



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. Any conditions of approval required to issue a zoning permit have been met and your zoning permit will be issued without any further action required from you.

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number 6570
Application Date 5/14/2021
Physical Location 817 WADE PASTURE RD
Map ID 15-042.850 Tax ID 30217-050
Project Description AMEND PREVIOUSLY APPROVED CLEARING LIMITS UNDER PROJECT 6310
Owner HARPER PHILLIPS
Applicant GRENIER ENGINEERING CHRIS AUSTIN
Applicant Address PO BOX 445
 WATERBURY VT 05676

APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	8/11/2021	9/10/2021	9/10/2023

Sarah McShane

Zoning Office

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



PROJECT: 6570

SUBJECT PROPERTY: 817 Wade Pasture Road, Stowe, VT; Tax Map 15-042.850

PROPERTY OWNER(s):

Harper Phillips
70 S. Winooski Ave #104
Burlington, VT 05401

APPLICANT:

John Grenier- Grenier
Engineering
PO Box 445
Waterbury, VT 05676

APPLICATION:

The Applicant, John Grenier of Grenier Engineering, on behalf of property owner Harper Phillips (herein referred to as the "Applicant"), requests Ridgeline and Hillside Overlay District [RHOD] review to amend previously approved clearing limits. The subject parcel, consisting of ±15.6 acres and located at 817 Wade Pasture Road, Stowe, VT (15-042.850), is in the Rural Residential 5 (RR5) Zoning District and the Ridgeline and Hillside Overlay District (RHOD). The subject parcel is bounded to the north by a ±100.55-acre parcel owned by Wayne Carey; to the west by Wade Pasture Road; to the south by a ±10.76-acre parcel owned by Daniel & Sayre Wardell; and to the east by a ±128.10-acre parcel owned by Symphony LLC. The parcel, Lot 85, was originally approved by the Stowe Planning Commission under subdivision S-90-11. The five (5) acre portion was later added under S-01-18 approved by the Planning Commission on September 25, 2001. Most recently, the Development Review Board approved clearing areas for a future house site and a residential driveway under Project 6310 on October 02, 2020. The Applicant now seeks minor expansions to the Board's most recently approved clearing limits. The application has been reviewed by the 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 was filed by Applicant John Grenier on May 14, 2021. The application was accepted as administratively complete by Town of Stowe Planning & Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the Board was scheduled for July 6, 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 June 17, 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 July 6, 2021 at the Akeley Memorial Building, 67 Main Street, with remote participation available through the virtual meeting platform 'Zoom'. A quorum of the DRB was present. No ex parte communications or conflicts of interests were reported. Members who participated include: Drew Clymer, Chris Walton, Andrew Volansky, Leigh Wasserman, Peter Roberts, Francis 'Paco' Aumand III, and Tom Hand.

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

- Chris Austin, P.O. Box 445, Waterbury, VT 05676
- Harper Phillips, 70 S. Winooski Ave #104, Burlington, VT 05401

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

- Town of Stowe Development Application (2 pages); dated 5/14/21;
- Project narrative from Grenier Engineering, dated 5/14/21;
- Overall Site Plan 'Harper Phillips- Robinson Springs Lot 85 Wade Pasture Road' prepared by Grenier Engineering, Sheet 1 of 2, last revised 6/14/21;
- Photographs (5) of various vantage points showing existing conditions, no date;

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- 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).

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel(s) are 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(s) are a total of ±15.6 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 setbacks and previously approved improvements (i.e. driveway, septic, etc.). No buildings are proposed under this application.
4. **Maximum Building Coverage.** Does not apply to the RR5 zoning district.
5. **Use.** The Applicant proposes modifications to previously approved clearing areas. No uses are proposed under this application.
6. **Density.** Does not apply.
7. **Height.** Does not apply.

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 modifications to clearing limits on a previously approved undeveloped lot (Lot 85) in the Robinson Springs residential subdivision. No

buildings are proposed under this application. The Applicant proposes amended clearing areas for a future house site and a residential driveway. The project narrative states, *"the purpose of additional thinning and clearing is to provide distant mountain views and additional southern exposure to the future house site."* The lower portions of the lot contain the primary septic leachfield and replacement leachfield areas which are served by an existing drive and gravel parking 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.

