



Notice of DRB Decision
Town of Stowe Planning and Zoning Department
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 Department at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number	7517		
Application Date	11/25/2024		
Physical Location	965 BROWNSVILLE RD		
Map ID	08-026.030	Tax ID	20020-030
Project Description	MODIFY PREVIOUSLY APPROVED CLEARING LIMITS FOR LOT 3		
Owner	MINK PROPERTIES LLC		
Applicant	MINK PROPERTIES LLC		
Applicant Address	PO BOX 728 STOWE VT 05672		

APPROVALS ON RECORD

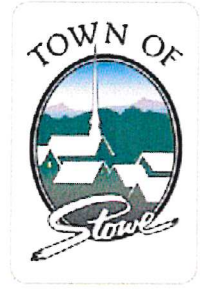
Action Taken	Date	End of Appeal Period	Expiration Date	
DRB DECISION	4/29/2025	5/29/2025	5/29/2027	APPROVED

Sarah McShane

Dept. of Planning Zoning

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law



PROJECT# 7517

SUBJECT PROPERTY 965 Brownsville Road, Stowe, VT (#08-026.030)

PROPERTY OWNER/APPLICANT

Mink Properties LLC
PO Box 728
Stowe, VT 05672

APPLICATION

The Property Owner/Applicant, Mink Properties LLC (herein referred to as the "Applicant"), requests an amendment to a previously approved subdivision. The Applicant seeks to modify the clearing limits on Lot 3 of the Land of Story Ridge LLC Three (3) Lot subdivision approved by the Development Review Board (DRB) on March 29, 2017 under project #5546 and relocate the driveway. The subject parcel consists of ±5.17 acres (08-026.030) and is located in the Rural Residential 5 (RR5) Zoning District. The application has been reviewed by the DRB under applicable standards of the Town of Stowe Zoning Regulations (the "Regulations") (effective January 31, 2024) and the Town of Stowe Subdivision Regulations (effective July 16, 2012). The DRB's procedural history and relevant findings are attached.

REVIEW PROCESS

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

A Town of Stowe development application was filed by Applicant Mink Properties LLC on November 25, 2024. 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 February 4, 2025 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 January 16, 2025.

The public hearing to consider the application convened on February 4, 2025 at the Akeley Memorial Building, 67 Main Street, with remote participation available through Zoom. A quorum of the DRB was present. No *ex parte* communications or conflicts of interest were reported. Members who participated in the review included: Drew Clymer, Tom Hand, Mary Black, David Kelly, Andrew Volansky, Peter Roberts, and Patricia Gabel. The DRB continued the hearing to a time and date certain of April 1, 2025 in order to obtain additional information from the Applicant. On April 1, 2025, the DRB re-opened the continued hearing. Members who participated in the continued review included Drew Clymer, Tom Hand, Mary Black, David Kelly, Andrew Volansky, and Peter Roberts. Patricia Gabel was absent but reviewed the recording of the hearing. 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.

INTERESTED PERSONS

In accordance with 24 VSA §4471, an interested person who has participated in a DRB proceeding may appeal a DRB decision rendered in that proceeding to the Vermont Superior Court Environmental Division. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

1. Tyler Mumley, Mumley Engineering, Inc., 46 Hutchins Street, Morrisville, VT 05661
2. Graham Mink, PO Box 728, Stowe, VT 05672
3. Cynthia Silvey, Wagner Hodgson, 7 Marble Avenue, Burlington, VT 05401

THE RECORD

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

1. Town of Stowe Development Application, dated 11/25/2024;
2. Project Narrative, prepared by Mumley Engineering, Inc., dated 11/25/2024;
3. Project Narrative, prepared by Mumley Engineering, Inc., revision date 11/27/2024;
4. Proposed Revised Clearing Limits – View Analysis, prepared by Mumley Engineering, Inc., dated 11/25/2024;
 - a. Photo of proposed driveway entrance, Sheet 1;
 - b. Photo of existing cleared area, Sheet 2;
 - c. Photo of rear of house, Sheet 3;
 - d. View toward Mt. Mansfield, Sheet 4;
 - e. Site plan showing limits of existing/proposed clearing, Sheet 5;
 - f. Sketch of aerial imager with contour lines showing existing ridgeline that provides screening, Sheet 6;
 - g. Sketch of aerial imager with contour lines showing existing ridgeline, Sheet 7;
 - h. Google Earth profile view and View from Weeks Hill Road, Sheet 8;
5. Site Plan, Sheet C-1, prepared by Mumley Engineering, Inc., revision date 11/19/2024;
6. Project #5546 DRB decision, dated 03/29/2017;
7. Subdivision Plan – Land of Story Ridge LLC, recorded 09/01/2017;
8. Zoning Permit #7189 site plan, Sheet C-1, prepared by Mumley Engineering, Inc., 06/27/2023.

