

**TOWN OF STOWE  
DEVELOPMENT REVIEW BOARD**

**Findings of Fact & Conclusions of Law**

**IN RE: Perry V. Schafer  
200 Pinnacle Road  
Stowe, Vermont 05672**

**S-04-31**

**Pinnacle Road Properties  
P.O. Box 117  
Stowe, Vermont 05672**

**PROCEDURAL HISTORY:**

The Development Review Board received this application on August 6, 2004. The application was warned in the Stowe Reporter and posted on September 3, 2004. A public hearing was held on September 21, 2004, at which time the hearing was closed. This decision was rendered electronically by the Board on November 1, 2004.

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

1. Perry V. Schafer owns a 43.4-acre parcel located at 200 Pinnacle Road within the Rural Residential (RR) 5 zoning district.
2. The applicant (Pinnacle Road Properties) intends to divide the property into three parcels of approximately 18, 18 and 10 acres respectively.
3. The applicant is seeking subdivision approval and approval to build the access road.
4. The applicant has submitted site plans prepared by McCain Consulting, Inc.
5. A site walk was held on September 21. Board members Izzo, Jones and Walton, Landscape Architect Cindy Knauf, Zoning Administrator Brink and abutting property owner Russell Hausman were in attendance.

**Section 5.1 – General Planning Standards:**

6. **Section 5.1(1) – Character of Land for Subdivision:** The project parcel is of such a character that it can be used for the intended purpose without undue adverse impact on the health or safety, the environment, neighboring properties or the rural character of the community.

**Conclusion:** The property is suitable for the intended use.

7. **Section 5.1(2) – Natural and Scenic Features:** The project has been designed with due regard given to the existing natural and scenic features. There are two seasonal drainage ways, which the proposed drive will cross. Culverts will be installed at these locations so as not to interrupt the natural water flow. There is also a small Class III wetland located just inside the clearing in the middle of the project. It is a narrow grassy wetland and less than 300 square feet will be impacted by the drive crossing. In addition the low density of the development will leave large areas on the land undisturbed.

**Conclusion:** The design of the subdivision assures that these features will be properly protected.

8. **Section 5.1(3) – Historic Resources and Community Character:** No historic resources exist on the project tract, and due to the low density of the development, the rural character of the Town will not be negatively affected.

**Conclusion:** The property does not contain any historic resources and development will not adversely impact the character of the area.

9. **Section 5.1(4) – Reserved Strips:** No reserved strips are proposed.

**Conclusion:** There are no reserved strips.

10. **Section 5.1(5) – Screening and Landscaping:** There will be vegetated buffers between the houses for screening purposes. Tree clearing within the building envelope is not part of this application. Prior to house construction, each lot owner must submit, with their building design, a tree-cutting plan which satisfies an overall goal of maintaining a sense of harmony on the hillside after the homes are constructed.

**Conclusion:** The applicant has adequately addressed screening and landscaping. Note: The applicant is reminded that no zoning permit for any land development (including single family residences) within the RHOD boundary shall be issued without the prior approval of the DRB.

11. **Section 5.1(6) – Pedestrian Access:** There are no existing trails on the property, nor are any proposed. As the project is located in a rural area, highway traffic conditions will not be present and therefore rights of way and sidewalks are unnecessary.

**Conclusion:** Not applicable.

12. **Section 5.1(7) – Traffic:** With only three new house sites proposed, the traffic associated with the project will not create unreasonable traffic congestion or cause unsafe conditions regarding the use of existing roadways.

**Conclusion:** The propose subdivision will not to result in any observable impact on traffic in the community.

13. **Section 5.1(8) – Municipal Facilities:** The scope and size of the development will have a minimal impact on the municipal facilities.

**Conclusions:** There will be no discernable adverse impact on municipal facilities.

14. **Section 5.1(9) – Lot Configuration:** The project is located in the RR 5 Zoning District. Lots 2 and 3 are both approximately 400' x 1980', which substantially meets the allowable 1:4 ratio. Due to the increase in grade as one moves uphill, the house sites are located at the uppermost plausible locations. Due to the grade, the back sections of these lots are largely unusable. Therefore, the site topography does not lend itself to a lot layout that strictly meets the required ratio, however, the lot sizes are well in excess of the required minimum of five acres.

