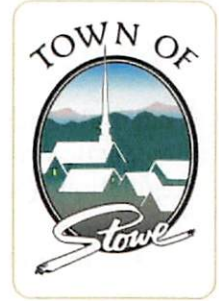


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6726

APPLICANT:

Andrew Volansky
Volansky Studio
315 North Hollow Road
Stowe, VT 05672

PROPERTY OWNER:

Luke & Christina Chapman
132 Weeks Hill Road
Stowe, VT 05672

APPLICATION:

The Applicant, Andrew Volansky of Volansky Studio, on behalf of property owners Luke & Christina Chapman requests a variance to the required driveway setback on a parcel of land located at 132 Weeks Hill Road/ Tax Map 10-128.020. The Applicant seeks a variance, as provided for under Section 2.12, to decrease the setback requirement in order to allow driveway access to the undeveloped parcel. The application requires review under the variance criteria in the Town of Stowe Zoning Regulations (as adopted 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 variance was filed by Applicant Andrew Volansky on October 26, 2021. The application was accepted as administratively complete by Town of Stowe Planning & Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for December 7, 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 November 18, 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 December 7, 2021 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Remote participation was available via Zoom. No *ex parte* communications or conflicts of interests were reported. Board members participating in the review included: Drew Clymer, Leigh Wasserman, Mary Black, Tom Hand, David Kelley, and Peter Roberts.

The following persons attended and participated in the hearing process:

- Andrew Volansky, Volansky Studio, 315 North Hollow Road, Stowe, VT 05672

The following materials were submitted in support of the application:

1. Town of Stowe Development Application, dated 10/26/2021;
2. Volansky Studio Cover Letter, dated 10/26/2021;
3. Driveway Entrance Permit- DPW, dated 3/2/2021;
4. Site Plan prepared by Volansky Studio, Sheet AI-1, dated 10/26/2021;
5. Site Plan prepared by Grenier Engineering, dated 10/08/2021.

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 variance to the required driveway setback 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 2.12 Variances
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements, and Density

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel is located within the Rural Residential RR3 (RR3) 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 lot consists of ±12.16 acres. The lot width is approximately ninety-nine (99) feet. The lot width does not conform to current requirements for the RR3 district being 250'. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Setbacks in the RR3 district are 70 ft front, 60 ft side, and 60 ft rear. Section 15.6 outlines setbacks for 'Driveways and Parking Facility Setbacks' and states: "*Except for common driveways, driveway and parking facility setbacks shall be as follows, unless abutting property owners agree to less:2) RR3 and RR5: Twenty-five (25') feet from property lines.*" The parcel contains approximately 99' of frontage; at its narrowest point the required driveway setbacks nearly overlap creating it impossible to design a driveway in accordance with the setback requirements. The Applicant requests a variance to this requirement.

SECTION 2.12(1) VARIANCE CRITERIA: The DRB may grant a variance and render a decision in favor of the appellant only if all of the following facts are found, and the findings are specified in its written decision:

- A. **There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located;**

The lot shape is unique as it contains a narrow strip of land connecting to Weeks Hill Road. The narrow strip of land is where access to the lot is gained from a town highway. At its narrowest location, the required driveway setbacks appear to overlap each other making it impossible to locate a driveway in accordance with the setback requirements. The topography and odd shape of the lot create a hardship not the conditions of the regulations.

- B. **Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations and that the authorization of a variance is necessary to enable the reasonable use of the property;**

The Applicant provided the following justification: *"Due to a steep grade directly to the south of the proposed driveway, the driveway will need to be located as northerly as possible, again pushing the driveway within 5-10 ft of the northern property owner."* During the hearing the Applicant testified that given the shape of the lot and topography, a driveway cannot physically fit in the provided area and conform to the applicable zoning provisions. The Applicant testified that the design of the driveway minimizes the number of adjoining property owners impacted.

C. The unnecessary hardship has not been created by the appellant;

The application materials state: *"This condition was created prior to the lot purchase by the Chapman's."* The Applicant testified that the hardship relates to the lot configuration and the setback requirements of the zoning regulations and has not been created by the property owner.

D. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare; and

The application materials state: *"The proposed driveway will be located near the edge of a meadow and treeline and will not alter the character of the area nor impact adjacent use of neighboring properties."* The Applicant testified that the downhill trees will be protected and the position of the driveway has been designed to minimize impacts on existing topography. The driveway is designed to be installed at grade along the norther property line but will require grading along the southern boundary where there is sufficient area.

E. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.

The application materials state: *"The proposed driveway is designed to minimize modifying existing grading and tree removal, in particular where the 25' setbacks are not achievable therefore minimizing impact on adjacent property owners."* The Applicant testified that the driveway has been designed to be sensitive to neighbors and minimize the number of neighbors impacted.

CONCLUSION: Based on the above findings, the Board concludes the requested variance meets the required criteria as set forth in the regulations.

DECISION

On a motion by T.Hand, seconded by M.Black, the Development Review Board hereby approves the Applicant's request for a setback variance as described in the application dated 10/26/2021 and associated supporting materials subject the following conditions of approval:

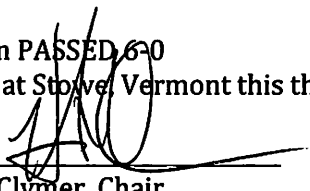
1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Zoning Office and other material representations. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.

3. The variance is only granted for the proposal as presented in the approved plan(s). The driveway and parking areas located within the building zone will be reviewed under a separate development application. Any change to the plan will require additional review under the regulations in effect at the time of application.
4. A Certificate of Occupancy must be obtained from the Zoning Administrator prior to occupancy and use to ensure that the project has been completed 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 Applicant 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 purposes of ascertaining compliance with the conditions of approval.

Voting favor: Drew Clymer, Leigh Wasserman, Mary Black, Tom Hand, David Kelley, and Peter Roberts
Voting to deny: None

Motion PASSED, 6-0

Dated at Stowe, Vermont this the 06 day of December 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.