

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



**PROJECT:** 5973

**SUBJECT PROPERTY:** 0 Upper Pinnacle Rd; # 01-008.000

**APPLICANT**

John D. Grenier  
PO Box 445  
Waterbury, VT 05676

**PROPERTY OWNER:**

Michael P. Woyciechowski Trust  
1227 Russells Mills Road  
South Dartmouth, MA 02748

**APPLICATION:**

The Applicant, John D. Grenier (herein referred to as the "Applicant") on behalf of property owner Michael P. Woyciechowski Trust, requests approval under Section 9 of the Town of Stowe Zoning Regulations to construct a single-family dwelling and related appurtenances within the Ridgeline and Hillside Overlay District (RHOD). There are no known prior subdivision conditions of approval which pertain to the subject parcel.

The subject parcel (#01-008.000), located at 0 Upper Pinnacle Road [e911 number to be assigned], is in the Rural Residential 5 (RR-5) zoning district and the Ridgeline and Hillside Overlay District (RHOD). The parcel contains approximately ±5.0 acres and is currently undeveloped. The property is bound to the north and south by Upper Pinnacle Road, and to the south by private residential properties developed with single-family dwellings. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted on October 9, 2018) for the purpose of determining conformance with the provisions of the Ridgeline and Hillside Overlay District (RHOD).

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 representative Chris Austin of Grenier Engineering on March 18, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Stowe Development Review Board for a public hearing. A public hearing of the DRB was scheduled for April 16, 2019 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 March 28, 2019. 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 April 16, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported.

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

- Applicant Representative John D. Grenier, PO Box 445, Waterbury, VT 05676
- Michael P. Woyciechowski, 1227 Russells Mills Road, South Dartmouth, MA 02748

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

- Town of Stowe Development Application (2 pages); dated 3/12/2019;
- Letter of Introduction from Michael Woyciechowski, no date;
- Building Elevation Drawings – North Elevation prepared by Yankee Builders, dated 1/10/2019;
- Building Elevation Drawings – East Elevation prepared by Yankee Builders, dated 10/4/2018;
- Building Elevation Drawings – West & South Elevations prepared by Yankee Builders, dated 10/4/2018;
- Building Elevation Drawings – Building Cross Section prepared by Yankee Builders, dated 11/18/2018;
- Anderson Window Manufacturer Specifications- 400 Series, no date;
- Photograph of proposed outdoor light fixture, no date;
- Septic System Site Plan prepared by Grenier Engineering, dated 3/18/2019;
- Cross Section for View Study prepared by Grenier Engineering, Sheet 1 of 2, dated 3/15/2019;
- Cross Section for View Study prepared by Grenier Engineering, Sheet 2 of 2, dated 3/18/2019;
- ANR Natural Resources Atlas, date 3/21/2019 (staff);
- Comments from Stowe Electrical Department, David Kresock, dated 4/2/2019;
- Building Elevation Drawings – Building Cross Section prepared by Yankee Builders, dated 11/18/2018 (revised to show height);
- Comments from the Department of Public Works Harry Sheppard, dated 4/11/2019.

Application materials are kept on file at the Town of Stowe Zoning Office.

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-** *During its review of this application, the Board made the following Findings of Fact and Conclusions of Law:*

The Applicant's request for RHOD approval 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 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

1. **Zoning District.** The subject parcel contains approximately ±5.0 acres with frontage on Upper Pinnacle Road. The parcel is in the Rural Residential 5 (RR-5) zoning district and the Ridgeline and

Hillside Overlay District (RHOD) as shown on the Official Town of Stowe Zoning Map (as adopted on October 9, 2018).

