prior to the issuance of a Certificate of Occupancy.

The common drive off Maple Street is located within 10’ from the shared property line with Reid & Jane Grayson. Section 15.6 provides requirements for driveways and parking facilities setbacks. In the VR districts, there are no setbacks for road or driveway improvements.

Section 3.10 outlines minimum setbacks from watercourses and requires a minimum 50 ft setback including a vegetation buffer be left in an undisturbed state. The provided site plan shows the edge of an existing pond located on the northern portion of the parcel. Although this watercourse is shown on the official zoning map, prior legal counsel advised that the pond did not meet the definition of watercourse [“Any naturally flowing water, including rivers, streams and creeks as depicted on the Official Zoning Map”] and as such could not be enforced under Section 3.10.

- 4. **Maximum Building Coverage.** Section 3.6(3) states “In such split lots, the maximum allowed building coverage shall be determined by calculating the allowed building footprint for the acreage of the lot in each zoning district and adding the totals. Said coverage shall be permitted anywhere on the lot. In RR districts that do not have a maximum building coverage, a maximum coverage of five (5%) percent shall

be used to calculate the maximum coverage allowed for a split lot.” The maximum building coverage in VR20 is 30%. The maximum building coverage in VR40 is 15%. The Applicant provided the proposed building coverage equaling 2.3%, satisfying the maximum building coverage for the VR20 district.

5. **Use.** The subject parcel(s) contain an existing dwelling with an apartment (two-family dwelling) and a multi-family dwelling, all of which are proposed to remain. The Applicant requests approval to construct a multi-family dwelling to contain nine (9) additional dwelling units. Multi-family dwellings are a conditional use in the VR20 district.
6. **Density.** Table 6.3 outlines the density for multi-family dwellings in the VR20 district as one (1) unit per 10,000 sf. The subject parcels contain ±6.03 and ±0.27 acres respectively. The Applicant is proposing a total of nine (9) additional multi-family dwelling units. The existing parcel contains a single-family dwelling with an apartment (two [2] dwelling units) and a multi-family dwelling containing three (3) dwelling units. A total of fourteen (14) units are existing and/or proposed on the ±6.3-acres (total). Under the regulations, the total allowed multi-family density equals approximately 2.09 units per VR40 (0.96 acres at one unit per 20,000 sf) and approximately 23.26 units per VR20 (5.34 acres at one unit per 10,000 sf). The proposed site plan, Sheet C2- last revised 2/3/2020, provides a density calculation. The proposal is in conformance with the use and density requirements outlined in Table 6.3.
7. **Height.** The maximum building height in VR20 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 architectural drawings label the height of 24’ 8” [Sheet A200], satisfying district height requirements.

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:

8. **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. The Applicant proposes to connect to municipal sewer and water services.

Fire Chief Kyle Walker provided the following comments dated 1/29/2020:

After much review, I would like the DRB to be aware of a few things. With the proposed site plan, the fire department has very limited access to the rear of these buildings. If we were to place a piece of fire apparatus behind the building, there is not any room to turn around. The grade and corner would make it extremely dangerous to back out onto Maple Street. In the event of an emergency, it would be very unlikely that we would choose to access the rear of the property.

Dave Kresock of Stowe Electrical Department provided the following comments dated 1/27/2020:

Project #6168 – Applicant’s cover letter, page 2, paragraph 3, states: “A new utility pole is proposed at the south end of the property near the new driveway for connection of overhead services from the pole across Maple Street. From the new pole, underground utilities will run to service the existing building at 605 Maple Street and the new 9-unit building at 621 Maple Street. Please see attached plan sheet C-

3 "Proposed Utilities & Landscaping Plan" for additional information." This pole was proposed for the original design where the units were proposed behind the existing buildings on the lower portion of the lot. Drawing C-4 now shows no pole to be installed and the existing overhead service wires removed and new underground service wires installed from the opposite side of Maple Street. NOTE: Underground secondary service conductors are customer owned and customer will be responsible for maintenance and replacement. The property owner should consult with the Town water and sewer to determine conduit separation, placement depth and construction standards (i.e.: concrete encasement) for crossing underneath Maple Street. Stowe Electric recommends a minimum of 3" schedule 40 PVC conduit and spare conduits be installed for secondary replacement and to accommodate other utilities. Applicant will need to complete a line extension application and load analysis for SED to determine if the existing transformer(s) will need to be upgraded.

