

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



PROJECT: 6249

SUBJECT PROPERTY: 62 Lindhaus Lane; #06-094.000

PROPERTY OWNER:

Ben & Robin Benoit
3.5 Morgan Street
Mystic, CT 056355

APPLICANT:

John Lupien
613 South Main Street
Stowe, VT 05672

APPLICATION:

The Applicant, John Lupien, on behalf of property owners Ben & Robin Benoit (herein referred to as the "Applicant"), requests conditional use approval to construct a residential addition on the existing single-family dwelling, a two-car garage, and related improvements. Based on provided construction estimates, the proposed improvements are estimated to cost more than fifty percent (50%) of the market value of the structure and as such are considered a substantial improvement, as defined under the regulations.

The subject parcel, consisting of ±1 acre and located at 62 Lindhaus Lane (#06-094.000), is in the Rural Residential II (RR2) Zoning District, Flood Hazard Overlay District (FHO), and Fluvial Erosion Hazard Overlay District (FHO). The subject parcel is generally bound to the north by the West Branch of the Little River, to the west by common land belonging to the Stoneybrook condominium development, to the south by common land belonging to the associated homeowners along Meadow Lane, and to the east by a ±0.5-acre parcel owned by James & Patricia Mogan (36 Lindhaus Lane). 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 conditional use review and the fluvial erosion hazard development standards. The Development Review Board's procedural history and relevant findings are attached.

REVIEW PROCESS:

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

An application for conditional use review was filed by Applicant John Lupien on May 13, 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 DRB was scheduled for June 16, 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 28, 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 June 16, 2020 utilizing the remote meeting service Zoom with a quorum of the DRB present. Participating alternate member Michael Diender noted that he owns adjacent property across the river but can offer a fair and unbiased review of the application. No other ex parte communications or conflicts of interests were reported. Members who participated in the review included: D. Clymer, L. Wasserman, T. Hand, F.Aumand III, M.Diender, and C.Walton.

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

- John Lupien, 613 South Main Street, Stowe, VT 05672, Stowe, VT 05672

- Ben & Robin Benoit, 3.5 Morgan Street, Mystic, CT 056355
- Kim Brown, PO Box 92/32 Howard Ave, Waterbury Center, VT 05677

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

1. Town of Stowe Development Application, received 5/13/2020;
2. Project Cost of Construction Estimates, no date;
3. Project Narrative, dated 5/12/2020;
4. Letter of Map Revision Floodway Determination Document (Removal) (including site plan of area to be removed from SFHA), dated 12/23/2008;
5. Town of Stowe Assessors Card and sketch, dated 9/20/2012;
6. Photos of garage light fixture, deck fixtures, entry & garage corner fixtures, no date;
7. Set of plans prepared by Kim Brown Projects including the following:
 - Exterior Overview, Sheet A2- 3D.1, dated 6/8/2020;
 - Interior 1st Floor Isometric View, Sheet A3- 3D.2, dated 5/13/2020;
 - Interior 2nd Floor Isometric View, Sheet A4- 3D.3, dated 5/13/2020;
 - Basement Plan, Sheet A-5, B1.1., dated 5/13/2020;
 - Proposed 1st Floor Plan, Sheet A-6, A1.1., dated 6/8/2020;
 - Proposed 2nd Floor Plan, Sheet A-7, A1.2., dated 6/8/2020;
 - Proposed Front Elevation, Sheet A-8, A2.1, dated 6/8/2020;
 - Proposed Right & Left Elevations, Sheet A-9, A2.2., dated 6/8/2020;
 - Proposed Rear Elevation, Sheet A-10, A2.3, dated 6/8/2020;
 - Proposed Section 1, Sheet A-11, A2.5, dated 5/13/2020;
 - Sections 2 & 3, Sheet A-12, A2.6, dated 5/13/2020;
 - Proposed Roof Plan, Sheet A-13, RP.1, dated 5/13/2020;
 - Window Schedule, Sheet A-14, SCH.1, dated 6/8/2020;
 - Window Schedule, Sheet A-15, SCH.2, dated 6/8/2020;
 - Partial Site Plan, Sheet A-1, SP.1, dated 6/8/2020;

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 conditional use approval was reviewed by the Stowe 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 11- Fluvial Erosion Hazard Overlay District
- Section 15- Parking Regulations

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

1. **Zoning District.** The subject parcel is located in the Rural Residential II (RR2) Zoning District, Flood Hazard Overlay District (FHO), and Fluvial Erosion Hazard Overlay District (FHO) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). Although the property

appears to be located within the FHO, the Applicant provided a copy of the LOMA [Letter of Map Revision Floodway Determination Document (Removal)] including site plan of area to be removed from Special Flood Hazard Area [SFHA] (i.e. FHO). The lands removed from the SFHA are therefore not subject to the review criteria set forth in the FHO standards.

