

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



PROJECT: 6184

SUBJECT PROPERTY: 0 Stowe Hollow Road (#07-157.010)

PROPERTY OWNER & APPLICANT:

Stowe Hollow Road LLC/Nick Donahue
474 Stowe Hollow Road
Stowe, VT 05672

APPLICATION:

The Applicant, Nicholas Donahue of Stowe Hollow Road LLC (herein referred to as the "Applicant"), requests final subdivision approval to subdivide the ±13.97-acre undeveloped parcel located at 0 Stowe Hollow Road (#07-157.010) into nine (9) lots as follows:

Lot 1, consisting of ±1.40 acres; Lot 2, consisting of ±0.86 acres; Lot 3, consisting of ±1.13 acres; Lot 4, consisting of ±1.89 acres; Lot 5, consisting of ±3.65 acres; Lot 6, consisting of ±1.33 acres; Lot 7, consisting of ±1.11 acres; Lot 8, consisting of ±1.19 acres; and Lot 9, consisting of ±1.40 acres.

As proposed, Lots 1-9 are intended for residential development with each lot containing a single-family dwelling, associated parking, and related improvements. Lots 6-8, as proposed, will contain individual wastewater disposal areas to serve Lots 1-8. Lot 9 will contain its own wastewater disposal area. Each lot will be served by an on-site individual potable water source. A 100' perimeter greenbelt setback is delineated along the outer property boundaries.

The subject parcel is located within the Village PUD [VIL-PUD] zoning district and is served by Stowe Hollow Road, a Class 2 Town Highway. There are no other known or identified prior conditions of subdivision approval attached to the parcel, however the parcel is part of the Village PUD Master Plan approved by the Planning Commission and originally incorporated into the Zoning Regulations in 1984 and later amended. The application was reviewed by the Development Review Board as a major subdivision under the Town of Stowe Subdivision Regulations (effective through July 16, 2012). 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.)*

Preliminary Plan Review. An application for preliminary subdivision review, dated October 10, 2019, was received by the Zoning Administrator and referred to the Development Review Board (DRB) for consideration during its regularly scheduled meeting on November 19, 2019. The DRB granted preliminary approval (7-0) on December 3, 2019 with the following conditions of approval:

1. A final subdivision application must be submitted within twenty-four (24) months of this decision and shall include the following:
 - a. Application materials as specified in Section 4.2 of the Stowe Subdivision Regulations for final subdivision plan review along with a listing and description of any changes to the preliminary plan as approved herein.
 - b. A geotechnical slope stability analysis to ensure the steep slopes on the parcel can support the proposed development.
 - c. A final construction phasing schedule.
 - d. Calculations for proposed impervious surfaces and areas of disturbance.

- e. An erosion and sediment control plan including standards to minimize erosion and sediment impacts from construction activity and soil disturbances.
 - f. Final versions of all required legal documentation, including easements, homeowners association covenants, maintenance agreements, density bank and lot coverage requirements, etc.
 - g. A visual analysis of the proposed subdivision incorporating proposed clearing, architectural standards, building zone configuration, and a description of how the proposed screening softens and/or lessens the impacts of development on natural features and scenic vistas.
 - h. A planting and maintenance plan including provisions on how the trees within the no-cut zone will be protected and kept healthy, as well as specific size, type, location, etc. of all proposed landscaping. The planting plan shall address specific measures to be taken to ensure the survival, and if necessary, replacement, of proposed landscaping during and after the construction, and parties to be responsible for ongoing maintenance.
 - i. Calculations and percentages regarding the existing vs proposed tree cover.
 - j. An invasive control plan to prevent the spread of Bush Honeysuckle and any other identified invasive plant species.
 - k. Written comments from Stowe Fire Department.
2. The subdivision plan provided with the final subdivision application shall include the following plat notations:
 - *"This plat is subject to the terms and conditions of subdivision approval by the Stowe DRB per the Subdivision Regulations of the Town of Stowe. The terms and conditions of the approval and related information are on file in the Stowe Zoning Office".*
 - *"A registered engineer shall certify that any new private roads were constructed in accordance with the DRB-approved specifications. Such certification shall be required for any section of road serving a new development before a Certificate of Occupancy is issued for said development".*
 - *"The lands designated as open space on this plat shall remain in open space. The open space shall run with the land and shall apply to future conveyances of all or parts of the herein open space, unless otherwise specifically approved by the DRB".*
 3. The 'Declaration of Covenants, Conditions, and Restrictions of the Ridge at Stowe Hollow Stowe, Vermont' shall be revised to include provisions for the protection and management of the wetlands and wetlands buffers during and after construction.

Final Subdivision Review. An application for final subdivision review was filed by Applicant Nicholas Donahue on January 17, 2020. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for February 18, 2020 and warned by the Zoning Administrator 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 31, 2020. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on February 18, 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 participating in the 2/18 review included: Drew Clymer, Francis 'Paco' Aumand III, Andrew Volansky, Michael Diender, and Leigh Wasserman.

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

- Tyler Mumley, Mumley Engineering PC, 454 Mountain Road, Suite 4, Stowe, VT 05672
- Nick & Kim Donahue, 474 Stowe Hollow Road, Stowe, VT 05672
- Tom Hand, 331 West Shaw Hill Road, Stowe, VT 05672
- Erica Dodge, PO Box 851, Stowe, VT 05672

