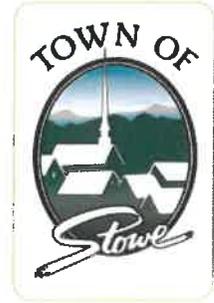


**TOWN OF STOWE**  
**DEVELOPMENT REVIEW BOARD**  
Findings of Fact & Conclusions of Law



**PROJECT:** 6296

**SUBJECT PROPERTY:** 1697  
Luce Hill Road, Stowe, VT (#06-003.100)

**PROPERTY OWNER:**  
Annie & Sam Bartlett  
201 Haul Road  
Stowe, VT 05672

**APPLICANT:**  
Andrew Volanksy- Volanksy Studio  
1815 Mountain Road  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Andrew Volansky of Volansky Studios, on behalf of property owners Annie & Sam Bartlett (herein referred to as the "Applicant"), requests RHOD review to construct a barn/garage building containing a single dwelling unit/studio and related improvements. The subject parcel contains ±56.11 acres and is served by Luce Hill Road, a Class 3 town highway. The parcel is located within the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The application has been reviewed by the Development Review Board 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 Andrew Volanksy on July 8, 2020. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the Development Review Board was scheduled for August 4, 2020 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 July 16, 2020. 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 August 4, 2020 utilizing the remote meeting service Zoom, with a quorum of the DRB present. Board member Andrew Volanksy recused himself given his professional involvement with the project. No other ex parte communications or conflicts of interests were reported. Members who participated in the review included: Leigh Wasserman, Francis Aumand III, Michael Diender, Thomas Hand, and Peter Roberts.

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

- Andrew Volanksy- Volanksy Studio, 1815 Mountain Road, Stowe, VT 05672

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

- Town of Stowe Development Application (2 pages); dated 7/8/2020;
- Bartlett Residence RHOD Submission Package, dated 07/02/2020;
  - Gooseneck Fixture L1 (2 pages)
  - Pandora Wall Mounted Fixture L2

- Paxton Glass 8-Light Pendent L3 (2 pages)
- Marvin Window Manufacturer Specifications, dated 7/1/2020;
- Bartlett Residence- Drawings Prepared by Volansky Studio including:
  - Architectural Site & Landscape Plan, dated 7/2/2020;
  - Site Plan prepared by Grenier Engineering, dated 7/8/20;
  - Photo Sheet showing existing conditions;
  - Main Level Floor Plan
  - North & East Elevation
  - South & West Elevation
- Site Plan prepared by Grenier Engineering with existing conditions and aerial image, dated 7/9/20;
- Site Plan prepared by Grenier Engineering with existing conditions, dated 7/9/20;
- Architectural Site & Landscape Plan, Sheet RHOD., prepared by Volansky Studio, dated 7/2/2020;

The Development Review Board 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-** 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 ±56.11 acres. 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, hardscaping, etc.) in relation to the front, sides, and rear setbacks. As shown, the proposed building is located partially within the front setback. Under the application, two (2) existing nonconforming buildings will be removed and a 50’ wide building will be constructed partially within the front setback. Section 3.9(2)(B) allows nonconforming buildings to be altered, enlarged, relocated and/or replaced with a new structure or structures in a manner which does not achieve full compliance with the setback requirements of the regulations providing the degree of non-compliance is not increased except as provided under Section 3.9 and no other setback requirements are infringed upon. The regulations state “*in no case shall the length of*

*cumulative total of all proposed and future expansions or alterations exceed 50% of the length of the existing nonconforming portion of the structure at the time the structure became nonconforming.”* According Sheet RHOD.2, the cumulative linear footage of non-conformity is 55 linear feet. The proposed cumulative linear footage on nonconformity is 50 linear feet.

4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct a barn/garage building containing a single dwelling unit/studio and related improvements. Single-family dwelling and accessory structures are a permitted use in the RR5 district.
6. **Density.** The RR5 district allows single-family dwellings at a density of one (1) per five (5) acres. The subject parcel is ±56.11 acres. No increases in density are proposed under this application.
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 roof height of the dwelling to be 21’ 1”, the building height is labeled on Sheet RHOD 6.

