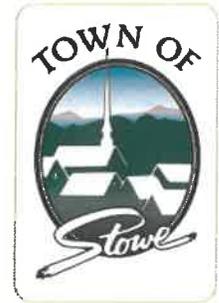


**TOWN OF STOWE**  
**DEVELOPMENT REVIEW BOARD**  
Findings of Fact & Conclusions of Law



**PROJECT:** 6235

**SUBJECT PROPERTY:** 338 Upper Judson Ln, Stowe, VT (#07-087.000)

**PROPERTY OWNER/APPLICANT:**

James & Barbara Fox  
338 Upper Judson Lane  
Stowe, VT 05672

**APPLICATION:**

The Applicant and property owners James & Barbara Fox (herein referred to as the "Applicant"), requests RHOD review for after-the-fact approval for a 12' x 12' screen porch addition constructed in 2015. The property is served by Upper Judson Lane, a privately owned and maintained road. The subject parcel, consisting of ±7.4 acres and located at 338 Upper Judson Lane, Stowe, VT (07-087.000), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The subject parcel is bound to the north by a ±276.2 acre parcel owned by Morrill; to the east by a ±4.7-acre parcel owned by Durham & Tobler; to the south by a ±11.9 acre parcel owned by Gray Trust; and to the west by a ±15.88 acre parcel owned by Charkalis. The application has been reviewed by the Development Review Board 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 Barbara Fox on May 1, 2020. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the Development Review Board was scheduled for June 2, 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 May 14, 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 June 2, 2020 with a quorum of the DRB present. The remote hearing was held using Zoom with no physical meeting space provided. No ex parte communications or conflicts of interests were reported. Members who participated in the review included: Drew Clymer, Leigh Wasserman, Tom Hand, Chris Walton, Francis Aumand III, Andrew Volanksy, 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:

- James & Barbara Fox, 338 Upper Judson Lane, Stowe, VT 05672
- Sam Scofield, P.O. Box 773, 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 5/1/2020;

- Hand-drawn site plan- revised to show porch addition, dated 5/1/2020;
- Town of Stowe Assessors Card- revised to show porch addition, no date;
- Photograph from front yard showing porch addition, no date;
- Photograph take from shed on Quiet Path with telephoto lens, no date;
- Full frame photo taken at pull-off by shed at Quiet Path, Mayo Farm & Weeks Hill Rd, no date;
- Google Map showing photo location and property location, no date;
- Additional information regarding outdoor lighting including email from Barbara Fox dated 5/28/2020, assessors card with existing outdoor lighting locations highlighted, and photographs of existing light fixtures.

The Development Review Board 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 5 (RR-5) and the Ridgeline and Hillside Overlay District (RHOD) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The subject parcel is ±7.41 acres. No changes to lot width or lot area are proposed under this application.
3. **Setbacks.** Required minimum district setbacks for the RR5 district are front (70’), side (75’) and rear (75’). The provided site plan shows the location of the screened porch in relation to the property line. The porch appears to be ±90 ft from the side property line and clearly outside of the front and rear setbacks.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The lot contains a single-family dwelling. Single-family dwellings are a permitted use in the RR5 district. No change of use proposed.
6. **Density.** The RR5 district allows single-family dwellings at a density of one (1) per five (5) acres. No change in density proposed.
7. **Height.** The maximum building height in RR5 is 28’ feet. The application does not provide the porch height but based on photographs it clearly appears to be less than 28’.