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

- Town of Stowe Development Application, dated 12/19/2019;
- Project Narrative, Project 18045 from Mumley Engineering, dated 1/17/2020;
- Village PUD Density Analysis, dated 7/11/2019;
- Letter from Butternut Mountain Farms, Fran Sladyk, dated 9/11/19;
- Emails from Ari Rockland Miller, Senior Agricultural Development Coordinator, dated 9/19/2019;
- Email from Noel Dodge, dated 9/6/2019;
- Email to Shannon Morrison, dated 11/13/2019;
- Email from Yvonne Basque, Historic Resources Specialist, dated 9/27/2019;
- Email from Harry Shepard (DPW Director), dated 7/25/2019;
- Declaration of Covenants, Conditions, and Restrictions of the Ridge at Stowe Hollow Stowe, Vermont, no date;
- Landscaping Planting Maintenance Plan, dated 1/17/2020;
- Report on the Geology, Landscape History, Erosion & Slope Stability Implications: Proposed Stowe Hollow Road Development prepared by Paul Bierman (UVM), dated 1/5/2020;
- Preliminary Subdivision Decision, dated 12/3/2019; (staff)
- Proposed Subdivision Layout prepared by Mumley Engineering, Sheet C-1, Sheet 1 of 10, dated 1/17/2020;
- Proposed Site Plan prepared by Mumley Engineering, Sheet C-2, Sheet 2 of 10, dated 1/17/2020 (last revised 2/10/2020);
- Partial Site Plan prepared by Mumley Engineering, Sheet C-3, Sheet 3 of 10, dated 1/17/2020 (last revised 1/23/2020);
- Partial Site Plan prepared by Mumley Engineering, Sheet C-4, Sheet 4 of 10, dated 1/17/2020 (last revised 2/10/2020);
- Roadway Plan & Profile prepared by Mumley Engineering, Sheet C-5, Sheet 5 of 10, dated 1/17/2020 (last revised 2/10/2020);
- Landscape Plan prepared by Mumley Engineering, Sheet C-6, Sheet 6 of 10, dated 1/17/2020 (last revised 2/10/2020);
- Wastewater Systems prepared by Mumley Engineering, Sheet C-7, Sheet 7 of 10, dated 1/17/2020;
- Stormwater Systems prepared by Mumley Engineering, Sheet C-8, Sheet 8 of 10, dated 1/17/2020 (last revised 2/10/2020);
- Details prepared by Mumley Engineering, Sheet C-9, Sheet 9 of 10, dated 1/17/2020 (last revised 1/23/2020);
- Details prepared by Mumley Engineering, Sheet C-10, Sheet 10 of 10, dated 1/17/2020 (last revised 2/10/2020);
- The Ridge at Stowe Hollow Visual Assessment prepared by ELD Architecture- dated 1/21/2020;
- Comments from Stowe Electrical Department, dated 02/07/2020;
- Pre-Development/Drainage Map prepared by Mumley Engineering, Sheet ER-1, Sheet 1 of 6, last revised 2/10/20;
- EPSC Construction Plan- Phase 1 prepared by Mumley Engineering, Sheet ER-2, Sheet 2 of 6, last revised 2/10/20;
- EPSC Construction Plan- Phase 2 prepared by Mumley Engineering, Sheet ER-3, Sheet 3 of 6, last revised 2/10/20;
- EPSC Construction Plan- Phase 3 prepared by Mumley Engineering, Sheet ER-4, Sheet 4 of 6, last revised 2/10/20;
- EPSC Construction Plan- Phase 4 prepared by Mumley Engineering, Sheet ER-5, Sheet 5 of 6, last revised 2/10/20;
- Memorandum from Harry Shepard, Director of the Department of Public Works, Subject: Stowe Hollow Road Subdivision- DRB Application #6184, dated 2/18/2020;
- Email from Kyle Walker- Stowe Fire Chief, Re: Fire Truck Turnaround, dated 1/13/2020;
- Comments from Dave Kresock of Stowe Electrical Department;

Given the late submission of comments from the Department of Public Works (DPW) the Board continued the hearing to a time and date certain, March 3, 2020 at 5:00 PM [Stowe Town Office] to allow all parties sufficient time to review and respond to the submitted materials. Board members participating in the 3/3 review included: Drew Clymer, Francis 'Paco' Aumand III, Andrew Volansky, Michael Diender (via telephone), Chris Walton, and Leigh Wasserman.

In advance of the March 3rd meeting the following additional information was submitted:

- Letter from Tyler Mumley of Mumley Engineering, dated 2/26/2020;
- Revised HydroCAD report, date printed 2/26/2020;
- Ridge at Stowe Hollow, Construction Specifications, dated February 2020;
- Roadway Grading prepared by Mumley Engineering, Sheet SK-2, Sheet 2 of 2, dated 2/26/2020
- Proposed Subdivision Layout prepared by Mumley Engineering, Sheet C-1, Sheet 1 of 10, dated 1/17/2020, last revised 2/26/20;
- Proposed Site Plan prepared by Mumley Engineering, Sheet C-2, Sheet 2 of 10, dated 1/17/2020 (last revised 2/26/20);
- Partial Site Plan prepared by Mumley Engineering, Sheet C-3, Sheet 3 of 10, dated 1/17/2020 (last revised 1/23/2020);
- Partial Site Plan prepared by Mumley Engineering, Sheet C-4, Sheet 4 of 10, dated 1/17/2020 (last revised 2/26/20);
- Roadway Plan & Profile prepared by Mumley Engineering, Sheet C-5, Sheet 5 of 10, dated 1/17/2020 (last revised 1/23/20);
- Landscape Plan prepared by Mumley Engineering, Sheet C-6, Sheet 6 of 10, dated 1/17/2020 (last revised 2/26/2020);
- Wastewater Systems prepared by Mumley Engineering, Sheet C-7, Sheet 7 of 10, dated 1/17/2020;
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- Details prepared by Mumley Engineering, Sheet C-9, Sheet 9 of 10, dated 1/17/2020 (last revised 1/23/2020);
- Details prepared by Mumley Engineering, Sheet C-10, Sheet 10 of 10, dated 1/17/2020 (last revised 2/07/2020);
- Pre-Development/Drainage Map prepared by Mumley Engineering, Sheet ER-1, Sheet 1 of 6, last revised 2/26/20;
- EPSC Construction Plan- Phase 1 prepared by Mumley Engineering, Sheet ER-2, Sheet 2 of 6, last revised 2/26/20;
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- EPSC Construction Plan- Phase 3 prepared by Mumley Engineering, Sheet ER-4, Sheet 4 of 6, last revised 2/26/20;
- EPSC Construction Plan- Phase 4 prepared by Mumley Engineering, Sheet ER-5, Sheet 5 of 6, last revised 2/26/20;
- EPSC Details prepared by Mumley Engineering, Sheet ER-6, Sheet 6 of 6, dated 1/17/20;
- Landscape Plan (in color) prepared by Mumley Engineering, Sheet C-6, Sheet 6 of 10, dated 1/17/2020 (last revised 2/26/2020);
- Memorandum from Harry Shepard, Director of the Department of Public Works, Subject: Stowe Hollow Road Subdivision- DRB Application #6184, revised 3/3/2020;