The following materials were submitted for the continued DRB hearing held April 1, 2025:

9. Planting Plan, Sheet LI00, prepared by Wagner Hodgson, dated 03/24/2025;
10. Town of Stowe Driveway Entrance Permit, approved 03/28/2025.

FINDINGS OF FACT & CONCLUSIONS OF LAW

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

The Applicant's request for subdivision amendment approval was reviewed by the DRB for conformance with the applicable requirements, including the following:

Town of Stowe Zoning Regulations (effective January 31, 2024)

- 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 (RHOD)

Town of Stowe Subdivision Regulations (effective through July 16, 2012)

- Section 2 – General Provisions
- Section 3- Administration and Enforcement
- Section 4- Submission Requirements
- Section 5- Planning and Design Standards

Section 2.16 Flexibility and Finality in the Permitting Process (Stowe Club Test):

1. In order to determine if it is appropriate under the circumstances to allow an amendment of a permit or approval, the DRB must evaluate any application that proposes an amendment of a final approval and assess the competing policies of flexibility and finality in the permitting process.
2. An amendment is considered a request to modify the project plans, exhibits, and /or representations by the Applicant that lead to the decision and which have been incorporated into the approval through a specific or general condition. Conditions include all stated conditions in a decision and elements of a recorded plat or plan.
3. The subdivision approval for Project # 5546 established specific clearing limits and a driveway location for the subject property – Lot 3. Project # 5546 was approved by the DRB on March 29, 2017.
4. The DRB decision approving the subdivision contained specific findings related to proposed clearing on Lot 3. The proposed clearing limits were intended to provide screening between the proposed dwellings and other adjacent dwellings.
5. The DRB decision approving the proposed subdivision contained a condition of approval requiring the clearing limits be depicted on the recorded subdivision plat.
6. The approved and recorded plat contains a specific condition of approval restricting the cutting limits on Lot 3.
7. The application to modify the approved clearing limits will alter Project # 5546. Established clearing limits were included as a specific condition of approval and shown on the approved and recorded subdivision plat. As such, the DRB must evaluate the requested amendment under Section 2.16 - Flexibility and Finality in the Permitting Process.
8. An old logging road existed where the driveway is proposed to be relocated.
9. The total amount of cleared area beyond the approved clearing limits amounts to approximately two-tenths (2/10) of an acre. The installed septic system is located in an area beyond the limits of clearing. At the time of original subdivision approval, the septic system for this lot had not been designed and a State of Vermont Wastewater Permit not obtained.
10. The original driveway location, as approved on the final Story Ridge LLC subdivision plan, cuts across a section of steep slopes which will make access to the building zone difficult. The Applicant testified this detail and existing condition was overlooked by the developer at the time of subdividing the property. The Applicant testified that had the proper field work been conducted, it is likely that the developer would have chosen a different driveway location and the existing old logging road made logical sense
11. The modified cleared areas will allow for better views offsite but the property and new dwelling will still not be visible from offsite vantage points.
12. The Applicant justified altering the previous conditions of the approved subdivision due to changes in the construction and operation of the permittee's project which were not reasonably foreseen at the time the permit was issued.

13. The original subdivision applicant did not foresee the appropriate or necessary clearing limits that might be needed for driveway access, house-siting, and the wastewater disposal system.
14. The proposed modified clearing limits are a necessity for the landowner's use, operation, enjoyment, and maintenance of the property. The future house location and layout of the property was not known at the time of the original subdivision approval.
15. The Applicant testified that clearing has occurred beyond the approved cutting limits. Aerial photographs show that the subject parcel appeared to be fully forested after the Land of Story Ridge LLC subdivision was recorded at the time the approved clearing limits were established.
16. The approved site plan for the Applicant's zoning permit to construct the dwelling presently being built (Project #7189) showed that the proposed development would comply with the clearing limits established under the Land of Story Ridge LLC subdivision.
17. The Applicant submitted a Planting Plan (Sheet LI00) that includes extensive plantings in the following areas: in the area between Brownsville Road and the new dwelling, along the relocated driveway location, and in the rear third (1/3) of the 'rear yard' clearing.

