



Notice of DRB Decision
Town of Stowe Zoning Office
PO Box 730
Stowe VT 05672

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Please note that there are conditions of approval required to be met before your Zoning Permit can be issued. Once you fulfill these conditions your zoning permit will be sent to you

APPLICATION INFORMATION

Project Number 6511
Application Date 3/23/2021
Physical Location 144 MT MANSFIELD DR #17A
Map ID 12-006.000 **Tax ID** 47017-A00
Project Description SETBACK WAIVER FOR RESIDENTIAL ADDITION
Owner JOHN & CLARA MCELENEY
Applicant STOWEBURY CONSTRUCTION SERVICES LLC JAY RIBERA
Applicant Address 194 STOWEBURY RD
WATERBURY CENTER VT 05676

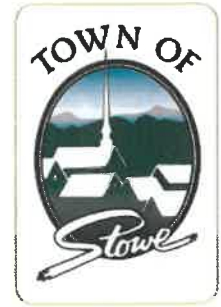
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	6/7/2021	7/7/2021	7/7/2023

Sarah McShane

Zoning Office

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



PROJECT: 6511

SUBJECT PROPERTY: 144 Mt. Mansfield Drive Unit 17A #12-006.000

APPLICANT:

Jay Ribera- Stowebury Construction Services LLC
194 Stowebury Road
Waterbury Center, VT 05677

PROPERTY OWNER:

John & Clara McElehey
40 Everett Ave
Winchester, MA 01890

APPLICATION:

The Applicant, Jay Ribera- Stowebury Construction Services LLC, on behalf of property owners John & Clara McElehey (herein referred to as the "Applicant"), requests a setback waiver to construct a residential addition on the south side of the existing three-unit multi-family dwelling, a condominium unit in the Mt. Mansfield townhouse development. The Applicant seeks a setback waiver, as allowed under Section 3.4(8), decreasing the setback requirement in order to construct the proposed addition partially within the side yard setback. The existing building was constructed in 1973 prior to the adoption of zoning or subdivision regulations and as such, is considered a pre-existing structure. Pre-existing structures are eligible for setback waivers under Section 3.4(8)(C). The application has been reviewed by the Development Review Board (DRB) for the purpose of a setback waiver under applicable standards of the Town of Stowe Zoning Regulations (as adopted on October 9, 2018). 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 a setback waiver was filed by Applicant Jay Ribera on March 23, 2021. 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 May 18, 2021 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 April 29, 2021. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on May 18, 2021 via virtual meeting hosted by Zoom, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Members who participated in the review included: F.Aumand III, D.Clymer, C.Walton, T.Hand, P.Roberts, L.Wasserman, A.Volansky.

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

- Applicant – Jay Ribera- Stowebury Construction Services LLC, 194 Stowebury Road, 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, dated 03/8/2021;
2. Architectural Drawings 'McEleney Residence' prepared by Mitchell-Owen Architecture PLLC, dated August 14, 2020:
 - o Demolition Plans, Sheet DM-101.00
 - o Construction Plans, Sheet A-101.00
 - o RCP & Electrical Plans, Sheet A-102.00
 - o Exterior Elevations, Sheet A-201.00
 - o Sections, Sheet A-301.00
 - o Wall Detail Section, Sheet A-401.00
 - o Structural Plans, Sheet A-501.00
 - o Structural Elevations, Sheet A-502.00
3. Site Plan prepared by Stowebury Construction Services, 5785 Mountain Road, Sheet 1, dated Feb. 2021.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

FINDINGS OF FACT & CONCLUSIONS OF LAW- During its review of the application, the Board made the following Findings of Fact:

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

- Section 2- Administration and Enforcement
 - Section 3- General Regulations
 - o Section 3.4(8) Setback Waivers
 - Section 4- Specific Use Standards
 - Section 5- Zoning Districts
 - Section 6- Uses, Dimensional Requirements and Density
1. **Zoning District.** The subject parcel is located within the Rural Residential RR5 (RR5) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted on October 9, 2018).
 2. **Lot Area, Lot Width.** The subject parcel consists of ±14 acres. No changes to lot area or lot width are proposed under this application.
 3. **Setbacks.** Setbacks in the RR5 district are 70 ft front, 75 ft side, and 75 ft rear. The Applicant proposes to construct a residential addition extending into the side yard setback.
 4. **Building Height.** The maximum building height in RR5 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 proposed addition height is 24'.