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:

The Applicant's request for final subdivision approval was reviewed by the Stowe Development Review Board (DRB) for conformance with applicable requirements including the following:

Town of Stowe Zoning Regulations (as adopted October 9, 2018)

- 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 13.8- Stowe Village PUD

Town of Stowe Subdivision Regulations (effective through July 16, 2012)

- Section 2 – General Provisions
- Section 3- Administration and Enforcement
- Section 4- Submission Requirements
- Section 5- Planning and Design Standards

DIMENSIONAL REQUIREMENTS/ STOWE VILLAGE PUD ZONING DISTRICT STANDARDS:

Conclusion: Based on the below findings, the Board concludes the proposed subdivision, as presented, conforms to the dimensional requirements of the VIL-PUD zoning district.

1. **Zoning District.** The subject parcel contains ±13.97-acre and is located within the Stowe Village PUD as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). Within the Stowe Village PUD, the parcel is located in the Residential Zone.
2. **Lot Area, Lot Width.** The Applicant proposes a 9-Lot subdivision of the ±13.97-acre parcel. Lot 1, consisting of ±1.40 acres; Lot 2, consisting of ±0.86 acres; Lot 3, consisting of ±1.13 acres; Lot 4, consisting of ±1.89 acres; Lot 5, consisting of ±3.65 acres; Lot 6, consisting of ±1.33 acres; Lot 7, consisting of ±1.11 acres; Lot 8, consisting of ±1.19 acres; and Lot 9, consisting of ±1.40 acres. The Applicant proposes lots in excess of ten thousand (10,000) sq. ft. per family. There is no minimum lot width in the VIL-PUD district.
3. **Setbacks.** Setbacks within the Stowe Village PUD are defined as the distance between any structure and the lot line. In the Residential Zone setbacks are as follows: Front 30 ft; Side 10 ft; Rear 40 ft; Perimeter Greenbelt 100 ft. Under the regulations, the Perimeter Greenbelt is not required to include that area of the zone contiguous to other zones within the Stowe Village PUD.
4. **Maximum Building Coverage.** The regulations require a total maximum building coverage of the entire Stowe Village PUD not to exceed fifteen (15%) percent overall. The regulations define building coverage as follows: *"That portion of a site, expressed as a percentage, occupied by all buildings or structures, (not including public utility structures), that are roofed or otherwise covered and that extend more than three (3') feet above the surface ground level. The building roof overhang up to 6 feet in length is not included as part of the building coverage area."* The Applicant provided the last known building coverages for the VIL-PUD indicating that 5,794,803 sf remain within the VIL-PUD.
5. **Use.** The Applicant proposes a 9-Lot subdivision. One (1) family and two (2)-family dwellings are a permitted use on lots in excess of ten thousand (10,000) sq. ft.

6. **Height.** The maximum building height in VIL-PUD is 35' feet where evidence is shown that this is more advantageous for a particular building lot. No buildings are proposed under this application. The proposed covenants provided with the final application limit building height to be 28'.
7. **Density.** The regulations state that there shall be no more than three hundred (300) Dwelling Units in the Stowe Village PUD, and this density shall only be permitted if no business or industrial units are built. The Applicant provided the last known unit density bank. According to the information provided there are ninety-five (95) residential units remaining.

SUBDIVISION REGULATIONS

SECTION 5.1 – GENERAL PLANNING STANDARDS:

1. Section 5.1(1) – Character of Land for Subdivision:

Conclusion: The regulations state that the Applicant has the responsibility *“to satisfy the Board that the land to be subdivided is of such a character that it can be used for the intended purposes without undue adverse impact on public health or safety, or the environment or, neighboring properties or the rural and historic character of the community as outlined in the regulations.”* The regulations further require that subdivision plans *“shall conform to the zoning regulations, any interim zoning, subdivision regulations, and other applicable statutes, ordinances, bylaws and/or regulations. In addition, subdivision plans should be in general accordance with Stowe’s Municipal Plan.”* During the hearing the Board heard testimony from the Applicant and the Town Engineer regarding the extent of possible adverse impacts to adjacent parcels of land, town highways, and existing municipal storm drainage infrastructure. The Applicant testified that the project has been designed in accordance with standard engineering practices and proper measures have been taken to reduce and/or eliminate any adverse impact to adjacent parcels, town highways, and municipal storm drainage infrastructure. The Town Engineer cautioned the Board and testified that the characteristics of the land, including the topography, grade, drainages, and soil characteristics, require that special considerations be taken in order to avoid undue adverse impacts on adjacent parcels and publicly maintained infrastructure. The report prepared by Paul Bierman (UVM) [dated 1/5/2020] provided by the Applicant echoed some of the same concerns highlighted by the Town Engineer.

In deciding whether a project meets Section 5.1(1), the Board relies on a two-part test. First, it determines whether the project will have an adverse impact. If the Board concludes that the project will have an adverse impact, the Board moves to the second part of the test and evaluates whether the adverse impact is “undue.” During the hearing, the Board closely listened and reviewed the testimony and evidence submitted. The Applicant provided a visibility analysis depicting nine (9) dwellings perched above the town’s historic village center fragmenting a prominent forested hillside. This forested hillside provides a scenic backdrop to the town’s main village center. The Stowe Town Plan (2018) states *“Development on steep slopes, hillsides and ridgelines should be carefully controlled to avoid adverse impacts on scenic resources, water quality and public safety”* and emphasizes the goal of preserving and protecting Stowe’s scenic landscape by *“the careful siting of residential development to avoid placement in highly visible locations on hillsides and ridgelines...”* As noted by the Town Engineer, the project is also estimated to require approximately 50,000 cubic yards of earthwork to construct the proposed improvements and house sites. Of the estimated 50,000 cubic yards, approximately 35,000 cubic yards is imported fill. Some fill depths are proposed be over 20' deep with 50% slopes. Two house sites, as proposed, lie entirely on fill slopes.