The Department of Public Works offered the following comments:

1. Trucks serving the dumpsters will be similar challenged without a turn around to what Chief Walker describes for Fire Apparatus. It appears that these will also need to back out for egress onto a busy Town Highway with possible site line limitations.
2. The Town Plan calls for a future sidewalk from Cemetery Road to West Hill Road. The Town had previously advanced this project with a federal grant but was forced to suspended pursuit primarily because of the existing street side parking proposed to remain. These are not compliant with current standards. With this proposed redevelopment, the elimination of these non-compliant parking spaces appears at least feasible. At a minimum, we recommended that this be reconfigured so that the full dimension of the parking stalls are outside of the Town Highway ROW so that a possible future sidewalk extension can be accommodated.
3. The proposed retaining wall along the northern property line varies in height from 2' to 8'. It also includes a proposed drainage swale along the top which needs to be considered in the retaining wall design. We recommend that design drawings certified by a Licensed Professional Engineer be required for this structure prior to issuance of a zoning permit.
4. The Town's municipal sewer exists within a 20' wide easement bisecting the property. The proposed embankment slope is in part, above this sewer and easement and this increases the challenge of access to this sewer for future maintenance, repair and/or replacement. We recommend an easement amendments that allows the Town access across the property to access its' existing sewer be required as a condition of approval.
5. The work within the Town Highway associated with the installation of the proposed water service and underground wired utilities requires a ROW Encroachment and Road Opening Permit from this office. We note that with wired utility crossing must be concrete encased with at least 4' of cover and at least 5' clear of the adjacent water service. Temporary and Permanent Repair of the pavement for the proposed utility trench will also be required. If possible, it would be very desirable to complete this installation as soon as possible this spring before the State's paving project of this road anticipated to be completed this construction season.

No other Municipal Department review forms were received.

Conclusion: During the hearing the Board closely reviewed and discussed written comments and verbal testimony received. The Applicant testified that the building will be sprinklered and will have a fire department connection on the side of the building fronting Maple Street. The Applicant presented minor modifications to the site plan intended to address municipal comments received including extending two (2) existing parking spaces outside of the town highway right-of-way, as requested by the Department of Public Works. The Board weighed comments received and concludes the proposal, if constructed as approved, will not result in an undue adverse effect on the Town's existing or planned

community facilities or services. The Board will require the Applicant work with appropriate municipal departments to satisfy the conditions of approval.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to construct one (1) multi-family dwelling containing nine (9) dwelling units. The Applicant provided the estimated number of vehicle trips generated by the increased density. As noted on the proposed site plan, the nine (9) apartments are expected to generate approximately sixty (60) vehicle trips per weekday. PM peak hour trips were also provided. According to the VTrans Traffic Study Guidelines (last revised September 2018), a traffic impact study should be considered when the proposed development generates seventy-five (75) or more peak hour trips directly accessing the State Highway System. The Applicant provided the following traffic estimates utilizing the ITE 9th Edition for Apartments (Use #220):

Based on 9 units: weekday: $9 \text{ units} * 6.65 \text{ trips/unit} = 60 \text{ trips weekday}$, peak hour (pm): $9 \text{ units} * 0.62 \text{ trips/unit} = 5.6 \text{ trips weekend}$, peak hour (Saturday): $9 \text{ units} * 0.52 \text{ trips/unit} = 4.7 \text{ trips}$

Based on 2 vehicles per unit, 9 units: weekday: $9 \text{ units} * 2 \text{ VEH/unit} * 5.10 \text{ trips/person} = 92 \text{ trips weekday}$, peak hour (pm): $9 \text{ units} * 2 \text{ VEH/unit} * 0.60 \text{ trips/person} = 10.8 \text{ trips weekend}$, peak hour (Saturday pm): $9 \text{ units} * 2 \text{ VEH/unit} * 0.45 \text{ trips/person} = 8.1 \text{ trips}$

Conclusion: The Board concludes the proposal represents a nominal increase in traffic on roads and will not create an undue adverse impact on traffic on roads and highways in the vicinity. No additional road improvements are needed to accommodate proposed development.

10. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcels are in the VR20 & VR40 zoning districts. The proposed development will be exclusively within the VR 20 district. The general purpose of the VR20 district is as follows:

Purpose of VR 20: To provide for compact residential development in suitable areas which are served by municipal water supply and municipal sanitary sewer system.

Conclusion: The Board concludes the proposal will not adversely affect the character of the area as defined under the Stowe Zoning Regulations (as adopted October 9, 2018).

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed as a conditional use. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant proposes connecting to municipal sewer and water services under the Town's Sanitary Sewer Ordinance. No other identified municipal bylaws or ordinances apply to this project.

Conclusion: The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant will be required to obtain all necessary municipal water and sewer allocations, approvals, and connections and a driveway entrance/R-O-W Encroachment permit from the Department of Public Works. No other known or identified municipal bylaws or ordinances apply to this project.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant proposes to construct a multi-family dwelling containing nine (9) dwelling units and related improvements. 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:

13. **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 parcel is within the Stowe Historic Overlay District and contains an existing pond and wetland areas. The Historic Preservation Commission reviewed the plans for the architectural design of the building and provided positive recommendations. According to the ANR Natural Resources Atlas, the parcel contains mapped wetlands, surface waters, and lands within the Special Flood Hazard Area and does not contain mapped deer wintering areas, rare or endangered species, significant natural communities, or habitat blocks. During the hearing the Board heard concerns from abutting property owners regarding potential impacts to the existing nearby pond and concerns that the project may impact wildlife habitat. The Applicant testified that the project will not impact the wetlands or wetland buffer and, as such, is not expected to need a State of Vermont wetlands permit. According to the proposed site plan, Sheet C-2, all proposed development and disturbance activity is proposed more than fifty (50) feet from the existing pond.

Conclusion: The Board concludes the proposal, as conditioned, 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.

14. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant requests approval to construct one (1) multi-family dwelling containing nine (9) dwelling units and related improvements. According to the ANR Natural Resources Atlas, the parcel contains mapped wetlands, surface waters, and lands within the Special Flood Hazard Area. No development is proposed within these areas. During the hearing the Applicant testified that the project will not impact delineated wetlands or wetland buffer and, as such, no State of VT wetlands permit is required. Adjacent property owners raised concerns regarding water quality and overall health of the nearby pond. Concerns were raised regarding stormwater run-off and snow storage and possible water quality impacts. During the hearing the Applicant's Engineer provided a detailed explanation of the proposed stormwater improvements and details. The Applicant's Engineer testified that the edge of the paved parking area is approximately 150' from the existing pond and stormwater run-off is designed to sheet-flow and infiltrate over the ground surface before reaching the pond. It was reported that this will treat stormwater and mitigate any potential impacts to water quality. The Applicant reported that the proposed construction hours are Monday-Friday from 7:00 am-5:00 pm and Saturday morning from 9:00 am- 1:00 pm. The building is estimated to take less than twelve (12) months to construct.

Conclusion: The Board concludes the project, if completed as conditioned, will not result in undue water, noise, or air pollution. As a condition of approval, the Applicant will be required to follow the Low Risk Site Handbook for Erosion Prevention and Sediment Control.

15. **Section 3.7(2)(B)(3) –Access Management:** The parcel contains frontage on Maple Street- a town-maintained Class 1 highway (along this portion). The Applicant proposes to eliminate the existing driveway and develop a shared access ±20 ft to the west. The proposed relocated curb cut at the property line is shown to be approximately 24 ft in width and will provide access to the existing dwelling and apartment (605 Maple Street) and rear access to the proposed multi-family dwelling. The parcel at 605 Maple Street contains a second existing curb cut leading to the existing detached garage

proposed to be demolished. The parcel at 635 Maple Street contains an existing curb cut accommodating three (3) parking spaces. As presented, these two (2) existing curb cuts/parking areas are proposed to remain.