Conclusion: Section 2.16 requires the DRB to evaluate any application proposing an amendment to a final approval by balancing the competing policies of flexibility and finality. The key question is whether the amendments sought by the Applicant necessitate a Stowe Club analysis under Section 2.16. To determine this, the DRB must consider whether the amendment involves altering a condition that was originally included to address a critical issue. If so, the DRB must apply the Stowe Club analysis when reviewing the proposed amendment. If not, the DRB may proceed with reviewing the application based solely on its merits. The evidence and testimony presented to the DRB demonstrates that the proposed relocated driveway location is better suited for the property as the originally approved location required that the driveway traverse a steep slope. Additionally, there is no evidence in the hearing record to indicate that the originally approved driveway location was intended to resolve a critical issue. Therefore, the DRB concludes that the requested amendment to relocate the driveway does not require analysis under the Stowe Club Test. When examining the Applicant's request for modified clearing limits, the DRB concludes the clearing limits were established to resolve a critical issue and concern and therefore must be reviewed under the Stowe Club Test. After reviewing the Applicant's testimony and supporting evidence explaining why the wastewater disposal system needs to be located in its current position—and why relocating the driveway made more sense given existing topographic features that were not known to the original subdivider—the DRB concludes that these changes in construction and project layout represent sufficient and unforeseen circumstances that justify amending the previously approved clearing limits. The DRB now proceeds with its review of the application on its merits.

Dimensional Requirements

1. **Zoning District.** The subject parcel is located within the Rural Residential 5 (RR5) zoning districts.
2. **Lot Area, Lot Width.** The minimum lot area in the RR5 district is five (5) acres; the minimum required lot width is 300 feet. No change to the lot size or width are proposed.
3. **Setbacks.** Setbacks within the RR5 district are as follows: Front seventy (70') feet; Side seventy-five (75') feet; and Rear seventy-five (75') feet. The setbacks shown on the Site Plan (Sheet C-1) match with the setbacks depicted on the Land of Story Ridge LLC subdivision plan. The single-family dwelling

currently under construction is shown to be located outside the setback areas and within the approved building envelope of the subdivision. Additionally, the proposed relocated driveway meets the minimum twenty-five (25') foot side yard setback, as required by Section 15.6.

4. **Use.** A single-family dwelling currently exists on the parcel. *Dwelling Unit, Single-family* is a permitted use in the RR5 zoning district. Zoning Permit #7189 was approved administratively on 07/12/2023 for the construction of a new single-family dwelling, which is currently under construction.
5. **Density.** In the RR5 districts, density is allowed at a rate of one (1) single or two-family dwelling per five (5) acres. The subject parcel is ±5.17 acres and contains a single-family dwelling.

Conclusion: Based upon the above findings, the DRB concludes the proposal meets applicable dimensional requirements for the RR5 district.

SECTION 5.1 – GENERAL PLANNING STANDARDS:

6. Upon review by the DRB, the DRB concludes the following standards are not applicable. The proposed amendments will have no impact on the following:

- Section 5.1(1) – Character of Land for Subdivision
- Section 5.1(2) – Natural and Scenic Features
- Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities
- Section 5.1(4) – Historic Resources and Community Character
- Section 5.1(5) – Reserved Strips
- Section 5.1(7) – Pedestrian Access
- Section 5.1(8) – Traffic
- Section 5.1(9) – Municipal Facilities
- Section 5.1(10) – Lot Configuration
- Section 5.1(12) – Fire Protection Facilities
- Section 5.1(13) – Disclosure of Subsequent Development Plans
- Section 5.1(14) – Private Enforcement Mechanisms
- Section 5.2 – Subdivision within the Ridgeline and Hillside Overlay District (RHOD)
- Section 5.3 – Open Space and Planned Unit Development
- Section 5.4 – Road Standards and Coordination with Public Highways
- Section 5.5 – Utilities and Stormwater Management

Section 5.1(6) – Screening and Landscaping:

7. As noted above, the Land of Story Ridge LLC subdivision established clearing limits. Clearing beyond those limits has occurred and the Applicant now seeks to amend the previously approved clearing limits to accommodate the excessive clearing and proposed relocation of the driveway.
8. The Applicant provided a Planting Plan (Sheet LI00) to mitigate for the excessive clearing outside of the approved clearing limits. The plan identifies new plantings between the new dwelling and Brownsville Road, along the northeast side of the new driveway, to the east of the wastewater disposal system, and at rear of the back yard clearing.
9. The Applicant testified that this additional landscaping should provide adequate restoration of the cleared areas beyond original subdivision's approved clearing limits.