In reviewing the evidence and testimony provided, the Board asks itself whether the project has been designed to conform to the natural landscape or if the landscape is being altered to fit the project. The Board further asks itself if the land is of such a character that it can be used for the intended purposes without undue adverse impact on public health or safety, or the environment or, neighboring properties or the rural and historic character of the community as outlined in the regulations. The Board agrees and concludes that the placement and number of dwellings, along with the proposed ±7.1 acres of ground disturbance and land clearing and 50,000 cubic yards of earthwork will, undoubtedly, have an adverse

impact on the environment, neighboring properties, and the historic character of the town. Given the Board concludes that the project will have an adverse impact under Section 5.1(1), the Board further evaluated whether these adverse impacts are "undue." In deciding, the Board reviewed the following factors:

- Does the project violate a clear, written community standard? Does the project offend the sensibilities of the average person?
- Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?
- Has the Applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings?

The Board exhaustively reviewed and discussed the facts pertaining to the application and evidence submitted. Based upon the preponderance of the evidence submitted and the below findings, the Board concludes that the land to be subdivided is of such a character that it cannot be used for the intended purposes without causing undue adverse impact on the environment, neighboring properties, and the historic character of the community.

Findings:

- a. The Applicant proposes a 9-lot subdivision with each lot intended for residential development (single-family dwelling). The proposed development road is designed to be approximately 16' in width with a 50' right-of-way.
- b. The parcel is forested and contains steep slopes, mapped wetlands, and associated wetland buffers. The mapped Class II wetlands and associated wetland buffers are located on the lower portion of the parcel.
- c. As proposed, the lots are to be served by individual wastewater disposal mound systems and individual potable water sources. The Applicant did not provide a copy of the State of VT Wastewater permit(s) but did testify that the proposed systems have been designed in accordance with adopted State of Vermont technical design standards.
- d. Three (3) significant natural drainages run underneath Stowe Hollow Road, a Class 2 Town Highway, and generally east to west throughout the subject parcel. These drainages are shown on the provided plan(s) and discussed in the geologic report by Paul Bierman (UVM) provided by the Applicant.
- e. According to the ANR Natural Resources Atlas, majority of the parcel contains steep slopes in excess of 25% grade. Much of the lower, less steep portions contain Class 2 wetlands, wetland buffers, and/or hydric soils.
- f. The subject parcel is located adjacent to and on lands that perch above the historic village center. The village center is a historic district as listed on the National Register of Historic Places and is protected under Section 10 of the town's zoning regulations. Formally listed in 1978, the historic district is a dense collection of 19th century of residential, commercial, and public buildings, which retain much of its integrity of location, design, setting, materials, workmanship, feeling and association.
- g. The Applicant provided 'Report on the Geology, Landscape History, Erosion & Slope Stability Implications: Proposed Stowe Hollow Road Development' prepared by Paul Bierman (UVM), dated 1/5/2020. The report provides a summary, background observations, field observations, implications for slope stability and erosion, and a list of considerations for construction. The report concludes that based on observations the parcel does not indicate a high likelihood of large, deep landslides, however there could be potential erosion and flooding hazards. A number of considerations for construction are listed including: 1) proper emplacement, compaction, and buttressing of fill material; 2) Retention and/or replacement of tree cover; 3) Design and maintenance of the access road and its drainage systems; 4) Stormwater infiltration on the slope will increase the risk of slope instability by saturating soils on steep slopes; 5) Proper channel design for conveying drainage from the site and water from above the site and from Stowe Hollow

Road will be important. The report also notes that the cohesive strength of the glacial till soils is greatly reduced during construction.

- h. The Board received written comments from DPW Director/Town Engineer Harry Shepard dated 2/18/2020 and later revised dated 3/3/2020. In Mr. Shepard's comments he characterizes the land as "*existing topography is steep to very steep with average grades of approximately 25% to as much as over 50% slopes*" and contains glacial till soils that are "*dense, shallow to bedrock, and poorly drained.*" His analysis reports that given the existing slopes and soils, significant earthwork and fill is necessary to construct the proposed improvements. He estimates the project entails approximately 50,000 cubic yards of earthwork, including 35,000 cubic yards of imported fill. Large portions of Lots 8 and 9, as proposed, are to be constructed entirely on fill.
- i. During the hearing the Applicant testified that the proposed road and stormwater improvements would be initially constructed by the developer and that the grading, site preparation, and dwelling construction of the separate lots would be completed by the individual lot owners.

2. **Section 5.1(2) – Natural and Scenic Features:**

Conclusion: The regulations require that all subdivisions be designed to prevent undue adverse impact on: brooks, streams, water bodies, ground water resources and wetlands; prime agricultural soils, farmland resources and scenic meadowland; important forest resources; aesthetic resources and scenic vistas, including views onto and arising from subject property. The Applicant proposes a 9-lot subdivision of lands containing three (3) natural drainages, wetlands and associated buffers, and a scenic forested hillside with views of the town's historic village center and scenic vistas. The subject parcel is also visible from portions of Mountain Road (VT-108) and the village, as evidenced by the provided visibility analysis. The lower portion of the parcel contains Class II wetlands and associated wetland buffers. With the exception of the proposed gravel wetland/stormwater improvement and associated grading, no impacts are proposed within the wetland or wetland buffer. Although the building zones have each been designed to exclude the three (3) natural drainages, only a minimum setback has been incorporated into the site layout. In reviewing the application and regulations, the Board agrees that the subdivision has been designed to prevent undue adverse impact on brooks, streams, and wetlands, however based upon the below findings, the Board concludes the proposed subdivision has not been designed to prevent undue adverse impact on aesthetic resources and scenic vistas, including views onto and arising from the subject property.

