

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



**PROJECT:** 6020

**SUBJECT PROPERTY:** 0 Wade Pasture Road, Stowe, VT [e911 to be assigned] (#15-042.880)

**PROPERTY OWNER:**

Ron & Kris Elwell  
27 Robinson Drive  
Bedford, MA 01730

**APPLICANT:**

John Grenier, PE, Grenier Engineering PC  
PO Box 445  
Waterbury, VT 05676

**APPLICATION:**

The Applicant, John Grenier PE of Grenier Engineering on behalf of property owners, Ron & Kris Elwell (herein referred to as the "Applicant"), requests RHOD review to construct a single-family dwelling, attached garage, and related improvements on Lot 88 in the Robinson Springs Development. The property is served by Wade Pasture Road, a privately maintained and owned road.

The subject parcel, consisting of  $\pm 10.47$  acres and located at 0 Wade Pasture Road, Stowe, VT [e911 to be assigned] (#15-042.880), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The parcel is bisected by Wade Pasture Road containing lands on both the eastern and western sides of the road. The Applicant proposes to develop the lands on the western side of the road as depicted on the provided site plan and previously recorded surveys in the town land records. The subject parcel is bound to the north by a  $\pm 10.76$  acre parcel currently owned by Daniel T & Sayre B Wardell; to the south by a  $\pm 22$ -acre parcel currently owned by Jerry Perl; and to the west generally by a  $\pm 10.08$ -acre parcel located at 584 Wade Pasture Road and owned by Stephen Yanow. The parcel was originally created in 1991 approved by the Planning Commission under subdivision S-90-11 and later modified through an approved boundary line adjustment between Lots 87 & 88 in 2007.

The application has been reviewed by the Stowe 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 John Grenier on May 17, 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 June 18, 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 May 30, 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 June 18, 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:

- Chris Austin, Grenier Engineering, PO Box 445, Waterbury, VT 05676
- Daniel Wardell, 884 Wade Pasture Road, Stowe, VT 05672
- Randall Walter, Bensonwood Architects, 6 Blackjack Crossing, Walpole, NH 03608
- Ron & Kris Elwell, 27 Robinson Drive, Bedford, MA 01730

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

- Town of Stowe Development Application (2 pages); dated 5/14/2019;
- Cover letter from Grenier Engineering Chris Austin, dated 5/17/2019;
- Photograph depicting the southern view and proposed tree clearing, no date;
- Photograph depicting overall view, no date;
- Photographs depicting the western view and proposed tree clearing, no date;
- Elevation Drawings Height and Area Elwell Residence, Sheet A000, prepared by Bensonwood, dated 06/06/2019;
- Exterior Elevations, Sheet A201, prepared by Bensonwood, dated 06/06/2019;
- Exterior Elevations, Sheet A202, prepared by Bensonwood, dated 06/06/2019;
- Elevation Drawings 1<sup>st</sup> floor Elec Plan Elwell Residence, Sheet E101, prepared by Bensonwood, dated 06/06/2019;
- Elevation Drawings Basement Elect Plan Elwell Residence, Sheet E100, prepared by Bensonwood, dated 06/06/2019;
- Evergreen EB-9, outdoor lighting cutsheet, no date;
- Evergreen EH-7, outdoor lighting cutsheet, no date;
- Mission MCM-12, outdoor lighting cutsheet, no date;
- Site Grading Plan Ron & Kris Elwell Robinson Springs Lot 88, Sheet 1 of 1, prepared by Grenier Engineering, last revised 5/16/19;
- ANR Natural Resources Atlas Map, dated 6/7/19 (staff).

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 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
- Section 15- Parking Regulations

**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 ±10.47. No changes to lot width or lot area are proposed under this application.
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 proposed dwelling and related improvements (i.e. driveway, septic, etc.) The required front/sides/rear setback lines are shown. The proposed dwelling and attached garage appear to be located outside the required setbacks.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct a single-family dwelling and attached garage. Single-family dwellings are a permitted use in the RR5 district.
6. **Density.** The RR5 district allows single-family dwellings at a density of one per five acres. The subject parcel is ±10.47. The Applicant proposes one dwelling unit, in conformance with the density requirements for the district.
7. **Height.** The maximum building height in RR5 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 the proposed height of the addition to be 15' 5".