**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 seeks after-the-fact approval for a 12' x 12' screen porch addition constructed in 2015. The main dwelling was constructed in 1986, prior to the adoption of the RHOD standards. 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 provided photographs showing the location of the screened porch as seen from the shed on the Quiet Path. The Board finds the proposal will not negatively impact public vantage points and will have limited visibility from public vantage points.
10. **Standard (3) Standards and Guidelines:** Standard 3 provides guidelines and accompanying illustrations to guide development in a visually and environmentally sensible way without an undue adverse impact to scenic and environmental resources. The Applicant seeks after-the-fact approval for a 12' x 12' screen porch addition constructed in 2015. The porch is located to the north side of the main dwelling. The Board reviewed the applicable standards and guidelines and finds that the proposed improvements does not adversely impact the character of the scenic landscape.
11. **Standard (4)** The regulations require that development not result in an undue adverse impact on fragile environments, including designated wetlands, wildlife habitats, streams, steep and extremely steep slopes and unique features. All efforts should be made to protect/preserve such areas and promote suitable buffers. The Applicant seeks after-the-fact approval for a 12' x 12' screen porch addition constructed in 2015. The parcel is previously developed with a single-family dwelling and related improvements. The main dwelling was constructed in 1986, prior to the adoption of the RHOD standards. The Board finds that the proposal does 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 aerial photographs indicate the parcel is previously cleared in the area surrounding the house and driveway. The porch appears to have been constructed with dark brown building materials- matching the materials on the main dwelling. The Board finds the proposal is 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 seeks after-the-fact approval for a 12' x 12' screened porch. 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 seeks after-the-fact approval for a 12' x 12' screened porch. The aerial photographs indicate the parcel is previously cleared in the area surrounding the house and driveway.
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. No changes to the location or grade of the existing driveway are proposed.
16. **Standard (9)** The regulations require that development not result in any building, roof or appurtenant structure being located in a manner which would allow the building, roof or structure to visually exceed the height of land or tree line if it is protected serving as the visual and physical backdrop to the structure as viewed from vantage points. Based on the provided photographs, the screened porch does not appear to visually exceed the height of land or treeline. The Board finds the proposal is in conformance with Standard 9 and has been designed in a manner that will not visually exceed the height of the land or tree line.
17. **Standard (10)** The regulations require that massing of a project be designed to minimize visual impacts and contribute to, and harmonize with, the scenic quality of the surrounding landscape. The porch appears to have been constructed with dark brown building materials- compatible with the main dwelling. The Board finds the proposal is in conformance with Standard 10 and has been designed to minimize visual impacts and compliment the scenic quality of the surrounding landscape.
18. **Standard (11)** Offsite light impacts shall be minimized. Outdoor lighting must comply with the standards contained in Section 4.8 of the regulations. The Applicant provided supplemental information regarding outdoor lighting on the dwelling and testified that the screened porch does not contain any outdoor light fixtures. The Board finds the project is in conformance with Section 4.8 of the regulations and has been designed to minimize impacts.
19. **Standard (12)** The regulations require that the minimum area for all lots in existence prior to August 3, 1998 be as established for the underlying district. Minimum area for any lot created after August 3, 1998 shall be as established for the underlying district, excluding any portion of the lot with an average steepness (slope gradient) in excess of twenty (20%) percent. The lot area must have an area four times (4x) the minimum lot area identified in the underlying district for that portion of the parcel exceeding 20%. No change in lot area is proposed under this application. The provisions of this section do not apply.

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

## **DECISION**

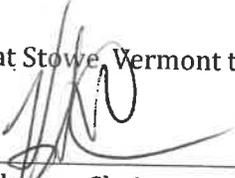
On a motion by F.Aumand III, seconded by A.Volanksy, the Development Review Board hereby approves (7-0) the Applicant's request after-the-fact approval for a 12' x 12' screened porch as outlined in the application dated 5/1/2020 and supplemental materials, subject to the following conditions of approval:

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 outdoor lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.
3. Exterior lighting shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA). Exceptions to this standard to accommodate a particular "period" or architectural style are allowed, providing the maximum initial lumens generated by each fixture not exceed 2,000 (equivalent to a 150-watt incandescent bulb).
4. 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.
5. 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: Drew Clymer, Leigh Wasserman, Tom Hand, Chris Walton, Francis Aumand III, Andrew Volanksy, and Peter Roberts.

Voting to deny: None

Dated at Stowe, Vermont this the 14 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.