2. **Lot Area, Lot Width.** The subject parcel contains ± 1 -acres, as such is considered a pre-existing nonconforming lot, as defined under the regulations. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in the RR2 district are front (60'), side (50') and rear (50'). Per Section 3.3(A)(2), "*The Zoning Administrator shall not require the applicant to seek a variance from the DRB as long as the proposed setbacks comply with those specified for the district nearest in size to the lot (e.g., a 1.1 acre approved lot in RR5 would not require a variance if the construction will meet the setback requirements of RR1; a lot smaller in area than 20,000 sq. ft. in the VR40 would not require a variance if construction will meet the set-back requirements for VR20).*" As such, the RR1 setbacks of front (50'), side (30') and rear (40') can be applied to this parcel. The setbacks are shown on the provided Partial Site Plan, Sheet A-1 [SP.1]. The proposed improvements all appear to be located outside of the required minimum property line setbacks; however, the proposed garage is virtually located on the minimum required side setback. Per Section 2.10 "*The Zoning Administrator may require reasonable proof from the applicant that all required setbacks have been satisfied when proposed structures are within fifteen (15') feet of any required setback. Reasonable proof may include a survey, certification of setbacks by a surveyor, or demonstrating physical location of property boundaries.*" The Board agreed that this provision should be included as a condition of approval.

Section 3.10(1) further states "*To protect water quality and maintain the scenic beauty of the Town's watercourses, there shall be no development, excavation, landfill or grading in any zoning district within a minimum distance of fifty (50') feet from the top of the bank of any watercourse in the Town. The top of the bank shall mean the point along a stream bank where an abrupt change in slope is evident.*" The fifty (50) foot watercourse setback is not labeled on the plan. A gravel driveway and two (2) parking spaces are shown on the plans to be located partially (or entirely) within the watercourse setback. During the hearing, the Applicant testified that the gravel driveway and parking area are existing, and no changes are being proposed in this area.

4. **Maximum Building Coverage.** There is no maximum building coverage in RR2 district.
5. **Use.** The subject building contains a single-family dwelling. No changes of use are proposed under this application.
6. **Density.** No changes or increases in density are proposed.
7. **Height.** The maximum building height in RR2 is 28' feet. The regulations define building height as the "*Vertical distance measured from the average elevation of the proposed finished grade at the front or rear of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the highest ridge and its contiguous eave for other types of roofs. On sloping sites the height will be measured on the uphill side.*" The building height of the addition and garage are not labeled on the plans however the addition is shown to continue along the same roofline and the garage appears to be one-story, clearly under the 28' allowed height.

Section 11 Fluvial Erosion Hazard Overlay District. The purpose of the Fluvial Erosion Hazard (FEH) Overlay District is to prevent increases in fluvial erosion resulting from uncontrolled development in identified fluvial erosion hazard areas; minimize property loss and damage due to fluvial erosion; prohibit land uses and development in fluvial erosion hazards areas that pose a danger to health and safety; and discourage the acquisition of property that is unsuited for the intended purposes due to fluvial erosion hazards.

8. Section 11.6 outlines the activities that are allowed within the FEH subject to review as a conditional use including the following:

(1) Substantial improvements to existing structures located within a FEH Area that do not result in a decrease of the existing primary structure setback from any stream.

Substantial Improvement is defined as "Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure either: (a) before the improvement or repair is started; or (b) if the structure has been damaged and restored, before the damage occurred. For the purpose of administering flood hazard area regulations, this definition excludes the improvement of a structure to comply with existing municipal or state health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions."

(2) Construction of driveways and/or access roads, parking areas and recreation paths.

(3) Buried utility lines, including power, telephone, cable, sewer, and water.

(4) Excavation and grading of land associated with any other use or development activity.

The Applicant proposes to construct a residential addition, garage, and related improvements. Estimated project costs were provided and are projected to be \$353,475.00. The Town of Stowe Assessors Card indicates that the dwelling itself is valued at \$162,979 (replacement cost new) and \$128,800 (replacement cost new less depreciation). Regardless of which figure is applied to determine market value of the structure, the projected project cost exceeds 50% and as such is considered a *substantial improvement*, as defined under the regulations.

9. Section 11.8(2)(A) sets forth the application review procedures and requires referral to Vermont Department of Environmental Conservation (DEC). Staff referred the application to ANR River Management Program (RMP) on 5/14/2020. The thirty (30) day response time expired and no comments were received.