**Conclusion:** The applicant has adequately addressed lot configuration.

15. **Section 5.1(10) – Building Area:** Building envelopes equal to 4/10 of an acre have been designed for each lot.

**Conclusion:** The lots area suitable for the intended use for residential construction.

16. **Section 5.1(11) – Energy Conservation:** The applicant testified that the three new building envelopes are clustered close to the existing house on Lot 1 therefore the driveway distances would be kept to a minimum.

**Conclusion:** The applicant has made adequate provisions for energy efficiency.

17. **Section 5.1(12) – Fire Protection Facilities:** There is an existing pond located on Lot 1 with adequate water for fire protection. A dry hydrant will be installed on the pond under the direction of the Stowe Fire Department.

18. **Conclusion:** The Board will require, as a condition, that a dry hydrant be installed on the pond under the direction of the Stowe Fire Department.

19. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** There are no subsequent development plans which is explicitly described in the “Declaration of Protective Covenants and Restrictions of the Pinnacle Road Properties Subdivision” a copy of which is part of the record.

**Conclusion:** The applicant has adequately disclosed subsequent plans for the property.

20. **Section 5.1(14) – Private Enforcement Mechanisms:** A homeowners association will be created and will be responsible for maintaining the private, shared infrastructure.

**Conclusion:** The applicant has adequately addressed the need for private enforcement mechanisms.

21. **Section 5.2 – Prominent Hillside and Ridgelines:** Lots 2 and 3 are located with the Ridgeline & Hillside Overlay District (RHOD). Part of Lot 4 is also within the RHOD; the building envelope, however, is not within the RHOD.

**Conclusion:** The Board concludes that review is required under Section 16. Ridgeline & Hillside Overlay District which states that no zoning permit for any development within the RHOD boundary shall be issued without the prior approval of the DRB.

22. **Section 16.5(3) A – Site Development and Environment Protection:** One of the objectives of the project is to create an arrangement of lots, building envelopes and infrastructure so that the site development occurs in a limited, well defined area. The three new building envelopes are clustered close to the existing house on the western, less steep half of the overall property. The very steep, fragile eastern half of the property closest to the Pinnacle is completely free of development and preserved as undisturbed open space. The driveway is short as a result of clustering and is designed with frequent culverts to disperse storm water. The two intermittent watercourses on the property remain unaltered and vegetated, except at the driveway crossings, to prevent erosion, limit sedimentation and prevent adverse impacts on neighboring properties. The building envelopes are small, no more than 24,700 square feet, with thick vegetated buffers between buildings, which further absorb runoff. The applicants will begin this fall 2004 forest management activities on the developed portions of Lots 2 and 3 in the RHOD with the goals to create a healthy, sustainable forest, to maintain the appearance of an unbroken forested canopy as viewed from off-site and to protect wildlife habitat. Activities will include thinning weakened, diseased and dead trees. Minimal tree removal for the driveway will also occur and be limited to just 30', wide enough for a driveway and for proper drainage control. Tree clearing for houses within the building envelopes on Lots 2 and 3, however, is not part of this application. Prior to house construction, each owner of Lots 2 and 3 must submit with their building design a tree-cutting plan which satisfies the over goals of maintaining a sense of harmony on the hillside after the homes are constructed.

**Conclusion:** The site development and environmental protections activities meet the standards and guidelines of Section 16. Note: The applicant is reminded that no zoning permit for any development (including forest management procedures) within the RHOD boundary shall be issued without the prior approval of the DRB.

23. **Section 16.5(3) B – Landscape and Scenic Character:** The subdivision is designed so that when the development is complete there will be no significant exposure of buildings on Lots 2 and 3, and all the development will be minimally visible and blend in with forested hillside even in winter months. The small size and configuration of each building envelope, which extends lengthwise with the contours and not perpendicular with them or downhill, will protect the forested backdrop from appearing broken from the off-site vantage points. Submitted cross-sectional views show that the views from each house will be through narrow openings in the tree canopies rather than from large clearings extending downhill from the house as seen on some wooded properties developed prior to the Ridgeline and Hillside Overlay District being established.