Section 3.01(2-6) provides provisions related to access onto public highways, driveway access, and access management. Section 3.01(3) states "*generally, no property should be served by more than one (1) driveway access to State or Town highways except where multiple accesses will serve to enhance traffic safety; promote efficient transit service and/or serve multiple uses on single parcels with extensive road frontage.*" Section 3.01(6) further states "*Where located on town highways, such parcels shall have no more than one (1) access road or driveway for the first six hundred (600') feet or fraction thereof of frontage on such local road and one (1) additional access road or driveway for each additional six hundred (600') feet or fraction thereof of frontage. The DRB may waive this provision in situations where doing so will result in increased safety or aesthetics.*"

According to the site plan, the cumulative length of frontage of both parcels equals approximately ±280 linear feet. The parcels are served by four (4) existing curb cuts and parking areas. As noted above, the Applicant proposes to eliminate one (1) existing curb cut/parking area in front of the garage proposed to be removed. This existing, expansive curb cut/parking area measures approximately 50' in width and will be removed under this application. Two (2) existing curb cuts serving 635 Maple Street are proposed to remain in their current locations and widths. One (1) existing curb currently serving as the primary access to 605 Maple Street is proposed to be removed and relocated to serve as shared access to 605 Maple Street and the proposed rear parking area.

Conclusion: During the hearing the Board discussed the existing conditions of the parcel(s) and whether these nonconforming accesses should be eliminated or reduced to bring the property more closely into conformance with current access requirements. The Board recognizes that the existing conditions along much of Maple Street do not conform to current access and parking standards, however, when re-development projects are proposed, opportunities to improve nonconforming conditions should be incorporated into the project wherever possible. During the hearing the Applicant testified that maintaining the two (2) existing paved curb cuts/driveways serving 635 Maple Street is necessary given the location of building entrances. As noted above, one (1) expansive curb cut/parking area measuring approximately 50' in width is proposed to be removed. Based on the above findings, the Board concludes that the proposed and existing access improvements do not conform to the standards in Section 3.1, however the Applicant is reducing the number of access points thereby reducing the degree of nonconformance and improving access to the property. Although access to the property does not conform to the standards in Section 3.1, the proposal brings the access improvements more closely into conformance with current standards and reduces the number of vehicle conflict points. As a condition of approval, the Applicant will be required to obtain approval from the Department of Public Works for any work within the town right-of-way.

- 16. Section 3.7(2)(B)(4) – Shared Access:** In appropriate instances, including the presence of compatible adjacent uses; areas characterized by congestion and frequent and/or unsafe turning movements; parcels having direct access to more than one public road; and within districts with specific access management standards, the Board may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road. As noted above, the Applicant proposes to eliminate an existing driveway and develop a shared access ±20 ft to the west. The proposed relocated curb cut at the property line is shown to be approximately 24 ft in width and will provide shared access to the existing dwelling and apartment (605 Maple Street) and the proposed multi-family dwelling in the rear.

Conclusion: As noted above, the Board recognizes that the existing accesses do not conform to current standards. Given the Applicant's proposal to reduce the number of access points and thereby reducing the degree of nonconformance, the Board concludes the proposed shared access improvements are appropriate for the existing and intended use.

17. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require that parking be provided per the requirements of Section 15 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 a shared access circling to the rear of the existing dwelling with portions extending onto the adjacent parcel (owned by 635 Maple Street LLC). The proposed access leads to a shared parking area containing nineteen (19) parking spaces. Snow storage areas are depicted on the plans. The proposed parking area involves lands on the adjacent parcel currently owned by 635 Maple Street LLC.

Table 15.2 outlines the minimum parking requirements for multi-family residential units to include two (2) parking spaces per unit. The surface parking spaces all appear to be generally sized 9' x 18'. The travel aisle is 20' in width.

Section 15.2 outlines the required number of parking spaces for proposed uses and requires two (2) parking spaces for each dwelling unit. A total of fourteen (14) dwelling units are existing and proposed. The provided site plan, last revised 2/3/20, shows the location of twenty-eight (28) parking spaces, as required under the regulations.