2. **Lot Area, Lot Width.** The ±5.0-acre parcel is located in the RR-5 zoning district. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks for the RR-5 district are front (70'), sides (75') and rear (75'). The triangular shaped parcel contains frontage on Upper Pinnacle Road and a private road. The provided site plan prepared by Grenier Engineering, last revised 03/18/2019, indicates the location of setbacks measuring front (70'), sides (75') and rear (75'). The proposed placement of the dwelling is located outside of the required setbacks.
4. **Maximum Building Coverage.** Does not apply to the RR-5 zoning district.
5. **Use.** The Applicant proposes to construct a single-family dwelling (residential use). Single-family dwellings are a permitted use in RR districts.
6. **Height.** The maximum building height in RR-5 is 28' feet. The regulations define building height as the *"Vertical distance measured from the average elevation of the proposed finished grade at the front or rear of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the highest ridge and its contiguous eave for other types of roofs. On sloping sites the height will be measured on the uphill side."* The application materials indicate that the height, as defined under the regulations, will be less than 28'. The elevation drawing 'Cross Section' depicts the proposed height to be 24'.

**SECTION 9 – RIDGELINE AND HILLSIDE OVERLAY DISTRICT.** (1) Under the provisions of the Town of Stowe zoning regulations (as adopted on October 9, 2018), the application was reviewed under the applicable provisions of Section 9- Ridgeline and Hillside Overlay District. Staff determined the project not to be eligible for an exemption under Section 9.4(2) and referred the application to the Board.

#### **Section 9.5 RHOD Guidelines:**

7. **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 approval to construct a single-family dwelling within the RHOD district. Proposed treelines are shown on the provided site plan prepared by Grenier Engineering last revised 03/18/2019. The proposed dwelling will be sited within the proposed cleared area. The Board finds that the proposal has 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.
8. **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 a visibility assessment by Grenier Engineering. The cross section for view study shows a view line to Route 108 and depicts the proposed house site in comparison to public roads. The diagram shows the line of site to the proposed dwelling from North Hollow Road and from Stowe Village. The topography between Taber Hill Road and Hollow View Drive seems to block any possible impact of the dwelling as viewed from Stowe Village. The Applicant provided additional testimony during the hearing regarding possible impacts from other public vantage points. The

Applicant testified that given the topography of the land, the closest area the parcel may be visible is likely from Harlow Hill which is 7-8 miles in distance. No other public vantage points were identified. During its review, the Board considered the relative importance of the vantage points from which the project is visible and the scope of the project. The Board finds the proposal will not negatively impact public vantage points.

9. **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 proposes to construct a single-family dwelling and related improvements (driveway, septic, etc.). The provided drawings show the location of the proposed dwelling, driveway, parking area, utilities, and septic improvements. The Board reviewed the applicable standards and guidelines and finds that the proposal will not adversely impact the character of the scenic landscape and no further mitigation measures are warranted.
10. **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 to construct a single-family dwelling and related improvements on a ±5.0-acre parcel. Staff provided a copy of the ANR Natural Resource Atlas showing an inventory of the natural resources on the property. The property does not contain any mapped wetlands, streams, significant natural communities, however, does contain slopes greater than 25% and a high priority habitat block. The Applicant proposes to limit clearing and disturbances to the areas depicted on the provided site plan. The Board finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.
11. **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 to construct a single-family dwelling on an existing ±5.0-acre lot. The provided site plan shows the proposed clearing areas and treelines to be protected. The provided application materials show the proposed building materials including red cedar shingles with white trim and dark colored asphalt shingles. During the hearing the Board inquired about the proposed windows. The Applicant testified that the windows will be an Anderson 400 Series simulated 6/1 divided light, green in color. The Board requested the Applicant provide the window glass manufacturer specifications. The Applicant also testified that the stovepipe will be black in color and not shiny stainless steel as indicated in the application materials. The Board finds the proposed building materials are acceptable and concludes the proposal will be minimally visible and conforms to Standard 5.
12. **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 to construct a single-family dwelling. The provided site plan shows the proposed clearing areas and the treelines to be protected. 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.
13. **Standard (7):** During construction, trees identified on the landscaping plan are to be protected. The Applicant proposes to construct a single-family dwelling and related improvements. The provided site plan depicts proposed clearing areas and the treelines to be protected. The lot

contains mature forested lands. During the hearing, the Applicant testified that the utilities will run through the driveway. The Board finds the proposal, if constructed as approved, accommodates for the preservation of surrounding forested area and properly indicates the treelines to be protected.

