



**Notice of DRB Decision**  
**Town of Stowe Planning and Zoning Department**  
**PO Box 730**  
**Stowe VT 05672**

Your DRB project listed below was recently denied by the Development Review Board. Attached is a copy of the DRB decision for your records.

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

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**APPLICATION INFORMATION**

Project Number	7518		
Application Date	11/25/2024		
Physical Location	157 WEST RIDGE RD		
Map ID	06-101.110	Tax ID	26074-110
Project Description	TREE CLEARING FOR DRIVEWAY RELOCATION		
Owner	RIDGERUNNER LLC C/O DAVID RONTAL		
Applicant	RIDGERUNNER LLC		
Applicant Address	PO BOX 470857		
	BROOKLINE MA 02447		

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**ACTIONS**

Action Taken	Date	End of Appeal Period	
INCOMPLETE APP	12/19/2024		EMAILED APPLICANT 12/19/24
DRB DECISION	6/17/2025		DENIED

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*Sarah McShane*

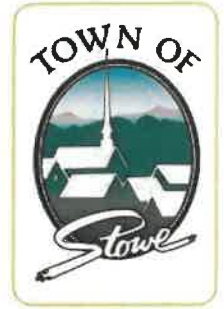
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Dept. of Planning and Zoning



# **TOWN OF STOWE DEVELOPMENT REVIEW BOARD**

## **Findings of Fact & Conclusions of Law**



**PROJECT # 7518**

**SUBJECT PROPERTY** 157 West Ridge Road (Tax Map# 06-101.110)

### **PROPERTY OWNER/APPLICANT**

Ridgerunner LLC/David Rontal  
PO Box 470857  
Brookline, MA 02447

### **APPLICATION**

The Property Owner/Applicant, Ridgerunner LLC/David Rontal (herein referred to as 'Applicant'), seeks approval for a combined subdivision amendment, boundary line adjustment, and review under the Ridgeline and Hillside Overlay District [RHOD]. The combined proposal can generally be described as relocating the existing driveway and associated right-of-way across the property at 97 West Ridge Road, which provides access to 157 West Ridge Road, minor adjustments to the shared property boundary line between Lots 11 & 12, and amendments to the previously approved clearing limits on Lots 1 & 11.

The subject property, 157 West Ridge Road, contains ±5.32-acres (Tax Map 06-101.110) and is Lot 11 of the Upper Birch Hill Development Subdivision, approved by the Town of Stowe Planning Commission on July 18, 1988 (S-88-8) and recorded in the Town of Stowe Land Records under Map Book 6, Page 97. The other involved property is 97 West Ridge Road, which contains ±3.05 acres (Tax Map 06-101-010) and is Lot 1 of the above named previously approved subdivision. On October 24, 2000, the Planning Commission approved S-00-19 for the realignment of the thirty (30') foot wide driveway easement serving Lot 11 through Lot 1 to encompass the as-built driveway location. The Applicant now proposes the following:

1. Relocate the thirty (30') foot wide easement through Lot 1 serving Lot 11. The purpose of moving this easement is to accommodate the relocation of the existing driveway over Lot 1 which provides access to Lot 11- 157 West Ridge Road.
2. Amend the approved clearing limits on Lots 1 and 11, as established by S-88-8, to accommodate the proposed driveway relocation.
3. Adjust the shared property line between Lots 11 and 12, both of which are owned by the Applicant.

All of the involved lots are in the RR3 zoning district, RHOD, and the Source Protection Overlay District. The application was reviewed by the DRB under the Town of Stowe Subdivision Regulations (effective through July 16, 2012) and the Town of Stowe Zoning Regulations (effective January 31, 2024) for the purpose of combined subdivision amendment, boundary line adjustment, and RHOD review. 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 Ridgerunner LLC/David Rontal on November 25, 2025. The application was determined to be incomplete and returned to the Applicant with a request for additional information in order to meet the minimum submittal requirements. Following submittal of additional information on February 17, 2025, the application was then accepted as administratively complete by Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for May 6, 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 April 17, 2025. The Applicant provided the Certificate of Service on April 9, 2025.