Per Section 15.4 *"Parking facilities should provide filtered screening from all property lines and shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to improve the environment of the site and surrounding area."* The Applicant proposes a variety of trees and bushes, as outlined in the proposed plant list on Sheet C-3, in front of the proposed dwelling, along the side property lines, and surrounding the parking area. Both deciduous and coniferous varieties are proposed.

Per Section 15.4 (3) *"No parking space shall be used for any purpose that interferes with its availability for required parking, including the location of trash or recycling dumpsters. Temporary construction dumpsters may be permitted for up to six (6) months. Required parking spaces shall be maintained (plowed) for winter use."* As shown on the revised site plan last revised 2/3/20, none of the existing or proposed parking spaces appear to be obstructed or interfere with other improvements. The Board notes the possible challenges with trash removal and poor turn-around areas for such vehicles.

Section 3.7(2)(C)(1)(b) requires: *"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."* The Applicant proposes to extend the driveway in front of the 605 Maple Street to accommodate two (2) parking spaces. These parking spaces are located entirely within the front setback. The two (2) existing nonconforming parking areas and access points serving 635 Maple Street are also located within the front setback. As requested by the Department of Public Works, the Applicant proposes to extend the western existing parking area serving 635 Maple Street in order to relocate the existing parking stalls entirely outside of the right-of-way.

Per Section 15.4 (4) *"All parking surfaces shall be constructed so as to eliminate standing water and the discharge of storm water onto adjacent property, sidewalks or streets."* During the hearing the Applicant provided a detailed overview of the proposed stormwater and drainage improvements.

Per Section 15.4 (4) "All paved parking areas are required to have painted lines designating parking spaces in accordance with the site plan approved by the DRB. Lines shall be applied within one (1) month of paving and shall be maintained so as to be visible." The parking area is proposed to be paved and painted with delineated lines.

Conclusion: The Board finds the proposed parking satisfies the required number and dimensions of parking as outlined in the regulations, but does not conform to Section 3.7(2)(C)(1)(b) which requires front yards be limited to landscaping and yard area, sidewalks and public spaces. As noted above, the Board recognizes the two (2) existing parking areas and access points serving 635 Maple Street as pre-existing, nonconforming, however the two (2) proposed new parking spaces located in the extended driveway serving 605 Maple Street within the front setback, are new, and as such, must conform to the current regulations. As a condition of approval, the Board will require that these two (2) proposed parking spaces be relocated outside of the required front setback and positioned between the shared access and directly west of the existing garage at 605 Maple Street or elsewhere on the parcel as approved by the Board. Based on the above findings, the Board concludes the proposed circulation and parking improvements, as conditioned, represents adequate access and circulation for the existing and intended use.

18. **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. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon the property's location, site conditions and proximity to other facilities. In addition, adequate parking and access for people with disabilities shall also be provided. The Proposed Site Plan, Sheet C-2, depicts the rear parking area with a sidewalk/walkway along the eastern portion of the parking area running the length of the parking area. Existing stairs and a walkway are shown to connect the parking area to 635 Maple Street. A proposed walkway also appears to connect the front of the building to Maple St./Route 100. No other pedestrian improvements are shown on the provided site plan. Per Section 3.7(2)(C)(1)(d), "all site plans shall be designed in a manner, which allows a minimum five feet (5') wide sidewalk along all frontage roads." The plans show existing nonconforming parking/driveway within and near the right-of-way prohibiting a sidewalk improvement. As noted above, the Applicant proposes to improve the existing degree of nonconformance by reducing one (1) curb cut and extending an existing two (2) space curb cut/parking area so that vehicles are not parked within the right-of-way.

Conclusion: The Board finds the proposed site layout, including pedestrian circulation and access, reduces the existing degree of nonconformance, and represents adequate pedestrian access and circulation for the intended and existing use.

19. **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 provided a landscape plan (Sheet C-3) prepared by Mumley Engineering (last revised 2/3/20) which depicts the proposed landscaping. The provided planting schedule outlines the species type, common name, and size. The Applicant is proposing a mixture of sugar maples, serviceberry, heritage river birch, eastern red cedar, eastern white pines, hackberry, and emerald arborvitae. The provided plans also indicate the existing trees/bushes to be removed. The provided architectural drawings depict the location of exterior mechanical equipment to be located on the sides of the building. The proposed site plan shows the location of an enclosed dumpster on the northeastern portion of the rear parking area.

