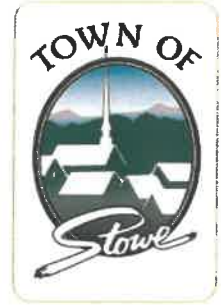


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6202

SUBJECT PROPERTY: 0 Ayers Farm Road, Stowe, VT [02-155.000 & 02-154.000]
[e911 number to be assigned]

PROPERTY OWNER(s):
George & Janet Vaupel &
Barbara Lafleur
Stowe, VT 05672

APPLICANT:
David Lachtrupp
PO Box 237
Waterbury Center, VT 05677

APPLICATION:

The Applicant, David Lachtrupp, on behalf of property owners, George & Janet Vaupel and Barbara Lafleur (herein referred to as the "Applicant"), requests Ridgeline and Hillside Overlay District [RHOD] review to clear a building zone, install a residential driveway and septic system, and related site improvements of an undeveloped pre-existing parcel including tree thinning/clearing on the adjacent Lafleur parcel [02-154.000]. The property is served by Ayers Farm Road (TH-65), a Class 3 town-maintained road.

The subject parcel, consisting of ±3.5 acres and located at 0 Ayers Farm Road, Stowe, VT (02-155.000), is in the Rural Residential 3 (RR3) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The subject parcel is bound to the north, west, and south by Ayers Farm Road and to the east by two (2) residential parcels, a ±1.6 acre parcel owned by Erhard Trude Life Estate and a ±2.25 acre parcel owned by Zinn John Revocable Trust. The parcel was created prior to the adoption of subdivision regulations and as such is considered a pre-existing lot with no prior attached conditions of subdivision approval. The application has been reviewed by the Stowe Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of Ridgeline and Hillside Overlay District (RHOD) review.

The Development Review Board's procedural history and relevant findings are attached.

REVIEW PROCESS:

(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)

An application for RHOD review was filed by Applicant David Lachtrupp on February 12, 2020. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Stowe Development Review Board for a public hearing. A public hearing of the DRB was scheduled for April 7, 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 March 19, 2020. The Applicant provided a completed certificate of service in accordance with Section 2.14(1)(B).

The April 7th meeting was subsequently canceled due to the COVID-19 Declared State of Emergency and the 'Stay Home, Stay Safe' order by the Governor. The application was subsequently rescheduled for a hearing on May 5, 2020 and re-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 April 16, 2020. The Applicant submitted a new completed certificate of service in accordance with Section 2.14(1)(B), providing notice of the rescheduled hearing to the property abutters.

The public hearing to consider the application convened on May 5, 2020 using a virtual meeting platform 'Go to Meeting', with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Members who participated include: D. Clymer, P. Aumand, T. Hand, P. Roberts, A. Volansky, L. Wasserman, C. Walton.

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

- David Lachtrupp, PO Box 237, Waterbury Center, VT 05677
- John Grenier, P.O. Box 445, Waterbury, VT 05676
- Barbara Lefleur, 334 Ayers Farm Rd, Stowe, VT 05672

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

- Town of Stowe Development Application (2 pages); dated 2/12/2020;
- Proposed Site Plan 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 1 of 1, dated 2/19/2020;
- Site Location Map for View Study 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 1 of 2, dated 2/19/2020;
- Cross Sections for View Study 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 2 of 2, dated 2/19/2020;
- Various photographs showing nearby vantage points and existing conditions;
- Comments from Dave Kresock of Stowe Electrical Department, dated 4/15/2020.

During the 5/5 hearing the Board requested additional information and as such, continued the hearing to a time and date certain, June 2, 2020 at 5:00 PM. In advance of the June 2nd hearing, the Applicant provided the following additional submittals:

- Proposed Site Plan 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 1 of 1, last revised 5/27/2020;
- Cross Sections for View Study 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 2 of 2, last revised 5/27/2020;

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- The Applicant's request for RHOD approval was reviewed by the Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018), including the following:

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 9- Ridgeline and Hillside Overlay District

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel is within the Rural Residential 3 (RR-3) and the Ridgeline and Hillside Overlay District (RHOD) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The subject parcel is ±3.5 acres. No changes to lot width or lot area are proposed under this application.
3. **Setbacks.** Required minimum district setbacks for the RR3 district are front (70'), side (60') and rear (60'). The provided site plan shows the location of the setbacks and proposed improvements (i.e. driveway, septic, etc.). No buildings are proposed under this application.
4. **Maximum Building Coverage.** Does not apply to the RR3 zoning district.
5. **Use.** The Applicant proposes clearing and site improvements. No uses are proposed under this application.
6. **Density.** Does not apply.
7. **Height.** Does not apply.