The public hearing to consider the application convened on May 6, 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 interests were reported. Members who participated in the review included: Drew Clymer, Mary Black, David Kelly, Patricia Gabel, Peter Roberts, Michael Diender and Scot Baraw. 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/PARTICIPANTS**

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, 46 Hutchins Street, Morrisville, VT 05661
2. Emily Leventhal & David Rontal, PO Box 470857, Brookline, MA 02447
3. Alison DiPiano, 97 West Ridge Road, Stowe, VT 05672
4. Marcia Gnagey & John Hueber, 47 Beaver Pond Road, Lincoln, MA 01773 (property owners of 266 High Ridge Road)
5. Jon Anderson, Primmer, Piper, Eggleston, & Cramer PC, PO Box 1489, Burlington, VT 05402-1489 (representing Marcia Gnagey & John Hueber)

### **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 Tyler Mumley, revision date 02/12/2025;
3. Site Plan, Sheet C-1, prepared by Mumley Engineering, Inc, revision date 01/06/2025;
4. Overall Site Plan, Sheet C-2, prepared by Mumley Engineering, Inc., revision date 02/12/2025;
5. Email from Jim DePiano, dated 01/21/2025;
6. Plan of Lots at the Upper Birch Hill Development Subdivision, S-88-8;
7. Survey for Raymond Cabral, S-00-19;
8. Written Letter from Jon Anderson of Primmer Piper Eggleston & Crammer PC, dated 5/6/2025;
9. DRB Decision – Project 3744;
10. DRB Decision – Project 3861;
11. DRB Decision – Project Z-0585:
  - a. Proposed Site Plan, Sheet RHOD.1, prepared by Cushman Design Group, dated 05/13/2005;
  - b. Landscape Site Plan, Sheet L1.0, prepared by Ambler Design, dated 07/14/2006;
12. Planning & Zoning Department Staff Review for Project 7518.

### **FINDINGS OF FACT & CONCLUSIONS OF LAW**

*During its review of the application, the DRB made the following Findings of Fact & Conclusions of Law:*

The Applicant's request for combined subdivision amendment, boundary line adjustment and RHOD approval was reviewed by the DRB, for conformance with 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 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 shall 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. As stated in Section 2.16, conditions include all stated conditions in a decision and elements of a recorded plat or plan.
3. The Applicant seeks to amend the previously approved clearing limits to accommodate the proposed driveway/right-of-way relocation. As proposed, relocating the driveway and associated right-of-way will require approximately ±14,000 sf of tree clearing and removal; as proposed, ±3,500 sf will occur on Lot 11 and ±10,500 sf will occur on Lot 1.
4. The DRB must decide if the Applicant is requesting an amendment to a final approval, and if so, if the changes sought by Applicant trigger a Stowe Club analysis.
5. The underlying subdivision approval of the lots, S-88-8, established specific clearing limits for the subject properties (Lots 1 & 11). These approved clearing limits were identified on the plat approved by the Town of Stowe Planning Commission, as recorded in the Town of Stowe Land Records under Map Book 6, Page 97. The changes sought by the Applicant propose to amend the previously approved clearing limits of the underlying subdivision, S-88-8. The DRB therefore finds the Applicant is seeking an amendment to a final approval.
6. A preliminary step to the Stowe Club analysis requires the DRB to distinguish between conditions involving “critical” issues and non-critical issues.
7. In the Planning Commission’s meeting minutes approving S-88-8, the Applicant stated that the plat shows tree lines, but there is no guarantee they would remain. The Applicant *‘felt that they wanted the clearing to be limited to the tree line shown, and so stipulated that on the plat.’*
8. The Planning Commission’s meeting minutes approving S-88-8 included a specific condition that a clear-cutting limitation be put on the recorded plat.
9. Section 2.16(2) lists three (3) kinds of changes that justify altering a condition of a permit or approval.

