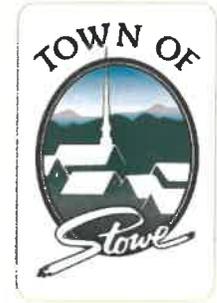


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6324

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

PROPERTY OWNER/APPLICANT:

David Lachtrupp
PO Box 237
Waterbury Center, VT 05677

APPLICATION:

The Applicant and property owner, David Lachtrupp (herein referred to as the "Applicant"), requests Ridgeline and Hillside Overlay District [RHOD] review to modify a previously approved project (#6202) approved by the Board in a written decision dated 6/17/2020. The Applicant requests the following modifications: relocate the proposed driveway to provide additional privacy; relocate septic area; clear brush and small trees to restore existing pond; add two (2) berms and a cluster of conifer trees near roadside to provide additional screening; changes in previously approved clearing schedule. The Applicant is not requesting approval for any buildings or structures.

The subject parcel consists of ±3.5 acres and is located on Ayers Farm Road (TH-65), a Class 3 town-maintained road. The parcel is located in the Rural Residential 3 (RR3) Zoning District and the Ridgeline and Hillside Overlay District (RHOD) and 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 July 31, 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 September 1, 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 August 13, 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 September 1, 2020 using a virtual meeting platform 'Zoom', 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, M. Diender, 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 Zinn, 531 Ayers Farm Road, Stowe, VT 05672 (written testimony)

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

- Town of Stowe Development Application (2 pages); dated 7/31/2020;
- Proposed Clearing Plan 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 1 of 1, dated 8/19/2020;
- Comparison Clearing Plan 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 1 of 1, dated 8/6/2020;
- Cross Sections for View Study 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet 2 of 2, last revised 8/19/2020;
- Comments from Dave Kresock of Stowe Electrical Department, dated 8/19/2020;
- Public Comments from John Zinn (531 Ayers Farm Rd), dated 8/19/2020;

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 modifications to previously approved 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 provided plans show a building zone that is more restrictive than the minimum district setbacks. The lot is surrounded on three (3) sides by Ayers Farm Road but otherwise has limited visibility. Under the previously approved project (#6202), the Board approved a clearing schedule and the installation of basic site improvements. The Applicant requests the following modifications to the previously approved project #6202: relocate the proposed driveway to provide additional privacy; relocate septic area; clear brush and small trees to restore existing pond; add two (2) berms and a cluster of conifer trees near roadside to provide additional screening; changes to the previously approved clearing schedule. During the hearing, the Applicant provided an overview of the proposed modifications and testified that the proposed changes are not visible from defined vantage points. The Board finds that the proposed modifications have been designed and sited in a manner that will 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. Under the previously approved project, the Applicant provided several photographs showing the project vicinity and a cross section visual assessment prepared by Grenier Engineering. Under the prior approval, the Board found that the lot was visible from Ayers Farm Road and possibly visible from Shaw Hill Road but from a distance of ±1.75 miles. During the prior hearing, testimony was received that topography and existing wooded hillsides block the view of the parcel from Shall Hill Road and it was reported that any impacts to public vantage points would be primarily from Ayers Farm Road as it essentially surrounds the parcel. The Applicant now seeks to amend the prior approval and proposes a relocated driveway and septic area and modifications to the clearing schedule. A discrete building zone is proposed in the center of the parcel allowing for a modest single-family dwelling and related improvements with views to the north. The Applicant provided a 'Cross Sections for View Study' showing possible vantage points. Other than a screened view from Ayers Farm Road, no other defined vantage points were identified. The Board finds the proposed modifications will not have significant negative impacts on public vantage points and will only be visible from Ayers Farm Road.
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 modifications to previously approved clearing and site improvements. No buildings are proposed under this application. A clearing schedule is noted on the site plan, which includes the previously approved and proposed clearing schedule. The proposed driveway location enters the site from the

upper side of the lot entering the building zone from the southwest. During the hearing the Applicant provided testimony that a driveway entrance permit has been obtained for the curb cut. The Board reviewed the applicable standards and guidelines and finds that the proposed modifications will 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 proposes to modify previously approved 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 proposed modifications, 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 to modify previously approved 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 within the building zone. Areas of 80% thinning on the northern portion of the lot and areas of 25% thinning in southern areas of the lot are noted on the plans. Other areas are noted as no clear areas. Two (2) berms and a total of eight (8) new three-inch caliper pine trees are proposed at two (2) locations near the roadside to provide added screening of the building zone. The Board finds the proposed modifications have been designed to be minimally visible and conform 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 modifications to previously approved 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 and RHOD standards. The Applicant previously 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 proposed modifications have 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. No other clearing or removal of trees is proposed under this application. As noted above, 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 within the building zone. Areas of 80% thinning on the northern portion of the lot and areas of 25% thinning in southern areas of the lot are noted on the plans. Other areas are noted as no clear areas. As proposed, approximately 41.5% of the lot is located within no clear areas.
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 southern portion of the lot. During the hearing the Applicant testified that they have obtained a driveway entrance permit from the Department of Public Works and that the driveway has been designed to be no more than 15% with an average grade of 12%. The Board finds standard 8 has been satisfied.

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 modifications to previously approved 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 modifications to previously approved 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 modifications to previously approved 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 modifications are in conformance with all applicable RHOD standards and guidelines.

DECISION

On a motion by C.Walton, seconded by P.Aumand, the Development Review Board hereby approves the Applicant's request for RHOD approval as outlined in the application dated 7/31/2020 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 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 Clearing Plan 'George & Janet Vaupel' prepared by Grenier Engineering, Sheet*

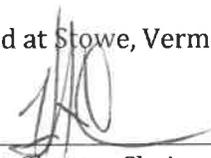
1 of 1, dated 8/19/2020." The 'no cut zone' shall be left undisturbed except as necessary to remove dead or diseased trees and to promote the health of the forest.

4. Site construction shall adhere to the standards outlined in Section 3.12(2)(A-E) including:
 - o The amount of soil exposed at any one time must be kept to a minimum.
 - o Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
 - o Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
 - o Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided as outlined in Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
 - o An adequate stormwater drainage system must be continuously 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.
5. 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 a forester, engineer, or other professional 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.
6. 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, M.Diender, C. Walton.

Voting to deny: None

Dated at Stowe, Vermont this the 17 day of September 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.