SECTION 9 – RIDGELINE AND HILLSIDE OVERLAY DISTRICT. (1) Under the provisions of the Town of Stowe Zoning Regulations (as adopted October 8, 2018), the application was reviewed under the applicable provisions of Section 9- Ridgeline and Hillside Overlay District. Staff referred the application to the Board since the project is not eligible for an exemption under Section 9.4(2).

Section 9.5 RHOD Guidelines:

8. **Standard (1) General Requirements:** To protect the unique visual and environmental character of the RHOD, especially those characterized by steep slopes, prominent knolls, ridgelines and significant focal points, the regulations require that all development be designed and sited in a manner that does not cause undue adverse impact to the visual/scenic landscape character and the physical environment of the town. The Applicant proposes clearing and site improvements. No buildings are proposed under this application. The Board finds that the proposal has been designed and sited in a manner that does not cause undue adverse impact to the visual/scenic landscape character and the physical environment of the town.
9. **Standard (2) Designation of Vantage Points:** The regulations define vantage points as maintained (class 3 or higher) public roads, state highways and municipal properties. The Applicant provided several photographs showing the project vicinity. The Applicant also provided a cross section visual assessment prepared by Grenier Engineering. The lot is visible from Ayers Farm Road, similar to other parcels and dwellings located on this road. According to the cross-section assessment, it indicated possibly visibility from Shaw Hill Road but from a distance of ±1.75 miles. During the hearing, testimony was received that topography and existing wooded hillsides block the view of the parcel from Shall Hill Road. It was reported that any impacts to public vantage points would be primarily from Ayers Farm Road as it essentially surrounds the parcel. The Board finds the proposal will not have significant negative impacts on public vantage points.
10. **Standard (3) Standards and Guidelines:** Standard 3 provides guidelines and accompanying illustrations to guide development in a visually and environmentally sensible way without an undue adverse impact to scenic and environmental resources. The Applicant proposes clearing and site improvements. No buildings are proposed under this application. A clearing schedule is noted

on the site plan. The proposed driveway location enters the site from the western portion of the lot. The Board reviewed the applicable standards and guidelines and finds that the proposed improvements will not adversely impact the character of the scenic landscape and no further mitigation measures are warranted.

11. **Standard (4)** The regulations require that development not result in an undue adverse impact on fragile environments, including designated wetlands, wildlife habitats, streams, steep and extremely steep slopes and unique features. All efforts should be made to protect/preserve such areas and promote suitable buffers. The Applicant proposes clearing and site improvements. No buildings are proposed under this application. According to the ANR Natural Resources Atlas there are no fragile environments that would be impacted from the proposed project. The parcel is undeveloped. No wetlands, deer wintering areas, or hydric soils are shown on the ANR Natural Resources Atlas. The Board finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.
12. **Standard (5)** The regulations require if the project is on a forested hillside, there will be no significant exposure of buildings, and all development be minimally visible and blend in with surroundings in winter months. The amount and location of clearing adjacent to structures shall be limited; additional tree planting may be required in instances where planting is needed to visually interrupt the portion of structures visible from defined vantage points. The Applicant proposes clearing and site improvements. No buildings are proposed under this application. A forest thinning schedule is proposed as noted on the site plan to include thinning of 100% of the trees in the center portion of the lot surrounding the proposed building site and in areas to accommodate proper line of sight on either side of the proposed driveway. Areas of 50% thinning on the southern portion of the lot and areas of 80% thinning on a portion of the northern of the lot for views, are also noted. Other areas are not proposed to be cleared or disturbed. The Board finds the proposal will be minimally visible and conforms to Standard 5.
13. **Standard (6)** Development shall not detract from the sense of order or harmony of the landscape patterns formed by forests, agricultural fields and open meadows. The Applicant proposes clearing and site improvements. No buildings are proposed under this application. Many of the parcels on Ayers Farm Road pre-date the adoption of subdivision regulations. The Applicant provided photographs showing existing conditions and nearby properties. Many of the existing dwellings are located closer to the road and are visible from Ayer Farm Road. The Board finds that the proposal has been designed and sited in a manner that will not detract from the sense of order or harmony of the landscape patterns.
14. **Standard (7)** During construction, trees identified on the landscaping plan are to be protected. The Applicant provided a site plan showing proposed clearing and thinning schedule. The project also includes proposed thinning on the adjacent Lafleur parcel [02-154.000]. According to the proposed site plan (last revised 5/27/20), a group of trees/vegetation on the Lefleur property will be thinned to 80%- portions of this grouping of trees are located in the RHOD on the southern side of the existing driveway. No other clearing or removal of trees is proposed under this application.
15. **Standard (8)** The regulations require that driveway grades not exceed fifteen (15%) percent and have an average grade that does not exceed twelve (12%) percent. Where necessary, limited steeper grades are acceptable if they serve to better minimize overall erosion potential and environmental/aesthetic impacts, provided adequate access is ensured for fire and rescue vehicles. The driveway enters the parcel from the western portion of the lot. During the hearing, the