Findings:

- a. The parcel to be subdivided is forested and contains wetlands and scenic views of the historic village center. There are no mapped streams, ponds, or other surface water sources shown on the ANR Natural Resources Map, however the Applicant's drawings depict the parcel containing three (3) unmapped watercourses or drainages running underneath Stowe Hollow Road and downhill throughout the parcel.
- b. The proposed subdivision includes a 100' greenbelt setback along the outer perimeter.
- c. A designated building zone is proposed on each lot. The proposed property line between Lots 5 & 6 fragments the wetland and wetland buffer.
- d. Sheet C-1 notes the location of boulders every 30 ft along edge of wetland buffer or as directed and approved by State of Vermont Wetlands Office. Similar wording is echoed in the proposed covenants. Portions of the gravel wetland lie within the wetland buffer. This area is labeled as ±0.015 acres.
- e. The Applicant provided a letter from licensed forester Fran Sladyk. The letter indicates the parcel contains Bush Honeysuckle, an invasive plant that creates a dense, impenetrable ceiling within the understory choking out native regeneration. The Applicant provided a Landscaping Planting and Maintenance Plan including an invasive control plan to prevent the spread of Bush Honeysuckle and any other invasive plant species, along with pre-construction and post-construction maintenance.

- f. As noted above, the subject parcel is located adjacent to and on lands that perch above the historic village center. The village center is a historic district as listed on the National Register of Historic Places and is protected under Section 10 of the town's zoning regulations. Formally listed in 1978, the historic district is a dense collection of 19th century of residential, commercial, and public buildings, which retain much of its integrity of location, design, setting, materials, workmanship, feeling and association.
- g. The Applicant provided a visibility analysis prepared by Erica Dodge Architecture showing the build-out of the project. The visibility analysis shows a bird's eye view of the potential visual impacts from the village and Mountain Road (VT-108).

3. **Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities:**

Conclusion: Based upon the below findings, the Board concludes the proposed subdivision has been designed in accordance with Section 5.1(3) and will not have an undue adverse impact on significant wildlife habitat areas.

Findings:

- a. According to the ANR Natural Resources Atlas, the parcel proposed to be subdivided does not contain any significant natural communities, deer wintering areas, or natural communities but does contain Class II wetlands and associated wetland buffers. Wetlands and wetland buffer areas are located on proposed Lots 5 & 6.
- b. The Applicant provided letters and emails from Fran Sladyk- Licensed Forester, Ari Rockland Miller-Senior Agricultural Development Coordinator, Noel Dodge- Wildlife Biologist, and Shannon Morrison- State of Vermont Wetlands Program- all indicating the project is not expected to have adverse impacts to wildlife or natural communities.

4. **Section 5.1(4) – Historic Resources and Community Character:**

Conclusion: The regulations require that subdivisions be designed to minimize undue adverse impact on historic sites and the character of the Town. Although the subject parcel is located adjacent to the village area, the parcel is considered to be a 'rural area' as defined under the regulations. The regulations require that subdivisions in rural areas be designed to have a minimum undue adverse impact on the rural landscape. As noted in the regulations, rural landscapes are characterized by open fields, *forested mountains and hillsides* (emphasis added). The regulations state that the rural character exists due to the scenic vistas, large uninterrupted forested areas, open fields along public roads, and limited development along roads. These goals of protecting rural landscapes and the rural character of town are also mirrored in the Stowe Town Plan.

During the hearing the Applicant testified the developer only intends to construct portions of the shared infrastructure and related improvements leaving future individual lot owners the responsibility of constructing driveways and building areas for each dwelling, including but not limited to retaining walls, significant grading, landscaping, etc. Passing this responsibility on to the individual lot owners creates a disconnect in terms of execution and desired finished product over potentially a prolonged period of time. Although this may work for other projects, given the steepness of the land, the need for careful subgrade preparation and erosion control measures, and properly designed, constructed, and maintained stormwater improvements, the Board finds that this disconnect will result in a fragmented disturbance of the subdivision, a lack of cohesive landscaping and screening, ultimately contributing to an undue adverse impact on the character of town.

As noted above, an estimated ±7.1 acres are proposed to be disturbed and cleared of all forest canopy and understory. Although a vast majority of the impacted area is proposed to be replanted, the proposed subdivision will result in a fragmented forested hillside dotted with nine (9) dwellings and related improvements. This forested hillside provides a scenic backdrop to the town's historic district and serves as a character-defining feature of the town's village center. The Applicant has understandably taken

measures to attempt to mitigate these adverse impacts by incorporating re-plantings and integrating architectural design standards into the future build-out of the subdivision, however the visibility analysis clearly documents these adverse impacts at full build-out, even while incorporating the proposed mitigation measures. Based upon the below findings, the Board concludes that the project has not been designed to minimize undue adverse impact on the rural character of the Town.

Findings:

- a. The parcel is undeveloped and is characterized by a forested hillside overlooking the historic village center. As noted above, the village area is part of a historic district listed on the National Register of Historic Places and largely protected under Section 10 of the town's zoning regulations.
- b. No historic features or buildings are shown to exist on the parcel. The Applicant provided an email from the State Historic Preservation Office staff indicating they have no concerns with the project and that the project is not expected to have any adverse impacts on historic resources.
- c. The proposed subdivision plan shows the location of nine (9) building zones, one (1) on each lot. During the hearing the Applicant provided an overview of the proposed clearing and landscaping plan, architectural standards, visibility analysis, and lot configuration. The visibility analysis depicted a potential buildout of the lots along with the proposed mitigation measures (landscaping and architectural standards) and shows a fragmented forested hillside.
- d. The proposed covenants restrict overall building size to a minimum of 1,500 sf and a maximum of 4,000 sf and a maximum building height of 28 ft.
- e. The Applicant provided visibility analysis showing the expected visual impact from Mountain Road (VT-108) and the village at full build out and following installation of the proposed landscaping.
- f. The Applicant provided proposed covenants entitled 'Declaration of Covenants, Conditions, and Restrictions of the Ridge at Stowe Hollow', which include design review principles and guidelines that the construction of future dwellings would be required to meet. The guidelines include standards for site integration, scale, materials/color, roofs, and windows and skylights. The stated purpose of the guidelines is "*to ensure that a high-quality residential neighborhood is developed and maintained.*"
- g. The Landscaping Plan, Sheet C-6, estimates 51% of the lot, or ±7.1 acres, will be disturbed and cleared of trees. Of that ±7.1 acres, ±6.3 acres will be replanted with landscaping schedule outlined in the proposed plant list- a mixture of maples, locust, birch, and oaks. As proposed, each lot owner will be required to plant a minimum of three (3) shade trees and/or evergreen trees on the west facing side of the dwelling.