14. **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 lot contains slopes of 25%+ as depicted on the ANR Natural Resources Atlas. The provided site plan shows a 15' driveway to serve the proposed dwelling. The driveway is designed at a 10% grade. The Board finds the proposed driveway is in conformance with Standard 8 and will not exceed 15% grade.
15. **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 is proposing gable roof single-family dwelling. The Applicant proposes a gable roof single-family dwelling. The elevation drawings indicate the height to be 24' as defined under the regulations. The provided site plan shows elevation contours and a walkout basement floor elevation of 1473'. This finished floor elevation is also shown on the architectural drawings.
16. **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 provided architectural elevations and proposed building materials for the dwelling. The building designs include a gable roofline, a mix of building materials, and natural colors. The Board finds the proposal is in conformance with Standard 10 and has been designed to minimize visual impacts and compliment the scenic quality of the surrounding landscape.
17. **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 to construct a single-family dwelling. The Applicant provided a photo of a typical outdoor light fixture. The location of the light fixtures are shown on the elevation drawings. During the hearing the Board requested the Applicant provide the manufacturer information for the specific light fixture including the illumination details. The Board finds proposed lighting has been designed to minimize offsite light impacts and complies with Standard 11 and Section 4.8 of the regulations.
18. **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%. The subject lot contains ±5.0 acres. No change in lot area is proposed under this application. The provisions of this section do not apply.

**Conclusion:** The Board concludes the proposed development is in conformance with all applicable RHOD standards and guidelines.

## **DECISION**

Based upon the foregoing Findings of Fact in RE: 5973 the Board hereby approves (4-0) the request to construct a single-family dwelling and related appurtenances as listed in the application and shown on site plan titled 'Septic System Site Plan- Michael P. Woyciechowski Revocable Trust-Upper Pinnacle Road prepared by Grenier Engineering, dated 3/18/2019' except as amended herein, subject to the following conditions of approval:

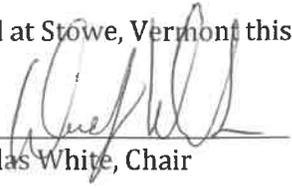
1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted 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.
2. Except as amended below, final clearing limits shall be limited to those depicted on the site plan prepared by Grenier Engineering 'Septic System Site Plan- Michael P. Woyciechowski Revocable Trust-Upper Pinnacle Road prepared by Grenier Engineering, dated 3/18/2019'. Any additional clearing beyond the approved clearing limits shall require additional review and approval by the Development Review Board. This condition does not pertain to the removal of dead, dying, or hazardous trees.
3. Prior to the issuance of a zoning permit, the Applicant shall file with the Zoning Administrator the following additional materials:
  - Manufacturer cut-sheet and specifications for the proposed windows (including the window glass details);
  - Manufacturer cut-sheet and specifications for the proposed outdoor light fixtures;
  - A revised site plan and legend clearly depicting proposed clearing limits. The 'Pro. Tree Line' label in the legend shall be revised to state 'Proposed Clearing Limits'.
4. All outdoor lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.
5. Exterior lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150-watt incandescent bulb).
6. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
7. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
8. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
9. The proposed driveway shall be constructed and maintained in accordance with the Stowe Fire Department Recommended Construction Guidelines.
10. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
11. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of a permit, the permittee 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.White, P.Aumand, T.Mumley, D.Clymer

Voting to deny: None

**Abstain:** None

Dated at Stowe, Vermont this the 26 day of April 2019

By: 

Douglas White, 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.