SECTION 3.4(8)- SETBACK WAIVERS

5. The existing dwelling was constructed in 1973 prior to the adoption of zoning or subdivision regulations and as such, is considered a pre-existing structure.
6. Section 3.4(8) grants the authority for the Development Review Board to grant a waiver from setback requirements under the following circumstances:
 - A. Fire safety, disability accessibility, or other building code requirements cannot be reasonably satisfied without a waiver or;*
 - B. Energy conservation and renewable energy structures cannot be reasonably developed without a waiver or;*
 - C. The waiver is necessary to allow for reasonable expansions of existing uses given the configuration of development on the parcel prior to December 31, 1975, irregular lot configuration, or restrictions of existing topography.*
7. The Applicant requests a setback waiver under Section 3.4(8) for a reasonable expansion given the configuration of development on the parcel prior to December 31, 1975. As noted above, the existing dwelling was constructed in 1973 prior to the town's adoption of zoning regulations.
8. The Applicant proposes an L-shaped residential addition on the southern side of the existing building.
9. During the hearing the Applicant testified that the Home Owners Association has granted approval of the proposed addition.
10. As required under the regulations in all cases, the waiver shall meet all of the following criteria:
 - A. The proposed development shall not adversely impact the overall character of the surrounding area or neighborhood.*
 - B. The proposed development is compatible in scale and design with the surrounding area.*
 - C. The proposed waiver shall not exceed 20% of any setback requirement.*
 - D. The proposed development would not impinge upon sight distances on public and private roads.*
 - E. The proposed development would not adversely impact the use of the adjacent parcel.*
11. The building is located off Mountain Road (VT-108) among a cluster of other multi-family condominium townhouse buildings. The proposed addition is not expected to adversely impact the overall character of the surrounding area or neighborhood. Since 1973, many of the interior buildings have been expanded and additions constructed.
12. The required setbacks in the RR5 district are 70 ft front, 75 ft side, and 75 ft rear. As shown on the provided site plan, the closest part of the addition will be approximately 65' as measured from the side property line. Section 3.4(C) allows a setback waiver not to exceed 20%. In the RR5

district, the regulations allow for a 15' setback waiver (60' from the property line). The requested waiver does not exceed the allowed 20% setback waiver.

13. The existing building and proposed addition are located on the outer perimeter of the parcel and will not impinge upon sight distances on public or private roads.
14. The proposed addition is located 65' from the adjacent parcel and will have no impact on the use of the adjacent parcel. The adjacent parcel is owned by Mt. Mansfield Company.

Conclusion: Based upon the above findings, the Board concludes the proposal meets the waiver criterion as outlined in Section 3.4(8) and grants approval for the requested setback waiver.

DECISION

On a motion by C.Walton, seconded by T.Hand, the Development Review Board hereby approves (7-0) Project 6511 as presented in application dated 03/08/21 and supporting 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 prior conditions of approval, unless amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, a licensed surveyor shall confirm the location of the property line and submit written confirmation to the Zoning Administrator that the proposed addition can be constructed in accordance with the approved plans. The approved setback waiver shall not exceed ten (10) feet, as measured from the side property line to the closest portion of the structure including rooflines, porches, and sills.
4. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that is has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
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 a permit, the permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

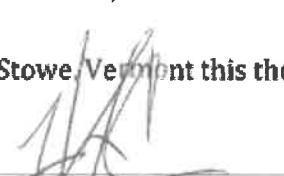
Voting favor: F.Aumand III, D.Clymer, C.Walton, T.Hand, P.Roberts, L.Wasserman, A.Volansky.

Voting to deny: None

Abstain: None

The motion PASSED, 7-0.

Dated at Stowe, Vermont this the 7 day of June 2021

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.