10. Section 2.16(2)(A) allows an amendment when the Applicant can demonstrate '*Changes in factual or regulatory circumstances beyond the control of a permittee*'. There is no evidence in the hearing record to support a positive finding under this provision.
11. Section 2.16(2)(C) allows an amendment when the Applicant can demonstrate '*Changes in technology*'. There is no evidence in the hearing record to support a positive finding under this provision.
12. The Applicant is requesting to relocate the driveway and associated right-of-way serving Lot 11, and the approved clearing limits of Lot 1 and Lot 11. The Applicant cites Section 2.16(2)(B) '*Changes in the construction or operation of the permittee's project not reasonably foreseeable at the time the permit was issued*' as the applicable provision.
13. The previously approved Upper Birch Hill Development Subdivision (S-88-8) established a thirty (30') foot wide right-of-way and clearing limits for Lots 1 and 11. The Applicant seeks to modify these elements of the approved plat.
14. The right-of-way serving Lot 11 was slightly modified in 2000 under an approved subdivision amendment S-00-19, to correctly encompass the as-built location of the driveway serving Lot 11. The amendment slightly shifted the angle of the right-of-way, it did not entirely relocate the right-of-way within Lot 1, nor did it alter the clearing limits established under the original approved subdivision (S-88-8).
15. The Applicant testified that the existing driveway needs to be relocated to reduce its grade. The existing driveway has an average grade of fifteen (15%) percent. The project involves relocating the driveway and right-of-way to the northeast where a realigned driveway grade of ten (10%) percent can be achieved. In order to complete this a portion of the hillside will need to be cleared. This tree removal will impact the previously approved clearing limits.
16. The Applicant testified that the existing driveway serving Lot 11 is steep and dangerous in the wintertime. Due to the driveway slope, vehicles exiting Lot 11 are required to accelerate over the top of the driveway, where it meets the parking area of Lot 1, creating the dangerous possibility of a collision with vehicles leaving Lot 1.
17. Emily Leventhal testified that the proposed clearing is strictly for a relocated driveway and that this is not a project intended to improve scenic views from the property. The existing driveway to be relocated will revegetate naturally.
18. Alison DiPiano, owner of Lot 1, testified that the proposed driveway relocation will improve vehicular safety for those exiting Lot 11.
19. The Applicant testified that the proposed driveway grade will allow for a swale to manage stormwater runoff. Erosion control for the proposed driveway will consist of silt fencing. A substantial amount of fill will be needed to provide stabilization of the proposed driveway.
20. The hearing record contains no proposed plans for revegetation of the existing driveway proposed to be relocated.
21. Marcia Gnagey testified that the trees to be removed to accommodate the proposed driveway relocation consist of mature hemlocks. Removal of these trees will create visual impacts onto and arising from the site.

22. The Applicant testified that the relocation of the driveway is necessary for safe access and enjoyment of the Applicant's residence. The existing driveway has an average grade of fifteen (15) percent and is directly in line with the residence, which, during inclement weather, creates a potential risk of vehicles sliding toward the residence.
23. The Applicant testified that the relocated driveway will have an average grade of ten (10) percent and will rotate at the bottom to reduce the threat of vehicles sliding into the residence.
24. The Applicant testified that both the residence and driveway on Lot 11 were constructed in 2010. The residential use of the property and driveway has operated in the same configuration since the original construction.
25. Attorney Jon Anderson, representing Marcia Gnagey and John Hueber, provided written testimony stating that neither topography in the area nor the location of the driveway in relation to the existing home has changed, which results in no change in circumstances and therefore the Applicant's permit conditions should not be altered.
26. Mr. Anderson's written testimony also stated that even if the DRB were to allow the driveway to be altered, there is no justification for allowing about a third of an acre of mature forests to be cleared.
27. The application to amend the location of the right-of-way and approved clearing limits on Lots 1 and 11 will alter the finality of S-88-8.
28. The original subdivision, S-88-8 established the locations of the right-of-way and clearing limits for Lots 1 and 11. These site improvements have been operational since Lot 11 was first developed in 2010.