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 project vicinity and existing conditions. Under a prior application the Board received the following testimony *"the proposed site is expected to have views of the Worcester mountain range to the east-southeast....In an effort to see this location from town roads, we were unable to view this site due to the existing topography. The top of Weeks Hill is in the foreground view, which blocks any vantage points toward Route 100 North. Weeks Hill Road remains fully screened from view as it turns toward the south almost immediately after the intersection with Wade Pasture Road."* Staff made a follow-up site visit on April 27th and confirms there is little, if any, impacts to defined vantage points given the location, topography, and surrounding vegetation and forest cover. The Board finds the proposal will not negatively impact 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 modifications to previously approved clearing limits. No buildings are proposed under this application. The proposed amended clearing areas are shown on the site plan. According to the previously approved application, the lot contains approximately eight (8) acres of conservation zone that will be retained as natural undisturbed areas. 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 modifications to previously approved clearing areas. No buildings are proposed under this application. According to the ANR Natural Resources Atlas there are no fragile environments that would be impacted from the proposed project. The parcel is undeveloped. No wetlands, deer wintering areas, or hydric soils are shown on the ANR Natural Resources Atlas. Portions of the lot contains very steep slopes in excess of 25%. In general, these areas are not proposed to be impacted and will remain undeveloped. 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 Applicant proposes modifications to previously approved clearing areas. No buildings are proposed under this

application. According to previous applications and Board findings, the lot contains approximately eight (8) acres of conservation zone that will be retained as natural undisturbed areas. Any future dwelling or non-exempt buildings/activities will require full RHOD review under the regulations in effect at the time of application. The provided site provides a clearing legend showing the conservation zone, proposed areas of tree thinning, and areas of 100% clearing. The building zone sits on the norther portion of the lot and appears to be nearly fully screened from Wade Pasture Road. Guideline 5.3 states that *'clearing for views should be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades. View clearing should involve the selective cutting of small trees and the lower branches of large trees, rather than removing mature trees.'* Two (2) areas on the proposed plan are shown as "tree thinning area for view." During the hearing the Applicant described the extent of clearing within these two (2) areas and determined the proposal 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 amended clearing limits. The lot contains a forested cover with a small portion of land previously cleared. No buildings are proposed under this application. The Applicant provided photographs showing existing conditions, topography, landscaping, etc. 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 Applicant provided a site plan showing proposed amended clearing limits. The proposed amended clearing areas are located along the northwestern property line to gain distant views of Mt. Mansfield, thinning along the northeastern property line for views, and 100% clearing between the building zone and the lower septic and leachfield areas. No other clearing or removal of trees are 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 driveway was previously approved under a prior application for project 6310. The approved driveway enters the parcel from the western portion of the lot from Wade Pasture Road. According to the ANR Natural Resources Atlas this portion of the lot generally contains slopes between 5-10%. During the prior hearing, the Applicant confirmed that the driveway will be roughed-in and has been designed to have an average grade of 8% with a 10% maximum grade at sections. The Board finds that no changes are proposed to the previously approved driveway location or 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 Applicant proposes amendments to previously approved clearing areas. No buildings are proposed under this application. Any future dwelling will require review by the Board and conformance with Standard 9.
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 proposes amendments to previously approved clearing areas. No buildings are proposed under this application. This standard does not apply.

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 buildings or outdoor lighting are proposed under this application. This standard does not apply.
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

On a motion by C.Walton, seconded by L.Wasserman, the Development Review Board hereby approves the Applicant's request for RHOD review as outlined in the application dated 5/14/2021 and supplemental materials, subject to the following conditions of approval:

1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Planning & Zoning Office and other material representations. 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. Clearing shall be restricted to the areas shown on the approved site plan entitled '*Overall Site Plan 'Harper Phillips- Robinson Springs Lot 85 Wade Pasture Road'*' prepared by Grenier Engineering, Sheet 1 of 2, last revised 6/14/2021. Lands outside of the approved clearing areas shall be left undisturbed except as necessary to remove dead or diseased trees, to promote the health of the forest, and to establish or maintain recreational paths or trails.
4. Site construction shall adhere to the standards outlined in Section 3.12(2)(A-E) including:
 - o The amount of soil exposed at any one time must be kept to a minimum.
 - o Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
 - o Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
 - o Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided as outlined in Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
 - o An adequate stormwater drainage system must be continuously 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.
5. A Certificate of Occupancy must be obtained from the Zoning Administrator following completion of the project to ensure that the project has been constructed as approved by the Development Review Board.

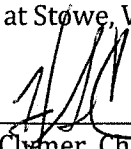
6. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting favor: Drew Clymer, Chris Walton, Andrew Volansky, Leigh Wasserman, Peter Roberts, Francis Aumand III, and Tom Hand

Voting to deny: None

The motion PASSED, 7-0.

Dated at Stowe, Vermont this the 8 day of August 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.