10. Section 11.8(2)(B) sets forth the development standards for projects within the FEH and state the following:

The Development Review Board will consider the application and any comments provided by the RMP to ensure that all development within the FEH Overlay District meets the following standards:

1. No reasonable alternative location for the proposed development outside of the FEH area is available on the site.

2. *The proposed development will not increase the susceptibility of the property, including existing and proposed, to fluvial erosion damage.*

3. *The proposed development will not increase the potential for damage to other properties due to fluvial erosion.*

4. *The proposed development will not increase the potential of materials being swept onto other lands or into the stream and causing damage to others from fluvial erosion.*

5. *The proposed development will not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.*

6. *New development may be allowed within the FEH District if based on a review by the RMP it is determined that the proposed development is not located or should not be located within the FEH area and that the new development complies with all other standards in i. through v. above.*

Conclusion: During the hearing, the Board reviewed the development standards and agreed the proposed project satisfied the applicable standards. The Board concludes the proposal is a substantial improvement and has been designed in accordance with the development standards as set forth in Section 11.8(2)(B).

Section 3.7(2)(A) – Standards of review (Conditional Use Applications): The Development Review Board must determine that the use will conform to the following set of standards and will not result in an undue adverse effect on the following:

11. Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services:

Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, Police Department, EMS, and Parks and Recreation. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services.

Dave Kresock of Stowe Electrical Department provided the following comments:

Project #6249 – Property owner’s electrician should provide new load data for SED to determine if the existing transformer is appropriately sized for the new load.

Conclusion: The Board concludes the proposal will not result in an undue adverse effect on the Town’s existing or planned facilities or services.

12. Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity: The Applicant proposes to construct a residential addition, garage, and related improvements. The proposal is not expected to generate any increase in the number vehicle trips.

Conclusion: The Board concludes the proposal will not create an undue adverse impact on traffic on roads and highways in the vicinity.

13. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the RR2 zoning district. As noted under Section 5.6(1) the general purposes of the agricultural and rural districts are as follows:

A. To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.

B. To promote the preservation of adequate open space through carefully planned cluster types of development.

C. To encourage agricultural productivity of good farmlands and of forest resources.

D. To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.

As noted under Section 5.6(1)(2) Specific Purposes in RR 1 and RR 2:

A. To allow a higher density closer to available municipal services while maintaining the quality of the neighborhoods.

Conclusion: The Board concludes the proposal will not adversely affect the character of the area as defined under the town’s zoning regulations.

14. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under applicable Conditional Use & FEH criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. No other known municipal bylaws or ordinances apply to this project.

Conclusion: The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018.

15. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant proposes a residential addition and garage. The improvements are not expected to impact the use of, or access to, the utilization of renewable energy resources.

Conclusion: The Board concludes the project will not interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

Section 3.7(2)(B) – Other Standards of Review:

16. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The Applicant proposes to construct a residential addition and garage. The site is previously developed and contains an existing single-family dwelling and related improvements. As noted above, the parcel is located within the Fluvial Erosion Hazard Overlay (FEH) and as such requires review as a conditional use. See related development standards above.

Conclusion: The Board concludes the proposal will not adversely affect the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

17. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant proposes to construct a residential addition, garage, and related improvements.

Conclusion: The Board concludes the project, as conditioned, will not result in undue water, noise, or air pollution.

18. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by Lindhaus Lane. No expansions or improvements to the existing curb cut are proposed under this application.

Conclusion: This provision does not apply.

19. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Lindhaus Lane and a private driveway. See parking and circulation below.

Conclusion: This provision does not apply.

20. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 15 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. Single-family dwellings are required to have two (2) parking spaces. The Applicant proposes a two (2) bay garage, satisfying the minimum parking requirement. During the hearing, the Board noted that the access and circulation to the proposed garage is not clearly shown on the plan. The Applicant agreed to modify the plans to show the proposed access to the garage.

Conclusion: The Board concludes that minimum parking as required under the regulations is provided and as a condition of approval, the Applicant will be required to submit revised plans showing the access to the garage.

21. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided. No changes to existing pedestrian circulation or access improvements are proposed under this application.

Conclusion: The Board concludes that no changes to the existing pedestrian circulation and access are proposed under this application.

22. **Section 3.7(2)(B)(7) – Landscaping and Screening:** The regulations require landscaping details and screening of garbage collection areas, outdoor storage, commercial ventilation systems over two square feet; loading and unloading areas and other outdoor utilities, including solar installations, be provided as part of proposed site development plans. No changes to the existing landscaping or screening are proposed under this application. Several existing trees are called out on the site plan.

Conclusion: The Board concludes that no changes to the existing landscaping and screening are proposed under this application.

23. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction. The Applicant should describe any changes to existing drainage patterns and proposed sediment control and erosion prevention measures. Section 3.12(2) provides stormwater and erosion

control standards for construction-related activities associated with any new construction as follows:

- A. Site construction will be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.*
- B. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, will be stabilized.*
- C. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters. All development involving the disturbance of more than one-half acre shall submit an erosion and sediment control plan that incorporates the State of Vermont erosion prevention and sediment control practices before a zoning permit is issued.*
- D. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless in application materials include erosion control measures that are adequate to ensure compliance with (A), (B) and (C) as noted above, taking into account winter and spring conditions.*
- E. All development must provide for an adequate stormwater drainage system to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.*
- F. 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.*

Conclusion: The Board concludes the Applicant will be required to meet the above standards during construction.

24. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the Board shall be guided by the following standards when reviewing all site development plans in the designated zoning district. These standards apply to all site development plans, including those involving new construction, expansion, alteration or change of use. The Board may waive the specific requirements of this section when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts.

- 1. Additional HT, RR, MOD, UMR Standards: Within the Highway Tourist (HT), (**Rural Residential (RR)**, Meadowland Overlay (MOD)) and Upper Mountain Road (UMR) Districts, site plans shall re-enforce efficient traffic circulation, preserve such important landscape features as open fields, scenic vistas, natural and cultural focal points and a well landscaped highway corridor.

To help achieve these objectives, the following standards shall apply:

- a. **Front Yard Treatment:** A continuous strip not less than twenty (20') feet deep, measured from the edge of the highway right-of-way, shall be maintained between the

street line and the balance of the lot, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. In addition, no portion of the front yard may be used for storage or for any purpose except as provided herein.

- b. **Parking:** Parking shall be located in the rear and/or side of all commercial and multi-family residential properties, except as provided under section 14.3 of these regulations. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997, and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
- c. **Driveway Access:** Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.

f. **Additional RR Standards:** Within the Rural Residential (RR) Districts the following is required:

(i) **Treatment of front yard and driveways for all conditional uses in the RR districts:** A continuous strip not less than twenty (20') feet deep shall be maintained between the street line and the balance of the lot in all RR Districts, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. Not more than fifty (50%) percent of the required front yard may be used for driveways and parking. No portion of the required front yard may be used for storage or for any purpose except as above provided. Exceptions to these standards may be granted by the DRB in cases involving pre-existing buildings and/or uses when undue hardship is likely to exist. Cases will be reviewed on an individual basis, taking into account the unique features/circumstances of a site while still providing proper landscaping.

Conclusion: The Board concludes the applicable standards are satisfied.

Section 4: Specific Use Standards

25. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the Section 4.8(A-C). When reviewing lighting plans pursuant to Section 4.8, including proposed gas station canopy or apron lighting, proposed illumination of building façades or parking area lighting, the DRB shall consider appropriate levels and distribution of illumination. In determining appropriate levels of illumination, the Board will consider the guidelines outlined in Section 4.8(2)(A-F). The elevation drawings show the location of proposed building mounted lighting. All fixtures appear to be either decorative or down lit/shielded fixtures. The Applicant provided photographs of the proposed fixtures.

Conclusion: The Board concludes the proposed outdoor lighting is in conformance with Section 4.8.

26. **Section 15- Parking Regulations-** See discussion above.

DECISION

On a motion by C.Walton, seconded by M. Diender, the Development Review Board hereby approves (6-0) Project 6249 based upon the foregoing Findings of Fact and concludes the proposal as presented in

application dated 5/13/2020 and supporting materials meets the Stowe Zoning Regulations, as adopted on October 9, 2018, subject to the following conditions of approval:

1. The 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 previous approvals, except as amended herein, remain in full force and effect.
3. Prior to issuance of a zoning permit, the Applicant shall submit modified plans accurately depicting the relocated tank, landscaping, and access to the garage.
4. Prior to construction and any ground disturbance, the Applicant shall stake and flag the location of the 50' watercourse setback and the location of the area removed from the Special Flood Hazard Area to prevent any inadvertent development within these areas. The stakes and flagging shall be maintained during the duration of the project.
5. The Applicant's electrician shall provide new load data for Stowe Electrical Department to determine if the existing transformer is appropriately sized for the new load.
6. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum and must practice erosion and sedimentation controls in accordance with the VTDEC Small Site Standards.
7. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
8. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
9. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless erosion control measures are followed that are adequate to ensure compliance with (A), (B) and (C) as outlined in Section 3.12, taking into account winter and spring conditions.
10. The Applicant must maintain an adequate stormwater drainage system to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
11. 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.
12. 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).
13. No development, as defined under Section 7.14, shall take place within the Flood Hazard Overlay District without additional review.
14. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations. Prior to the issuance of a Certificate of Occupancy the Applicant must provide reasonable proof that all required setbacks have been satisfied. Reasonable proof may include a survey, certification of setbacks by a surveyor, or demonstrating physical location of property boundaries.
15. 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, C.Walton, M.Diender, L. Wasserman, T. Hand, F.Aumand III,
Voting to deny: None
Recused: None

Dated at Stowe, Vermont this the 10 day of July 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.

