



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. Any conditions of approval required to issue a zoning permit have been met and your zoning permit will be issued without any further action required from you.

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number 6784
Application Date 1/28/2022
Physical Location 0 WADE PASTURE RD [E911 ADDRESS TO BE ASSIGNED]
Map ID 15-042.900 Tax ID 30217-090
Project Description REQUEST FOR CLEARING IN RHOD
Owner JERRY PERL
Applicant CUSHMAN DESIGN GROUP CHAD FORCIER
Applicant Address PO BOX 655
STOWE VT 05672

APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date	
DRB DECISION	3/15/2022	4/14/2022	4/14/2024	APPROVED
ZONING	3/30/2022	4/14/2022	4/14/2027	

Sarah McShane

Zoning Office

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law



PROJECT: 6784

SUBJECT PROPERTY: 0 Wade Pasture Road, Stowe, VT; Tax Map 15-042.900
[e911 number to be assigned]

PROPERTY OWNER(s):

Jerry Perl
11 Kips Ridge
Montclair, NJ 07042

APPLICANT:

Chad Forcier
Cushman Design Group
PO BOX 655
Stowe, VT 05672

APPLICATION:

The Applicant, Chad Forcier of Cushman Design Group, on behalf of property owner Jerry Perl (herein referred to as the "Applicant"), requests after-the-fact approval for clearing and removal of trees within the Ridgeline and Hillside Overlay District [RHOD]. The subject parcel, consisting of ±10.86 acres and located at 0 Wade Pasture Road, Stowe, VT (15-042.900), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The subject parcel is bound generally to the north by Wade Pasture Road and by a ±10.76 acre parcel currently owned by Sayre and Daniel Wardell; to the south by a ±5 acre parcel currently owned by James and Marcy Andrus and a ±4.26 acre parcel currently owned by Roderick and Margaretta Egger;; to the west by a ±11.33 acre parcel currently owned by M W Taylor Associates LLC, and by a ±10.08 acre parcel owned by Stephen Yanow; and to the east by a ±11.63 acre parcel, Lot 90, owned in common by the property owner Jerry Perl. The subject parcel, Lot 89, was originally approved by the Stowe Planning Commission under subdivision S-90-11 and is part of the Robinson Springs residential planned development. The application has been reviewed by the 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 Chad Forcier on January 27, 2022. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for March 1, 2022 and warned by the Zoning Administrator 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 February 10, 2022. 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 March 1, 2022 using the virtual meeting platform 'Zoom', with a quorum of the DRB present. There was no physical meeting space. Hearing participation was only available via remote means. No *ex parte* communications or conflicts of interests were reported. Members who participated include: D. Clymer, F. Aumand III, T. Hand, C. Walton, L. Wasserman, and M. Diender.

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

- Chad Forcier, Cushman Design Group, PO Box 655 Stowe VT 05672
- Milford Cushman, Cushman Design Group, PO Box 655 Stowe VT 05672

- Kristen Elwell, 27 Robinson Drive, Bedford, MA 01730

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

- a. Town of Stowe Development Application (2 pages); dated 1/27/2022;
- b. Proposed Site Plan, Sheet RH.1, provided by Cushman Design Group, dated 01/24/2022;
- c. Proposed Viewshed Analysis, Sheet RH.2, provided by Cushman Design Group, dated 01/24/2022.

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 DRB for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018).

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 ±10.86 acres. No changes to lot width or lot area are proposed under this application. The property owner, Jerry Perl, also owns the adjacent parcel, Lot 90. Since the two adjacent parcels are under common ownership, they appear as a single parcel for assessment purposes on the town tax map.
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 setbacks and proposed clearing. No buildings are proposed under this application.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes 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).