Conclusion: The Board concludes the proposed landscaping and screening are appropriate for the intended use and site location.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant proposes to construct one (1) multi-family dwelling containing nine (9) dwelling units and related improvements. The provided site plan provides the existing and proposed total impervious surfaces. According to the site plan, the existing impervious surfaces equal 0.20 acres; the total proposed and existing impervious surfaces equals 0.41 acres. A stone-lined rip rap ditch is shown along the shared property line with Hillcrest condominium community. Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction. Per the provided proposed site plan, Sheet C-2, the proposal involves a total of 0.41 acres of impervious surfaces which, unless requested by the Board under Section 3.7(2)(B)(8), does not trigger the requirement that a stormwater management plan prepared and sealed by a registered engineer prior to the issuance of a zoning permit. The provided plans show areas to install erosion control matting on slopes greater than 3:1, areas where silt fencing is proposed to be installed, and details for a stabilized construction entrance. During the hearing, the Applicant's Engineer provided a detailed overview of the proposed stormwater improvements and construction related erosion control measures. Section 3.12(C) requires projects involving the disturbance of more than one-half acre shall submit an erosion and sediment control plan that incorporates the State of Vermont erosion prevention and sediment control practices before a zoning permit is issued. The application indicates more than ½ acre will be disturbed. During the hearing the Applicant's Engineer testified that the project is considered a low risk site under State rules and will follow relevant erosion and sediment control provisions.

Conclusion: The Board finds the Applicant provided a stormwater drainage plan that incorporates State of Vermont erosion prevention and sediment control practices. As a condition of approval, the Applicant will be required to meet and maintain the requirements of Section 3.12 and applicable erosion prevention provisions. The Board concludes, if constructed and maintained as approved, the proposed improvements will not cause an undue adverse impact on neighboring properties, town highways or surface waters.

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the DRB 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 DRB 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.
- g. VR Treatment of Front Yards and Driveways:
 - i. In any VR District, a continuous strip not less than ten (10') feet wide shall be maintained between the street line and the balance of the lot, which strip shall be suitably landscaped, and may be traversed only by permitted driveway or pedestrian walks. Exceptions to these standards may be granted by the DRB in cases involving pre-existing buildings and/or uses when undue hardship is likely to exist. Cases will be reviewed on an individual basis, taking into account the unique features/circumstances of a site while still providing proper landscaping.

Conclusion: The Board finds the proposed site plan and architectural drawings satisfy the requirements of Section 3.7(2)(C)(1) and have been designed re-enforce a compact development pattern defined by a pedestrian orientation, and the functional and visual integration of neighboring properties. Where appropriate, the Board waived the specific requirements when it was found that mitigation through design, screening or other mitigation has accomplished the objectives of the VR district.

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 provided testimony regarding the proposed outdoor lighting. The only lighting proposed are 6" can lights located in the building entrance soffits. No parking area lighting is proposed.

Conclusion: The Board concludes the proposed outdoor lighting is in conformance with Section 4.8, has been designed to minimize spill into the night sky, and is appropriate for the intended use and site location. As a condition of approval, the Applicant will be required to follow the general outdoor lighting requirements.

24. **Design Review.** Pursuant to Section 10.5(12), the Stowe Historic Preservation Commission reviewed the proposed building elevations and applicable improvements (retaining wall, guard rail, HVAC, etc.) and the demolition of the one-story detached accessory structure (garage) during their December 18, 2019 and January 8, 2020 meetings and voted to approve the revised building elevations and the demolition of the structure as presented. A copy of the SHPC recommendation was provided by staff.

25. **Section 15 Parking Regulations.** – See discussion above.

