



**Notice of DRB Decision**  
**Town of Stowe Zoning Office**  
**PO Box 730**  
**Stowe VT 05672**

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Please note that there are conditions of approval required to be met before your Zoning Permit can be issued. Once you fulfill these conditions your zoning permit will be sent to you

**APPLICATION INFORMATION**

**Project Number** 6508  
**Application Date** 3/19/2021  
**Physical Location** 1520 LUCE HILL RD  
**Map ID** 06-007.2B0 **Tax ID** 32026  
**Project Description** RHOD REVIEW-CONSTRUCT A DRIVEWAY TO SERVE LOT 2B  
**Owner** MARK & ALLISON SELLON  
**Applicant** GRENIER ENGINEERING JOHN GRENIER  
**Applicant Address** PO BOX 445  
WATERBURY VT 05676

**APPROVALS ON RECORD**

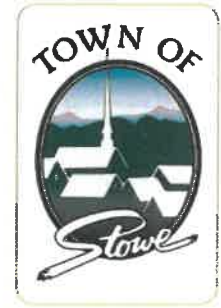
<b>Action Taken</b>	<b>Date</b>	<b>End of Appeal Period</b>	<b>Expiration Date</b>
DRB DECISION	6/7/2021	7/7/2021	7/7/2023

*Sarah McShane*

Zoning Office



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



**PROJECT:** 6508

**SUBJECT PROPERTY:** 1520 Luce Hill Road, Stowe, VT (#06-007.2B0)

**PROPERTY OWNER:**

Mark & Allison Sellon  
311 Oakland Beach Ave.  
Rye, NY 10580

**APPLICANT:**

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

**APPLICATION:**

The Applicant, John D. Grenier, PE, on behalf of property owners Mark & Allison Sellon, (herein referred to as the "Applicant"), requests RHOD review to construct a driveway on Lot 2B at 1520 Luce Hill Road. The property is served by a private common access and utilities right-of-way across Lot 2A off from Luce Hill Road. The subject parcel, consisting of ±7.0 acres (06-007.2B0), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The parcel was originally created in 2004 under S-04-14 as part of the Lintilhac two-lot subdivision approved by the Development Review Board on August 16, 2004. 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 John D. Grenier, PE on March 17, 2021. 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 May 18, 2021, 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 April 29, 2021. 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 May 18, 2021 utilizing the remote meeting service Zoom, with a quorum of the DRB present. There was no physical place to attend the meeting, all participation was via telephone or online. No ex parte communications or conflicts of interests were reported. Members who participated in the review included: Drew Clymer, Leigh Wasserman, Francis Aumand III, Tom Hand, Andrew Volanski, Chris Walton, 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:

- Chris Austin, Grenier Engineering PC, PO Box 445, Waterbury, VT 05676

- David Cole [1282 Luce Hill Rd], 31 Clovelly Road, Wellesley, MA 02481

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

- Town of Stowe Development Application (2 pages); dated 3/9/2021;
- Cover letter from Grenier Engineering, dated 3/17/2021;
- Series of five photographs showing visibility and existing conditions, no date;
- Lot 2B Site Plan Mark & Allison Sellon prepared by Grenier Engineering, last revised 3/16/2021;
- DRB Decision for S-04-14 [Lintilhac two-lot subdivision] dated August 16, 2004 & associated subdivision plat; (staff)
- State of VT Individual Wetlands Permit/File 2020-729.

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

**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, Lot 2B, is ±7.0 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 previously approved building zone, location of the proposed driveway, and related residential improvements (i.e. septic, etc.) in relation to the front, sides, and rear setbacks. The setbacks are mislabeled; the rear and side yard setbacks are labeled as 70'; under current regulations the side and rear setbacks are 75'.

During the hearing, abutter David Cole testified that the building zone shown on the submitted site plan is not consistent with the building zone approved under the subdivision application. The building zone approved under the subdivision application did not include the septic and leach field areas. The Applicant confirmed and agreed to update the site plan accordingly.

Section 15.6 requires driveways, except for common driveways, to be setback 25' from the property line in the RR5 district, unless the abutting property owner agrees to less. Under current

regulations, the term driveway means “16.48 Driveway: A roadway used to access not more than three (3) dwelling units that is in private ownership.” The lot is accessed via common driveway off Luce Hill Road, as the existing access currently only serves one dwelling unit currently under construction.

Section 3.10(1) further states “To protect water quality and maintain the scenic beauty of the Town’s watercourses, there shall be no development, excavation, landfill or grading in any zoning district within a minimum distance of fifty (50’) feet from the top of the bank of any watercourse in the Town. The top of the bank shall mean the point along a stream bank where an abrupt change in slope is evident.” The fifty (50) foot watercourse setback is labeled on the plan. This area will not be impacted by any proposed development.

4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes to construct a driveway to serve a future single-family dwelling. 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 (1) per five (5) acres. The subject parcel is ±7.0 acres.
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.” No buildings are proposed under this application.