5. **Section 5.1(5) – Reserved Strips:**

Conclusion: Based upon the below finding, the Board concludes the proposed subdivision has been designed in conformance with Section 5.1(5), Reserved Strips.

Finding:

- a. No reserved strips are proposed. The subject parcel is served by a 50' right-of-way connecting to Stowe Hollow Road, a Class 2 Town Highway, as shown on the plans prepared by Mumley Engineering. The 50' right-of-way includes a 'Y' turn-around terminating at Lots 4 and 5.

6. **Section 5.1(6) – Screening and Landscaping:**

Conclusion: The regulations provide the Board the authority to require the planting or preservation of trees or other vegetation to provide visual screening of development or to otherwise soften and/or lessen the impact of development on natural features and scenic vistas. Section 4.6 (Landscaping Standards) of the Zoning Regulations must be used as a guide for any required landscaping. A maintenance plan of all existing and proposed landscaping shall be prepared and submitted for review. Such a plan shall address specific measures to be taken to ensure the survival, and if necessary, replacement, of designated landscaping during and after the construction; parties to be responsible for ongoing maintenance; and any

Town obligations for maintenance. Based upon the below findings, the Board concludes the Applicant did not provide sufficient visual screening of the proposed development.

Findings:

- a. The Applicant provided a Landscaping Plan depicting the location of proposed landscaping and schedule of clearing. The plans indicate five (5) proposed clearing areas each with an individual clearing and vegetation plan.
- b. The Applicant provided a planting and maintenance plan regarding how the trees within the no-cut zone will be kept healthy, as well as specific size, type, location, etc. The Landscaping Planting and Maintenance Plan included an invasive control plan to prevent the spread of Bush Honeysuckle and any other invasive plant species, along with pre-construction and post-construction maintenance.
- c. As noted above, during the hearing the Applicant provided an overview of the proposed clearing and landscaping plan, architectural standards, visibility analysis, and lot configuration. The visibility analysis depicted a potential buildout of the lots along with the proposed landscaping. As evidenced by the visibility analysis, the proposed development will be significantly visible from the village and portions of Mountain Road (VT-108) following installation of the proposed screening and landscaping.
- d. During the hearing the Applicant testified that the upper lots would be graded, cleared, and landscaped by the individual lot owners following purchase. Each individual lot owner will be responsible for the installing and maintaining the landscaping screening of each lot. As noted above, the Board finds that this disconnect will lead to a lack of cohesive landscaping and screening.

7. **Section 5.1(7) - Pedestrian Access:**

Conclusion: The regulations provide the Board the authority to require rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses. Based upon the below findings, the Board concludes the project has been designed in accordance with Section 5.1(7).

Findings:

- a. No sidewalks exist along Stowe Hollow Road.
- b. The provided plan shows the location of a 10' pedestrian easement between Lots 5 & 6 dedicated to the Homeowner's Association. The proposed easement will provide pedestrian access to the open space and wetlands area, as well as pedestrian connections to the village and adjacent public lands.

8. **Section 5.1(8) - Traffic:**

Conclusion: The regulations require traffic to be generated by the proposed subdivision not to create unreasonable traffic congestion or cause unsafe conditions regarding use of existing roadways. To satisfy this standard, the Board is authorized to request the preparation of a traffic impact study to address all concerns relative to traffic impact and safety. The regulations state that the Board shall use nationally accepted traffic engineering standards when evaluating the impact of traffic. Based upon the below findings the Board concludes nine (9) single-family dwellings will not create unreasonable traffic congestion, however the construction traffic created by the earthwork of shared improvements and individual house sites will cause unsafe conditions regarding the use of existing roadways.

Findings:

- a. The Applicant proposes a total of nine (9) lots intended on single-family dwellings. The Applicant provided estimated total vehicle trips or a.m./p.m. peak hour trips to include nine (9) trips in the evening peak hour and eighty-six (86) daily trips (ITE 9th Edition, Use #210). According to the VT Agency of Transportation 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.

- b. The Town Engineer estimates the project requires approximately 35,000 cubic yards of imported fill. During the hearing the Town Engineer relayed concerns regarding the traffic this amount of fill could generate and its impact on town highways. Based on a standard dump truck carrying 15 cubic yards, more than 2,300 trucks loaded with fill would need to enter and exit the site in order to complete the proposed earthwork.

9. **Section 5.1(9) – Municipal Facilities:**

Conclusion: The Applicant must demonstrate that the proposed subdivision will not create an undue burden on municipal facilities or create an unreasonable demand for municipal services. Based upon the below findings and the evidence entered into the record, the Board concludes the proposed subdivision will not create an undue burden on municipal facilities or create an unreasonable demand for municipal services.

Findings:

- a. 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. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services.
- b. The proposed lots will be served by onsite wastewater systems and potable water sources. No connections to municipal water or sewer are proposed.
- c. David Kresock from the Stowe Electrical Department provided the following comments:

Project #6184: Stowe Electric will require an separate easement for the new underground primary conductor that will feed the development. NOTE: easement width for underground is 25'. Property owner should consult with SED on our underground standards. NOTE: SED requires 10 feet separation from water, sewer and gas. Owner will also need to provide SED with a final electrical design and load study for approval.

- d. No additional municipal comments were received.

10. **Section 5.1(10) – Lot Configuration:**

Conclusion: The regulations state that flag lots, elongated lots, and other odd shaped lots which include narrow strips of land are prohibited unless the Board finds the configuration is appropriate given the existing topography and natural features, existing development, or the existing configurations of internal or adjacent lots. Based upon the below findings, the Board concludes the project has been designed in conformance with Section 5.1(10), Lot Configuration.