**Conclusion:** The site development activities meet the landscape and screening standards and guidelines of Section 16.

24. **Section 16.5(3) C – Road and Driveway Access:** Clustering the building envelopes allows the driveway to have an average grade of 8.5 to 9%, with the steepest section being 11.6%. Also, 25% of the driveway crosses through the existing meadow, so that limited tree cutting is necessary to construct the driveway and associated drainage ditches.

**Conclusion:** The plans for the driveway meet the road and driveway access standards and guidelines of Section 16.

25. **Section 16.5(3) D – Building Design:** The applicant is not seeking building design approval for Lots 2 and 3 at this time. However, the building envelopes are arranged so that no building or roof within them will visually exceed the height of land or tree line as viewed from vantage points. The buildings can be sited and designed so as to take advantage of the topography.

**Conclusion:** The building envelopes for Lots 2 and 3 meet the requirements of Guideline 9.1 of Section 16.

## **DECISION**

Based upon the foregoing Findings of Fact and conclusions of law in re: **S-04-31 (Perry V. Schafer)**, the Board took the following action:

A motion was made by Mr. Izzo and seconded by Mr. Jones to approve the application with the following conditions:

1. 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. A dry hydrant shall be installed on the pond on Lot 1 under the direction of the Stowe Fire Department.
3. The Board shall receive a copy of the Ability to Serve letter from the Stowe Electric Department.

4. Pursuant to Section 3.5(1) of the Subdivision Regulations, the approval of this final subdivision application shall expire after ninety (90) days from such approval unless a final subdivision plat shall have been duly filed or recorded in the office of the Town Clerk. 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.
5. The final plat shall show all required easements for access rights-of-way and utilities.
6. The following statement shall be placed upon the plat; "This plat is subject to the terms and conditions of subdivision approval by the Stowe Development Review Board per the Subdivision Regulations of the Town of Stowe. The terms and conditions of approval and related information is on file in the Stowe Planning and Zoning Office" and shall include an area for the Board to sign and date their approval of the plat.
7. The plat shall include the following minimum information; The name of the town; name of the subdivision; name of the owner of record; subdivider, name and seal of engineer, if any, and land surveyor, licensed by the State of Vermont; the accurate location of all monuments to be set at the corners of the lots.
8. The final plat shall be annotated to clearly show the proposed 4/10 of an acre limits of clear cutting around each house site.
9. Pursuant to the requirements of Section 5.1(12) of the Subdivision Regulations, prior to construction of any improvements on Lot #1, the applicant shall return to the Board with the written approval of the Stowe Fire Department indicating that the proposed driveway is adequate access for fire protection to the site.

Voting in favor: Mr. Aumand, Mr. Jones, Mr. Izzo, and Mr. Walton. Voting to deny: None. Voting to abstain: None. Absent: Mr. Coppock, (Note there are two one vacancies on the Board at this time).

The motion carries (4-0), the application is approved.

Dated at Stowe, Vermont this the 1<sup>st</sup> day of November, 2004.

By: \_\_\_\_\_  
Mr. Chris Walton, Acting Chair  
Stowe Development Review Board

A final survey plat must be filed with the Town not later than ninety (90) days from the date of this decision as required by Section 3.5(1) of the Stowe Subdivision Regulations and by Vermont State Statute.

Any interested person may appeal this decision to the Vermont Environmental Court within thirty days in accordance with 24 V.S.A. S 4471.

The foregoing represents the decision of the Development Review Board, and is NOT a permit. A zoning permit will not be issued by the Administrative Officer until:

- (1) All necessary approvals have been obtained
- (2) All conditions imposed as part of the approval have been met
- (3) A survey has been filed with the Stowe Town Clerk.

The commencement of the activities described within this decision without a valid permit constitutes a violation of the Stowe Zoning Regulations as provided in Section 23.4.