Conclusion: Based upon the above findings and as conditioned, the DRB concludes the proposal is in conformance with Section 5.1(6).

Section 5.1(11) – Building Zone:

10. A building zone and clearing limits were established on the Land of Story Ridge LLC subdivision. The Applicant requests to amend the areas of clearing to accommodate the proposed driveway and allow for mountain views. No change to the building zone is proposed.

Conclusion: Based upon the above findings, the DRB concludes the proposal is in conformance with Section 5.1(11).

DECISION

Based upon the above findings of fact and conclusions of law, the DRB hereby approves the Applicant's request for subdivision amendment approval to alter the approved clearing limits and relocate the driveway as outlined in the application dated November 25, 2024, 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, amended herein, include:
 1. Town of Stowe Development Application, dated 11/25/2024;
 2. Project Narrative, prepared by Mumley Engineering, Inc., dated 11/25/2024;
 3. Project Narrative, prepared by Mumley Engineering, Inc., revision date 11/27/2024;
 4. Proposed Revised Clearing Limits – View Analysis, prepared by Mumley Engineering, Inc., dated 11/25/2024;
 - a) Photo of proposed driveway entrance, Sheet 1;
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 9. Planting Plan, Sheet LI00, prepared by Wagner Hodgson, dated 03/24/2025;
 10. Town of Stowe Driveway Entrance Permit, approved 03/28/2025.

2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Pursuant to 24 VSA Chapter 117, the subdivision survey plat shall be submitted for recording in the land records of the Town of Stowe within 180 days of the date of this approval, or the approval shall expire. The final survey plat as recorded shall be prepared in accordance with Section 4.3 of the Stowe Subdivision Regulations and shall include the following notations:
 - a. *"This plat is subject to the terms and conditions of subdivision approval by the Stowe DRB per the Subdivision Regulations of the Town of Stowe. The terms and conditions of the approval and related information are on file in the Stowe Zoning Office".*
4. The recorded plat shall clearly identify the approved amended limits of clearing and building zone and identified as such on the legend.
5. The Applicant shall file the final survey plat, signed by the Chair or other authorized representative of the Development Review Board, with the Stowe Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17 and Section 4.3 of the Stowe Subdivision Regulations. No land development associated with this subdivision shall be commenced until such time as the survey plat has been duly signed and filed in the Land Records. Two paper copies of said plat shall be filed with the Zoning Administrator.
6. Clearing and plant restoration areas shall be restricted to the areas shown on the approved 'Planting Plan' prepared by Wagner Hodgson (Sheet LI00, dated 03/24/2025). Lands outside of the shown clearing limits shall be left undisturbed except as necessary to remove dead or diseased trees and to promote the health of the forest. Plantings shown on the approved plan must be maintained in accordance with the approved plan. Any dead or dying plants and trees shall be replaced within one (1) year of death.
7. No additional clearing is proposed or approved as part of this subdivision amendment.
8. Prior to the issuance of a Certificate of Occupancy for the associate single-family dwelling (Project # 7189), the Applicant shall submit the following:
 - a. A licensed landscape architect shall provide written certification that the plantings, as identified on the approved Planting Plan (Sheet LI00, dated 03/24/2025), have all been installed per the approved plan.
9. These conditions of approval shall run with the land and are binding upon and enforceable against the Applicant and its heirs, successors and assigns. By acceptance of this approval, the Applicant, and his successors, 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 in favor: Drew Clymer, Tom Hand, Mary Black, David Kelly, Andrew Volansky, Peter Roberts, and Patricia Gabel

Voting to deny: 0

Dated at Stowe, Vermont this the 29th day of April 2025

By: [Signature]

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 request for reconsideration that specifies the basis for the request with the Secretary of the Development Review 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 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.