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 clearing and

removal of trees on a previously approved undeveloped lot (Lot 89) in the Robinson Springs Residential Subdivision. The parcel is served by Wade Pasture Road, a privately owned and maintained road. No buildings are proposed under this application. The Applicant proposes clearing areas for a future house site, related improvements, and a residential driveway. The Board finds that the proposed clearing limits have 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 and existing conditions. The application materials contain a view study location and topographical map [Sheet RH.1]. During the hearing the Applicant testified that they investigated two (2) potential viewsheds (A & B). Area A is a location along Mountain Road. Area B is near the corner of Barrows Road and Luce Hill Road. Sheet RH.2 provides photographs from each of the viewshed areas (A & B) and a panoramic photograph from on-site dated 10/12/2021. The photographs from viewshed areas (A & B) were taken in August 2014 and October 2018, respectively. The site section shows the approximate extent of existing cleared area and potential visibility from Viewpoint B. The Applicant testified that it is their position that the clearing is not visible from off-site designated vantage points and the entire lot has minimal visibility. The Board finds the proposed clearing limits will not have significant negative impacts on 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 approval for after-the-fact clearing and tree removal, no buildings are proposed under this application. Proposed clearing limits are noted on the site plan. The proposed clearing area for a future driveway enters the site from the northeastern portion of the lot. Under prior subdivision approval, a conservation zone was established along the southern portion of Lot 89. The approved plat restricts clearing within the conservation zone without prior approval of the Stowe Planning Commission. The limits of the conservation zone are shown on the site plan. The proposed clearing area avoids any impacts to the conservation zone. The Board reviewed the applicable standards and guidelines and finds that the proposed clearing will not adversely impact the character of the scenic landscape and no further mitigation measures are warranted.
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 clearing and removal of trees as a general area for a future house site and related improvements. The parcel is currently undeveloped. 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. No wetlands, deer wintering areas, or hydric soils are shown on the ANR Natural Resources Atlas. The slopes in the proposed cleared area are gentle and generally less than 15%. The Board finds that the proposed clearing limits 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 clearing and removal of trees for a future house site and related improvements. No buildings are proposed under this application. The proposed clearing area on the upper portion of the lot generally encompasses the driveway and future house site. Other areas are not proposed to be cleared or disturbed. Any future dwelling, non-exempt buildings/activities, additional clearing, etc. will require full RHOD review. The Board finds the proposal 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 approval for after-the-fact clearing and tree removal for a future house site and related improvements. According to aerial imagery, the lot contains a forested cover except for the area cleared as shown on the site plan. No buildings are proposed under this application. The Applicant provided photographs showing existing conditions, topography, and treelines, etc. and testified that the lot has minimal visibility. 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 provided a site plan showing proposed clearing limits. The proposed clearing area is located on the upper portion of the lot and generally encompasses the location of a future driveway and future house site. No additional clearing or removal of trees are proposed under this application.
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 proposed cleared area allows for a driveway to enter the parcel from the northeastern portion of the lot with access to Wade Pasture Road. According to the ANR Natural Resources Atlas this portion of the lot generally contains slopes generally less than 15%. The Applicant seeks approval for after-the-fact clearing. The development of a residential driveway (and possible dwelling design) will be sought under a separate application. As such, the driveway grade will be reviewed under the regulations in effect at the time of application. The Board finds that any future driveway will require a zoning permit and conformance with Standard 8.
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 seeks approval for after-the-fact clearing. 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 clearing; 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 clearing; 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 clearing limits are in conformance with all applicable RHOD standards and guidelines.

DECISION

On a motion by C.Walton, seconded by M.Diender, the Development Review Board hereby approves the Applicant's request for RHOD approval as outlined in the application dated 01/27/2022 and supplemental materials, subject to 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. 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.

The approved plans are:

- a. Proposed Site Plan, Sheet RH.1, provided by Cushman Design Group, dated 01/24/2022;
 - b. Proposed Viewshed Analysis, Sheet RH.2, provided by Cushman Design Group, dated 01/24/2022.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. Any additional clearing shall require review and approval by the Development Review Board.
 4. Clearing shall be restricted to the areas shown on the approved site plan entitled '*Proposed Site Plan-View Line Analysis*' prepared by Cushman Design Group, Sheet RH.1, last revised 01/24/2022. Lands outside of the approved clearing areas shall be left undisturbed except as necessary to remove dead or diseased trees and to promote the health of the forest.
 5. Any future development or clearing, including but not limited to installation of a driveway, dwelling, and related accessory structures, shall be reviewed under the regulations in effect at the time of application.
 6. Site construction shall adhere to the standards outlined in Section 3.12(2)(A-E) including:
 - a. The amount of soil exposed at any one time must be kept to a minimum.
 - b. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
 - c. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
 - d. 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.

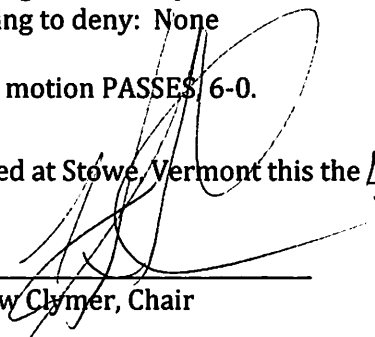
- e. An adequate stormwater drainage system must be continuously maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
- 7. A Certificate of Occupancy must be obtained from the Zoning 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.
- 8. 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, F. Aumand III, T. Hand, C.Walton, L. Wasserman, and M.Diender

Voting to deny: None

The motion PASSES 6-0.

Dated at Stowe, Vermont this the 15 day of March 2022

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.