Finding:

- a. The Applicant proposes a 9-Lot subdivision- Lot 1, consisting of ±1.40 acres; Lot 2, consisting of ±0.86 acres; Lot 3, consisting of ±1.13 acres; Lot 4, consisting of ±1.89 acres; Lot 5, consisting of ±3.65 acres; Lot 6, consisting of ±1.33 acres; Lot 7, consisting of ±1.11 acres; Lot 8, consisting of ±1.19 acres; and Lot 9, consisting of ±1.40 acres. The proposed lots are all of regular shape.

11. **Section 5.1(11) – Building Zone:**

Conclusion: The regulations require that the Board find that the proposed subdivision provides adequate building sites for each proposed lot. Such sites may be restricted to a specific building zone, to be depicted on the plat, located and sized to ensure compliance with all of the provisions of Section 5 of the regulations.

Although certainly constrained by topography and slopes, the Board concludes the proposed building zones have been designed to meet minimum setbacks and provide adequate building sites.

Findings:

- a. The proposed subdivision plan shows designated building zones for Lots 1-9 as shown on the Sheet C-1 prepared by Mumley Engineering.
- b. The building zone for Lot 1 is triangular shape and does not appear to contain space for any residential accessory structures.
- c. During the hearing the Applicant testified that each lot has been designed to contain sufficient space for a dwelling.

12. Section 5.1(12) – Fire Protection Facilities:

Conclusion: The regulations require adequate water storage or distribution facilities for fire protection to be available. This may include the installation of ponds and dry fire hydrants and the extension of public water with fire hydrants. Where practicable, or where required by the Board, fire hydrants shall be installed by the subdivider. Construction of driveways and roads shall be in general compliance with the Stowe Fire Department Construction Standards where applicable. Based upon the below findings and the evidence submitted, the Board concludes the project has been designed in accordance with Section 5.1(12).

Findings:

- a. No fire protection facilities are provided.
- b. The proposed plans depict a 'Y' turnaround at the end of the private road.
- c. The Applicant provided an email from Stowe Fire Chief Kyle Walker indicating that he had reviewed the revised turnaround. No additional written comments or requests for fire protection facilities were provided from the Stowe Fire Department.

13. Section 5.1(13) – Disclosure of Subsequent Development Plans:

Conclusion: The regulations state whenever a subdivider submits a proposal for development on only a portion of a parcel, the Board is authorized to require a general indication of the intended uses of the remaining portion of land. Such an indication shall include access, type of use, intensity of use, and phasing. The Board is authorized to require the execution of a development agreement between the applicant and Town which ensures the ongoing integration of future development with each phase of subdivision or may require a note on the plat restricting future development of the remaining land without further review by the Board. Based upon the below finding, the Board concludes no future development plans are proposed.

Finding:

- a. No future development plans are provided in the application materials.

14. Section 5.1(14) – Private Enforcement Mechanisms:

Conclusion: The regulations allow the Board to require, as a condition of subdivision approval, the formation of a homeowner's association, consisting of the owners of all properties within the subdivision, to ensure the continual maintenance of shared driveways and other shared facilities. As noted above, during the hearing the Applicant testified that the proposed road and stormwater improvements would be initially constructed by the developer and that the grading, site preparation, and dwelling and driveway construction of the separate lots would be completed by the individual lot owners. As discussed above, the Board finds that this disconnect will result in a fragmented disturbance of the subdivision and a lack of cohesive landscaping and screening. Based upon the below findings, the Board concludes the Applicant provided proposed covenants/HOA documents meeting the minimum standards under the regulations however raises concerns about the enforceability of such covenants, especially pertaining to design review and the maintenance of landscaping and screening.

Findings:

- a. As noted above, the Applicant provided proposed covenants entitled 'Declaration of Covenants, Conditions, and Restrictions of the Ridge at Stowe Hollow', which include design review principles and guidelines that the construction of future dwellings would be required to meet. The guidelines include standards for site integration, scale, materials/color, roofs, and windows and skylights. The stated purpose of the guidelines is "to ensure that a high-quality residential neighborhood is developed and maintained."
- b. The provided covenants outline the maintenance of the common elements, including the road, culverts, ditches, stormwater pond, and privately-owned utilities within the 50' right-of-way.
- c. The covenants outline the requirements for landscaping of each individual private lot and state that each lot must provide a minimum number of plantings on the west side of the main building.
- d. The covenants provide measures for the delineation and protection of the wetland buffer to avoid any unintended disturbances or impacts to this area.

15. **Section 5.2 – Prominent Hillside and Ridgelines:** The lots are not within the RHOD.

Conclusion: This provision is not applicable.

16. **Section 5.3 – Open Space and Cluster Development:**

Conclusion: The regulations require subdivisions having lots or potential dwelling sites for five (5) or more family dwelling units (excluding accessory apartments), and for all Planned Residential Developments (PRDs), require that the subdivision plat designate one (1) or more areas of character, size, shape and location suitable to be used as open space, park or playground. The Board may require the designation of open space when a subdivision consists of the creation of additional lots from a previously approved subdivision where the total new and previously approved lots is greater than four (4) lots. The Board concludes appropriate open space was incorporated into the project design satisfying Section 5.3.

Findings:

- a. The proposed subdivision plan identifies designated open space (2.01 acres) to include the area of the wetland and wetland buffer.
- b. During the preliminary hearing the Board agreed that wetlands provide open space and aesthetic values.
- c. As noted above, a 10' pedestrian easement dedicated to the homeowners provides access to the open space.

17. **Section 5.4 – Road Standards and Coordination with Public Highways:**

Conclusion: The regulations require that all proposed public and private roads be designed to ensure the safe and efficient movement of vehicles. Based upon the below findings, the Board concludes the proposed subdivision has been designed in accordance with Section 5.4 Road Standards and Coordination with Public Highways.

Findings:

- a. Section 16.48 of the Zoning Regulations define the term 'Driveway' as follows... "A roadway used to access not more than three (3) dwelling units that is in private ownership." The Applicant proposes a development road to serve the nine (9) proposed residential lots.
- b. Section 3.1(3) of the town Zoning Regulations states "All access shall meet the requirements of Section 3.1 (Access Management and Frontage Requirements) of the Stowe Zoning Regulations". Section 3.1(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." The Applicant proposes a single curb cut to provide access to the nine (9) lots.