**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).

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 remove two existing structures (single-family dwelling and accessory outbuilding) and construct a barn/garage building containing a single dwelling unit/studio and related improvements. Except for the noted trees to be removed, the proposed building is sited in areas previously cleared. The Applicant proposes to improve the existing curb cut and driveway. During the hearing, the Applicant testified that the location of the building was chosen based on the location of existing retaining walls and the desire to keep the open meadow undisturbed. 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 proposed dwelling is accessed via Luce Hill Road, a Class 3 town highway. Except for Luce Hill Road, the Applicant testified the proposed building will not be visible from any defined vantage points. Staff visited the site and confirms the proposed building will not be visible from any public vantage point other than Luce Hill Road. During the hearing Acting Chair Aumand III reported that he had visited the site and agrees with the Applicant’s position that except for Luce Hill Road the building’s location is not visible from any defined vantage points. The Applicant provided a series of photographs documenting the existing conditions and possible vantage points. The Board finds

the proposal will not negatively impact public vantage points and will not be visible except from Luce Hill Road.

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 barn/garage building containing a single dwelling unit/studio and related improvements. The proposed building is sited in areas previously cleared. The driveway enters the site from Luce Hill Road and is generally located to the side of the building. During the hearing, the Applicant testified that the location of the building was chosen to preserve the open meadow and allow for many of the existing trees to be undisturbed. The Board reviewed the applicable standards and guidelines and finds that the proposed building will not adversely impact the character of the scenic landscape.
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 remove two existing buildings and construct a single dwelling unit/studio and related improvements. A mapped watercourse runs along the southern property boundary. All development is located more than 300 ft from the watercourse. The proposed building is sited in areas previously cleared on lands that are relatively flat. According to the ANR Natural Resources Atlas the parcel contains slopes between 5%-15% and does not contain deer wintering areas, mapped wetlands, habitat blocks, or significant natural communities. 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 and aerial photographs indicate the parcel is previously cleared with only a few trees proposed to be removed. The existing structures are located on the side of an open meadow. Building materials and colors are included in the architectural drawings (Sheet RHOD.5). The application materials indicate the roof height of the dwelling to be 21' 1", the building height is labeled on Sheet RHOD 6. The finished floor elevation of the garage slab is 1344'. The Board finds the proposal will be minimally visible from Luce Hill Road 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 remove two existing buildings and construct a single dwelling unit/studio and related improvements. The proposed building is sited in areas previously cleared on a side of an open meadow. During the hearing, the Applicant testified that the proposed building location was intentionally chosen to reduce any impacts and preserve the existing open meadow and surrounding landscaping. 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 proposal maintains the existing treeline surrounding the project site. The application materials note the trees to be removed and those to remain. No additional clearing or removal of trees is

proposed under this application. The Board finds the Applicant provided a plan noting existing trees to be protected.

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 property is served by Luce Hill Road. The ANR Natural Resources Atlas indicates most of the lot contains slopes between 5-15%. The Applicant proposes to improve the existing driveway and construct a turnaround in the same vicinity. The driveway will be less than 15% grade.
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 application notes the proposed average roof height to be 21' 1". The existing treeline is proposed to be protected and remain intact. Except for Luce Hill Road, there are no identified public vantage points. 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 (Sheet RHOD 5), which include traditional wood clapboard siding, standing seam roofing, and window and light specifications. 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 architectural drawings prepared by Volansky Studios show the location of outdoor light fixtures. Cut sheets were provided for each of the proposed outdoor lighting fixtures. The elevation drawings indicate location and placement of each of the proposed light fixtures. Fixtures include a downward facing gooseneck wall mounted fixture; a wall mounted sconce; and an eight-light pendant. During the hearing, the Applicant identified the placement and location of each light fixture. 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:** Based upon the above findings, the Board concludes the proposed project has been designed in conformance with all applicable RHOD standards and guidelines.

**DECISION**

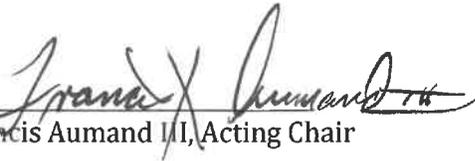
On a motion by Michael Diender, seconded by Thomas Hand, the Development Review Board hereby approves the Applicant's request as outlined in the application dated 7/2/2020 and supplemental materials, subject to the following conditions of approval:

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. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. Landscaping shall be installed as shown on the approved plans. Any dead and dying plants and trees shall be replaced within one (1) year of death.
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. Site construction must 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 must be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
9. 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.
10. 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.
11. 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.
12. 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: Leigh Wasserman, Francis Aumand III, Michael Diender, Thomas Hand, and Peter Roberts.  
Voting to deny: None

The motion passed, 5-0.

Dated at Stowe, Vermont this the 18<sup>th</sup> day of August 2020

By:   
Francis Aumand III, Acting 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.