DECISION

The request for conditional use and design review approval to construct a multi-family dwelling and related improvements, as described in the application dated 12/11/2019, associated supporting materials, and proposed site plan entitled "605 Maple LLC-621 Maple Street, Stowe, VT" prepared by Mumley Engineering Inc., last revised 2/3/20 (amended herein), is hereby approved by the Development Review Board subject to 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. The two (2) parking spaces proposed to be located in front of 605 Maple Street must be relocated between the shared access and directly west of the existing garage outside of the required front setback or elsewhere on the property in an area approved by the Development Review Board.
3. Prior to the issuance of the zoning permit, the Applicant shall complete the following:
 - Submit revised plans showing the relocated two (2) parking spaces, as noted above, proposed in front of 605 Maple Street. The parking spaces shall be positioned between the shared access and directly west of the existing garage at 605 Maple Street or elsewhere on the property as approved by the Development Review Board.

- One full size and a digital copy of the amended plans shall be provided to the Zoning Administrator.
 - The design drawings for the proposed retaining wall along the northern property line must be certified by a licensed professional engineer.
4. Pursuant to Section 10.5(12), the Board accepts the recommendations of the Stowe Historic Preservation Commission as voted on during their January 8, 2020 meeting. The project shall be completed according to the plans submitted. All windows must contain simulated divided lights, unless otherwise approved by the Stowe Historic Preservation Commission.
 5. The Applicant must obtain a Driveway Entrance and Road Opening/Right of Way Encroachment Permit from Stowe Department of Public Works prior to commencing any work within the town highway right-of-way.
 6. The Applicant must modify the easement with the Department of Public Works to allow the Town access across the property in order to access the existing municipal sewer.
 7. The Applicant shall obtain all necessary municipal water and sewer allocations, approvals, and connections. Final plans, details, and technical specifications for proposed Water and Sewer Connections shall be approved by the Department of Public Works prior to issuance of Water/Sewer Connection permits.
 8. The Applicant must complete a line extension application and load analysis for Stowe Electrical Department to determine if the existing transformer(s) needs to be upgraded.
 9. Construction hours shall be limited to Monday-Friday from 7:00 am-5:00 pm and Saturday morning from 9:00 am- 1:00 pm.
 10. All paved parking areas must have painted lines designating parking spaces in accordance with the approved site plan as amended herein. Lines shall be applied within one (1) month of paving and shall be maintained so as to be visible.
 11. No parking space shall be used for any purpose that interferes with its availability for required parking, including but not limited to the location of trash or recycling dumpsters.
 12. All parking surfaces shall be constructed so as to eliminate standing water and the discharge of storm water onto adjacent property, sidewalks or streets.
 13. The access shall remain clear of parked vehicles at all times. No vehicles shall be parked along any portion of the access or outside of the designated parking areas. No parking signs shall be installed and maintained along the access and parking area serving the rear of the building.
 14. The driveway access shall be properly maintained, including snow removal in winter, to provide emergency vehicle access at all times.
 15. 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 the property.
 16. Exterior lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150-watt incandescent bulb).
 17. Landscaping shall be installed as shown in provided plans prepared by Mumley Engineering, last revised 2/3/20 (amended herein). Any dead and dying plants and trees as shown on said plans shall be replaced within one (1) year of death.
 18. The Applicant shall comply with the practices outlined in the Low Risk Site Handbook for Erosion Prevention and Sediment Control.
 19. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
 20. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
 21. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.

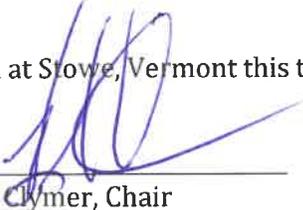
22. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless erosion control measures are followed that are adequate to ensure compliance with (A), (B) and (C) as outlined in Section 3.12, taking into account winter and spring conditions.
23. All development shall provide for an adequate stormwater drainage system 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.
24. 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. Prior to the issuance of Certificate of Occupancy, the Applicant shall submit the following:
 - Reasonable proof that the required setbacks have been maintained;
 - Record in the town land records a merged deed or other legal mechanism joining the two (2) parcels;
 - Documentation that all necessary allocation and connection permits have been obtained from the Department of Public Works.
25. 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 purposes of ascertaining compliance with the conditions of approval.

Voting favor: Drew Clymer, Chris Walton, Andrew Volansky, David Kelly, Leigh Wasserman

Voting to deny: Francis 'Paco' Aumand III

Abstain: Peter Roberts

Dated at Stowe, Vermont this the 18th day of February 2020

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.