Applicant testified that they have secured a driveway entrance permit from the Department of Public Works.

16. **Standard (9)** The regulations require that development not result in any building, roof or appurtenant structure being located in a manner which would allow the building, roof or structure to visually exceed the height of land or tree line if it is protected serving as the visual and physical backdrop to the structure as viewed from vantage points. The Applicant proposes clearing and site improvements. No buildings are proposed under this application. Any future dwelling will require review by the Board and conformance with Standard 9.
17. **Standard (10)** The regulations require that massing of a project be designed to minimize visual impacts and contribute to, and harmonize with, the scenic quality of the surrounding landscape. The Applicant proposes clearing and site improvements. No buildings are proposed under this application. This standard does not apply.
18. **Standard (11)** Offsite light impacts shall be minimized. Outdoor lighting must comply with the standards contained in Section 4.8 of the regulations. The Applicant proposes clearing and site improvements. No buildings or outdoor lighting are proposed under this application. This standard does not apply.
19. **Standard (12)** The regulations require that the minimum area for all lots in existence prior to August 3, 1998 be as established for the underlying district. Minimum area for any lot created after August 3, 1998 shall be as established for the underlying district, excluding any portion of the lot with an average steepness (slope gradient) in excess of twenty (20%) percent. The lot area must have an area four times (4x) the minimum lot area identified in the underlying district for that portion of the parcel exceeding 20%. No change in lot area is proposed under this application. The provisions of this section do not apply.

Conclusion: The Board concludes the proposed development is in conformance with all applicable RHOD standards and guidelines.

DECISION

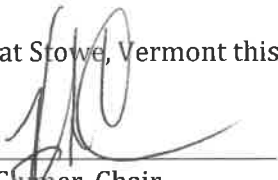
On a motion by C.Walton, seconded by L.Wasserman, the Stowe Development Review Board hereby approves the Applicant's request for RHOD approval as outlined in the application dated 2/12/2020 and supplemental materials including 'Proposed Site Plan 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 1 of 1, last revised 5/27/2020', 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. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Clearing for construction shall be restricted to the areas shown on the approved site plan entitled "Proposed Site Plan 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 1 of 1, last revised 5/27/2020'. The 'no cut zone' shall be left undisturbed except as necessary to remove dead or diseased trees and to promote the health of the forest.

4. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
5. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
6. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
7. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided to ensure compliance with the provisions of Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
8. An adequate stormwater drainage system must be maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
9. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that the project has been constructed as approved by the Development Review Board. Prior to the issuance of a Certificate of Occupancy, the Applicant shall provide the following:
 - Written confirmation from forester licensed to practice in the State of Vermont certifying that the completed tree thinning conforms to the approved thinning schedule as noted on the approved site plan.
10. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting favor: D. Clymer, P. Aumand, T. Hand, P. Roberts, A. Volansky, L. Wasserman, C. Walton
 Voting to deny: None

Dated at Stowe, Vermont this the 15 day of June 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.