**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).

**Section 9.5 RHOD Guidelines:**

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 proposes to construct a single-family dwelling, attached garage, and related improvements. The proposed dwelling and garage are generally sited in areas previously cleared. 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.

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 existing dwelling and project vicinity. In the Applicant's cover letter, it states that the site will not be visible from town roads due to the existing topography in combination with the building design and existing forested conditions. Staff visited the site on May 22<sup>nd</sup> and confirms that no public roads Class 3 or higher are clearly visible from the proposed building location. The Board finds the proposal will not negatively impact public vantage points and will have no or very limited visibility from 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 proposes to construct a single-family dwelling, attached garage, and related improvements. The proposed dwelling and garage are generally sited in areas previously cleared. The driveway enters the site from Wade Pasture Road is located behind the dwelling. The Board reviewed the applicable standards and guidelines and finds that the proposed improvements 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 to construct a single-family dwelling, attached garage, and related improvements. The proposed dwelling and garage are generally sited in areas previously cleared on lands that are generally flat. According to the ANR Natural Resources Atlas there are no fragile environments that would be impacted from the proposed project. The parcel is undeveloped but contains a roughed in driveway and areas previously cleared. The Board finds that the proposal, if constructed as approved, 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 application materials indicate areas to be cleared with minor expansions to the existing treeline to allow for the installation of utilities and improved views. Building materials are included on the architectural drawings. The Board finds the proposal will be minimally visible and 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 proposes to construct a single-family dwelling, attached garage, and related improvements. The proposed dwelling and garage are generally sited in areas previously cleared on lands that are generally flat. The subject lot was created in 1991 and is amongst a larger rural subdivision intended for residential development. 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 provided site plan illustrates the the existing and proposed treelines. The application materials indicate areas to be cleared with minor expansions to the existing treeline to allow for the installation of utilities and improved views. No other clearing or removal of trees is proposed

under this application. During the hearing the Applicant discussed the proposed clearing. These areas are clearly shown on the site plan provided by Grenier Engineering, last revised 5/16/19.

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 driveway enters the parcel from Wade Pasture Road and is located to the rear of the proposed dwelling. The existing driveway area is roughed-in and is fairly flat.
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 provided building elevation designs for the proposed improvements. The elevation drawings note the proposed height of the addition to be 15' 5". The site plan indicates the finished floor elevation to be 1701'. The Board finds the proposal is in conformance with Standard 9 and has been designed in a manner that will not visually exceed the height of the land or tree line.
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 provided a building material schedule and colors. Proposed materials and colors are natural tones and compatible with the surrounding landscape. 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.
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 elevation drawings, Sheet A000, prepared by Bensonwood show the location of outdoor light fixtures. Sheet E101 illustrates the proposed light fixtures. The elevation drawings indicate the location of approximately nine light fixtures on the western elevation. Cut sheets were provided for the proposed outdoor lighting fixtures. The Board finds the proposed lighting is in conformance with Section 4.8 of the regulations and has been designed to minimize impacts.
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 development is in conformance with all applicable RHOD standards and guidelines.

### **DECISION**

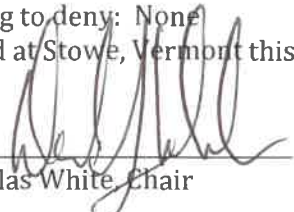
Based upon the foregoing Findings of Fact, in RE: **6020** the Board finds (6-0) that the application meets the Stowe Zoning Regulations, as adopted October 8, 2018, criteria for approval with the following conditions of approval:

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. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall submit revised architectural drawings indicating the proposed floor elevations of the dwelling.
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 shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA). Exceptions to this standard to accommodate a particular "period" or architectural style are allowed, providing the maximum initial lumens generated by each fixture not exceed 2,000 (equivalent to a 150 watt incandescent bulb).
6. Clearing shall be limited to the areas depicted on the Site Grading Plan Ron & Kris Elwell Robinson Springs Lot 88, Sheet 1 of 1, prepared by Grenier Engineering, last revised 5/16/19.
7. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
8. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
9. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
10. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided to ensure compliance with the provisions of Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
11. An adequate stormwater drainage system must be 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.
12. 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.
13. 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. White, C. Walton, T. Hand, T. Mumley, A. Volansky, M. Diender

Voting to deny: None

Dated at Stowe, Vermont this the 2 day of July 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.