**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 central question is whether the amendments sought by the Applicant necessitate a Stowe Club analysis (§2.16). To determine this, the DRB must first consider whether the amendment involves altering a final 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 Applicant seeks to modify previously approved clearing limits that were purposefully shown on a recorded plat and included as a specific condition of approval under S-88-8. The DRB therefore concludes that the Applicant's request to modify the approved clearing limits on Lots 1 & 11 constitutes an amendment to a final approval and must be reviewed under the Stowe Club analysis. However, before doing so the DRB must determine whether the changes sought by the Applicant involve a condition that was included to resolve a critical issue. In reviewing the procedural history of the subject property, the DRB concludes the approved clearing limits established under S-88-8 were imposed to resolve a critical issue and therefore the Applicant must demonstrate compliance with the Stowe Club Test before the DRB can authorize changes to this critical element of the approved plan.

The Applicant argues that the proposed modification is justified under §2.16(2)(B), which allows for amendments due to changes in the construction or operation of the project that were not reasonably foreseeable at the time the permit was issued. The evidence and testimony presented weighs heavily on the fact that the existing driveway is steep and causes alleged difficulties for vehicles entering and exiting the property in a safe manner. The existing driveway and dwelling on Lot 11 were constructed in 2010, or thereabouts, and have been utilized since that time with no documented incidents. After reviewing the testimony and supporting evidence, the DRB finds that the existing driveway (and its associated right-of-way) has functioned adequately and that the driveway's limitations were foreseeable at the time of the original approval. The DRB therefore concludes that the Applicant has not demonstrated any change in construction or operation that was not reasonably foreseeable, and has not met the

standards required under the Stowe Club Test to justify amending the previously approved clearing limits on Lots 1 and 11.

With respect to the Applicant's request for a boundary line adjustment and relocation of the right-of-way, the DRB finds no evidence that the existing location of the shared property line or right-of-way was intended to address a critical issue. Therefore, these elements do not independently trigger the Stowe Club analysis, except insofar as they impact the previously approved clearing limits. Because the right-of-way and driveway relocation cannot occur without modifying those limits—and the DRB has found no justification for such modification—this portion of the application is not reviewed further. The DRB proceeds to evaluate only the proposed boundary line adjustment on its individual merits.

### **Dimensional Requirements**

29. **Zoning District.** The subject parcel(s) are located within the Rural Residential 3 (RR3) zoning district, the RHOD, and the Source Protection Overlay District.
30. **Lot Area, Lot Width.** The minimum lot area in the RR3 District is three (3) acres; the minimum required lot width is two hundred fifty (250') feet.
31. Lot 11 is  $\pm 5.32$  acres in size, with a lot width of  $\pm 300$  feet.
32. Lot 12 is  $\pm 7.18$  acres in size, with a lot width of  $\pm 290$  feet.
33. Following the proposed boundary line adjustment, Lot 11 will be  $\pm 5.57$  acres in size, with a lot width of  $\pm 339.34$  feet, and Lot 12 will be  $\pm 6.93$  acres in size, with a lot width of  $\pm 250$  feet.
34. **Setbacks.** Required minimum district setbacks for the RR3 District are: front seventy (70') feet, side sixty (60') feet and rear sixty (60') feet.
35. Lot 11 contains an existing single-family dwelling. Lot 12 is undeveloped.
36. The proposed lot line adjustment only adjusts the northeast side yard property line of Lot 11, increasing the existing dwelling's side yard setback to approximately one hundred (100) feet.

**Conclusion:** Based on the above findings, the DRB concludes that the proposed boundary line adjustment conforms to the applicable dimensional requirements of the RR3 District.

### **DECISION**

Based upon the above findings and conclusions, the DRB hereby denies the Applicant's request (Project #7518) as described in the application dated 11/25/2024 and associated supporting materials.

1. The Applicant seeks to amend a critical condition of the original subdivision approval (S-88-8); however, the requirements of Section 2.16(2) for justifying a modification to a final approval have not been satisfied.

Voting to deny: Drew Clymer, Mary Black, David Kelly, Patricia Gabel, Peter Roberts, and Scot Baraw

Voting to approve: Michael Diender

Dated at Stowe, Vermont this the 14<sup>th</sup> day of June 2025

  
Drew Clymer, DRB 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.