**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 driveway and related improvements. The lot contains an open meadow and was previously cleared. The lot is part of a two-lot subdivision approved in 2004 intended for future residential development. 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 driveway has access via shared drive off Luce Hill Road, a Class 3 town highway. The Applicant provided a series of photographs showing the project vicinity and a visual assessment of the project area. One identified vantage point is Luce Hill Road. The parcel may be visible from Haul Road, however Haul Road is a Class 4 town highway and therefore is not considered a public vantage point as defined under the regulations. The Board finds the proposal will not negatively

impact public vantage points and will have limited visibility from the designated 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 driveway and related improvements. The proposed driveway and previously approved building zone are generally sited in areas previously cleared. The driveway enters the site from a shared right-of-way off from Luce Hill Road. According to the ANR Natural Resources Atlas, the lot is fairly flat with grades of less than <5% and less than <15%. The Board reviewed the applicable standards and guidelines and finds that the proposed improvements 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 construct a driveway and related improvements. The proposed driveway is generally sited in areas previously cleared on lands that are relatively flat. The lot contains a mapped watercourse and Class 2 wetlands and associated wetland buffers. The proposed driveway crosses over the wetland and association wetland buffer. As noted on the submitted plans, the wetland was delineated by Rose Environmental and confirmed by Shannon Morrison in the spring of 2020. The proposed driveway will impact ~1522 sf of Class 2 wetlands and ~6,027 sf of wetland buffer. According to the site plan, these impacts have received approval from the State of VT. Boulders are proposed to be placed along the wetland buffer to demarcate the sensitive area. Immediately prior to the hearing, the Applicant provided a copy of the approved State of VT Wetlands Permit.

Guideline 4.2 states *"If roads and bridges must be put in wetlands, they should intersect the wetland at the narrowest part"* as illustrated in A6. Guideline 4.4 further states *"Buffer widths and setbacks from streams should be established, the width of which should increase with the steepness and length of slopes, and the width of the stream. A general rule is to keep a fifty (50') foot setback from streams on lands with less than fifteen (15%) percent slope, and on steeper slopes the buffer distance should be increased as the slope increases. (See illus. A7.)"* The parcel contains a mapped watercourse that is protected under Section 3.10. The watercourse is shown on the site plan and is protected by a 50' buffer, as noted on the plans. The parcel contains slopes less than 15%. 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. This standard will be reviewed when any buildings are proposed on the parcel. The Board finds Standard 5 does not apply to this application.
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 driveway and related improvements. The site is characterized by an open meadow with a mature treeline along the property edges and riparian and wetland areas. The proposed

driveway is generally sited in areas previously cleared on lands that are relatively flat. The subject lot was created in 2004 and is part of a previously approved two-lot subdivision. No buildings or additional landscaping is proposed under this application. This standard will require additional review when any buildings are proposed on the parcel. 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 proposed driveway is generally sited in areas previously cleared. The proposal maintains much of the existing treeline around the project site. No additional clearing or removal of trees is proposed under this application.
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 a private common access and utilities right-of-way off from Luce Hill Road. The ANR Natural Resources Atlas indicates most of the lot contains slopes of less than 15%. The Applicant proposes a driveway that enters the parcel from a narrow portion on the southern edge of the parcel. The application materials indicate the proposed driveway grade is between 5-8% and follows the gentle slope of the lot. The Applicant confirmed this information during the hearing.
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. No buildings are proposed under this application. The Board finds any future proposal involving the construction of buildings will be required to conform 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. No buildings are proposed under this application.
18. **Standard (11)** Offsite light impacts shall be minimized. Outdoor lighting must comply with the standards contained in Section 4.8 of the regulations. No outdoor lighting is proposed under this application.
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 driveway and related improvements have been designed in conformance with all applicable RHOD standards and guidelines.

## **DECISION**

On a motion by Chris Walton, seconded by Andrew Volansky, the Development Review Board hereby approves the Applicant's request to construct a driveway and related improvements as outlined in the application dated 03/09/21 and supplemental materials, subject to the following conditions of approval:

1. The project shall be completed and maintained according to the project 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 such change being made, for a determination whether 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 it 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 the zoning permit, the Applicant shall submit the following:
  - a. A revised site plan correctly labeling the current RR5 setbacks and the previously approved building zone, as approved under S-04-14 [subdivision approval].
4. The fifty (50') vegetation stream buffer shall be flagged in the field; flagging must be maintained during the entire duration of driveway construction. The buffer shall be left in an undisturbed state with the exception of minimal clearing necessary to accommodate development allowed under Section 3.10.
5. Clearing for construction shall be restricted to the areas shown on the approved site plan entitled 'Lot 2B Site Plan Mark & Allison Sellon' prepared by Grenier Engineering, last revised 3/16/21, and amended herein. Lands outside of the shown clearing limits shall be left undisturbed except as necessary to remove dead or diseased trees and to promote the health of the forest.
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. 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. Prior to the issuance of a Certificate of Occupancy, a registered engineer shall provide written confirmation that the as-built driveway conforms to the approved plans.
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: Drew Clymer, Leigh Wasserman, Francis Aumand III, Tom Hand, Andrew Volansky, Chris Walton, and Peter Roberts.



Voting to deny: None

The motion passed, 7-0.

Dated at Stowe, Vermont this the 7 day of June 2021

By:   
Drew Clymer, 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.