- c. Section 3.1(4) of the town Zoning Regulations states *"In appropriate instances, including the presence of compatible adjacent uses; areas characterized by congestion, 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 DRB may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road. Requirements for shared access shall be made either at the time of site plan approval if similar provision has been made on contiguous parcels or contingent upon future development of neighboring properties."* This provision is not applicable.
- d. Section 5.4(4) of the town Subdivision Regulations provide road design standards for public and private roads. During the hearing the Applicant testified that the road is proposed to remain in private ownership.
- e. Section 5.4(5) of the town Subdivision Regulations state *"Every subdivision plat shall show the necessary right-of-way for all proposed roads, as required by these regulations and the Stowe Zoning Regulations, regardless of whether the proposed road is intended to be accepted by the Town. In the event the road is not intended for acceptance by the Town, the mechanism with which the right-of-way is to be maintained, owned and/or conveyed shall be clearly documented."* Section 3.1(1) of the town Zoning Regulations requires a permanent easement or right-of-way not less than fifty (50') feet wide [In the case of a right-of-way serving not more than three (3) family dwelling units or lots, the right-of-way may not be less than twenty-five (25') feet wide]. The proposed development road has a 50' right-of-way.

18. Section 5.5 – Utilities and Stormwater Management:

Conclusion: The regulations require that all subdivisions make adequate provisions for stormwater and required utilities. During the hearing the Board heard conflicting testimony from the Applicant and the Town Engineer. The Applicant claimed that the project has been designed to meet the minimum stormwater standards as required under both the town and state regulations. The Town Engineer cautioned that there are inconsistencies with the provided hydraulic and hydrology calculations and that in his professional opinion the stormwater improvements have not been designed in accordance with town regulations. Through deliberations, the Board agreed that the Town Engineer has a broader understanding of the impacts of stormwater on municipal facilities and that he has no financial or personal interest in the project, rather provided a technical review of the application in his capacity as Town Engineer. The Board relies on this technical review in determining whether projects meet adopted town standards and accepted engineering practices. Based upon the below findings and preponderance of evidence, the Board concludes the Applicant did not provide a stormwater plan in conformance with Section 3.12. Although the proposed improvements are likely designed in conformance with State of Vermont stormwater rules, the Board is unable to conclude that the proposed stormwater improvements have designed to *"ensure that stormwater runoff is not increased beyond the boundaries of the project"* as required under Section 3.12(2)(F).

Findings:

- a. Section 5.5 (2) states *"The DRB is authorized to require the underground installation of power and telephone lines wherever it is appropriate to maintain and protect the visual character and property values of an area or neighborhood. In addition, the DRB may place restrictions on the location and design of utility transformers, trans closures, meter boards and related equipment in order to minimize adverse visual impact."* The Applicant testified that utilities will be below ground.
- b. The Applicant provided wastewater plan and stormwater systems plan prepared by Mumley Engineering. The Applicant testified that the plans have been designed in accordance with State design standards.
- c. The project narrative indicates the project involves more than one (1) acre of disturbance and thus will require a State of Vermont Construction General Permit. During the hearing the Applicant also reported that the project will require a State of Vermont Stormwater Operational Permit which includes annual reporting.
- d. The Applicant proposes a total of 0.96 acres of impervious surfaces as noted on Sheet C-6.

- e. Section 5.5 (4) states "All stormwater management activities required by the Town shall adhere to current State of Vermont erosion prevention and sediment control standards and to the requirements of Section 3.12 of the Stowe Zoning Regulations." The Applicant provided plans prepared by Mumley Engineering. The plan shows a gravel wetland to treat stormwater located on Lot 5. Many of the ditches along the private road and driveways are stone lined with Type II riprap. A series of catch basins and culverts are shown to collect water and divert stormwater to the gravel wetland on Lot 5.
- f. The Town Engineer provided written and verbal testimony regarding the proposed stormwater improvements. He testified that the stormwater management pond is not practically accessible for operations and maintenance. The Applicant subsequently revised the plans to provide a more practical route for operations and maintenance.
- g. During the hearing the Board heard testimony from the Applicant and the Town Engineer regarding design storm events. The Town Engineer recommended that the stormwater detention pond be designed for a 100 -year storm event. The Applicant testified that it was not necessary and not required under State of VT stormwater rules. The Town Engineer also raised concerns with the hydrology and hydraulic calculations and stated that in his professional opinion the proposed stormwater detention basin "does not achieve the requisite zero increase in peak stormwater discharges."
- h. Section 3.12(2)(F) of the town zoning regulations requires the following: "All development that creates more than 1/2 (one-half) acre of additional impervious surface must provide for an adequate stormwater drainage system to ensure that stormwater runoff is not increased beyond the boundaries of the project as determined by the standards used for the State of Vermont stormwater management permits. Such development shall submit a stormwater management plan prepared and sealed by a registered engineer before a zoning permit is issued."

DECISION

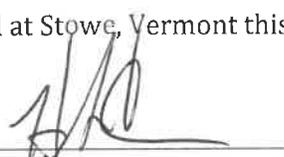
On a motion by F.Aumand III, seconded by C.Walton, the Development Review Board hereby denies the Applicant's request for Final Subdivision approval for a 9-lot subdivision (Project 6184) of the parcel #07-157.010 as described in the application dated 12/19/2019 and associated supporting materials.

1. The Applicant failed to document full conformance with the following applicable sections of the Town of Stowe Subdivision Regulations: Section 5.1(1); Section 5.1(2); Section 5.1(4); Section 5.1(6), Section 5.1(8) & Section 5.5; and the following provisions of the Town of Stowe Zoning Regulations: Section 3.12(2)(F).

Voting to deny: D.Clymer, F. Aumand, C.Walton, M. Diender, A. Volansky, L. Wasserman
 Voting to approve: None

Motion PASSED 6-0

Dated at Stowe, Vermont this the 6th day of April 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.

