



Notice of DRB Decision
Town of Stowe Planning and Zoning Department
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 contact the Planning and Zoning Department at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number	7672		
Application Date	8/6/2025		
Physical Location	385 THOMAS PASTURE LN		
Map ID	15-042.750	Tax ID	30236-080
Project Description	INSTALL A POND		
Owner	ORI BEN-AKIVA 2014 TRUST C/O ORI BEN-AKIVA		
Applicant	GRENIER ENGINEERING		
Applicant Address	PO BOX 445		
	WATERBURY VT 05676		

APPROVALS ON RECORD

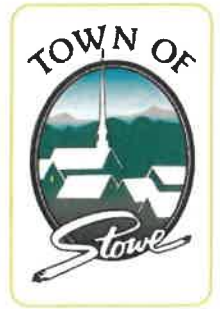
Action Taken	Date	Effective Date	Expiration Date
DRB DECISION	10/3/2025	11/2/2025	11/2/2027

Sarah McShane

Dept. of Planning and Zoning

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law



PROJECT: 7672

SUBJECT PROPERTY: 385 Thomas Pasture Lane (Lot 75), Stowe, VT

PROPERTY OWNER:

The Ori Ben-Akiva 2014 Trust
139 Warren Avenue
Boston, MA 02116

APPLICANT:

Grenier Engineering
PO Box 445
Waterbury, VT 05676

APPLICATION

The Applicant, Grenier Engineering on behalf of property owners, the Ori Ben-Akiva 2014 Trust (herein referred to as the "Applicant"), requests Ridgeline and Hillside Overlay District (RHOD) approval to amend the previously approved clearing limits in order to construct a man-made pond at 385 Thomas Pasture Lane. The proposed pond will provide fire protection and includes a dry hydrant. The existing single-family dwelling, attached garage, and related improvements received RHOD approval from the Development Review Board (DRB) in 2020 under Project 6190. The subject parcel, consisting of ±4 acres and located on Tax Map 15-042.750, is in the Rural Residential 5 (RR5) Zoning District and the RHOD. The property is served by Thomas Pasture Lane, a privately owned and maintained road. The parcel, Lot 75, was originally created in 1989 as approved by the Town of Stowe Planning Commission under subdivision S-83-7(V) Robinson Springs Development Phase V (dated October 23, 1989). The application has been reviewed by the DRB pursuant to the applicable standards of the Town of Stowe Zoning Regulations, effective January 31, 2024, for the purposes of RHOD review. The DRB's procedural history and relevant findings are attached hereto.

REVIEW PROCESS

(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)

A Town of Stowe development application was filed by the Applicant on August 6, 2025. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing was scheduled for September 16, 2025 and warned by the Zoning Administrator in accordance with §2.14 of the Regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on August 28, 2025. The Applicant provided a certificate of service on August 27, 2025 in accordance with the Regulations.

The public hearing to consider the application convened on September 16, 2025 at the Akeley Memorial Building, 67 Main Street, with remote participation available through Zoom. A quorum of the DRB was present. David Kelly recused himself. No *ex parte* communications or conflicts of interests were reported. Members who participated in the review included: Drew Clymer, David Kelly, Mary Black, Andrew Volansky, Patricia Gabel, Peter Roberts, and Scot Baraw. 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.

INTERESTED PERSONS/PARTICIPANTS

In accordance with 24 VSA §4471, an interested person who has participated in a DRB proceeding may appeal a DRB decision rendered in that proceeding to the Vermont Superior Court Environmental Division. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- John Grenier & Sarah Heneghan, Grenier Engineering, PO Box 445, Waterbury, VT 05676

THE HEARING RECORD

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

1. Town of Stowe Development Application, dated 8/6/2025
2. Narrative, prepared by Grenier Engineering, PC, dated 8/5/2025
3. Grenier Engineering Letter to Mike Hollister, dated 8/1/2025
4. Proposed Pond Site Plan, prepared by Grenier Engineering, PC, Sheet C-1, dated 8/1/2025
5. Pond Cross Section, prepared by Grenier Engineering, PC, Sheet C-2, dated 8/1/2025

FINDINGS OF FACT & CONCLUSIONS OF LAW

During its review of the application, the DRB made the following Findings of Fact and Conclusions of Law

The Applicant's request was reviewed by the DRB for conformance with the applicable requirements, including the following:

Town of Stowe Zoning Regulations (effective January 31, 2024)

- 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 2.16 Flexibility and Finality in the Permitting Process (Stowe Club Test)

1. The Applicant seeks modifications to the clearing limits previously approved under Project# 6190 in order to accommodate the proposed man-made pond which will serve as fire protection.
2. The DRB decision approving Project #6190 required the Applicant to submit an amended plan prior to the issuance of a zoning permit. The amended plan was required to label the existing treeline as a "No Cut Zone". The DRB decision contained the following condition of approval:

Clearing for construction shall be restricted to the areas shown on the approved site plan entitled Site Plan 'Ben-Avika Dickenson' prepared by Grenier Engineering, Sheet 1 of 1, last revised 2/26/2020 and amended herein. The 'No Cut Zone', as shown on the approved site plan, shall be maintained to provide a natural backdrop and screening of the dwelling and be left undisturbed except as necessary to remove dead or diseased trees and to promote the health of the forest.

3. The proposed fire pond is located on the southern side of the existing dwelling and will extend in to the previously established no-cut zone/clearing limits.
4. The zoning permit (Z-6190) granting approval for the construction of the dwelling established specific clearing limits for the subject property. These approved clearing limits were identified on the plan approved by the DRB and included as a specific condition of approval in the DRB decision.

5. The changes sought by the Applicant seek to modify these previously approved clearing limits. The DRB therefore finds the Applicant is seeking an amendment to a final approval.
6. The changes sought by the Applicant seek to modify to this condition of approval, therefore the DRB finds the Applicant is seeking an amendment to a final condition of approval.
7. The DRB, in its Findings of Fact and Conclusions of Law approving Project #6190, made multiple findings related to the dwelling, screening, exposure of building, etc. and concluded that the proposed dwelling would not negatively impact public vantage points and would have limited visibility from public vantage points.
8. Section 2.16(2) lists three (3) kinds of changes that justify altering a condition of a permit or approval.
9. Section 2.16(2)(A) allows an amendment when the Applicant can demonstrate '*Changes in factual or regulatory circumstances beyond the control of a permittee*'. The Applicant is not seeking review under this criterion.
10. Section 2.16(2)(B) allows an amendment when the Applicant can demonstrate '*Changes in the construction or operation of the permittee's project not reasonably foreseeable at the time the permit was issued*'. The Applicant asserts that this provision applies to the project amendments. The proposed pond will provide fire protection and was not planned or foreseen at the time of permitting the dwelling.
11. Section 2.16(2)(C) allows an amendment when the Applicant can demonstrate '*Changes in technology*'. The Applicant is not seeking review under this criterion.

Conclusion: Section 2.16 requires the DRB to balance the need for flexibility with the importance of finality when reviewing any proposed amendment to a final approval. The central question is whether the amendment involves modification of a final condition that was originally imposed to address a critical issue. If so, the DRB must apply the Stowe Club Highlands analysis. If not, the DRB may review the application solely on its merits. An amendment is defined as a request to modify project plans, exhibits, and/or representations by the applicant that were incorporated into a prior approval through a specific or general condition. In this case, the Applicant seeks modifications to the previously approved clearing limits shown on an approved plan and incorporated as a condition of Project #6190. The DRB therefore concludes the Applicant is requesting an amendment to a final approval.

A preliminary step in applying the Stowe Club analysis requires the DRB to distinguish between conditions addressing "critical" issues and those that are not. In making this determination, the DRB must consider whether the proposed change is of a type that would have been denied, modified, or otherwise considered significant if presented in the original application, and whether it would have influenced the original decision. In reviewing Project #6190, there is no indication that the DRB required these specific clearing areas for any reason other than to adhere to Applicant's original proposal. There is also no evidence that the condition was imposed to resolve a critical issue in granting RHOD approval. We therefore conclude that the condition was not included to resolve an issue critical to the issuance of the permit under the relevant requirements of the regulations. As such, we do not apply the Stowe Club Test. Accordingly, we find that an amendment to the previously approved clearing limits is justified and proceed to review the application on its merits.

DIMENSIONAL REQUIREMENTS:

12. **Zoning District.** The subject parcel is within the Rural Residential 5 (RR-5) and the RHOD as shown on the Town of Stowe Zoning Map.
13. **Lot Area, Lot Width.** The subject parcel is ± 4 acres. No changes to lot width or lot area are proposed under this application.
14. **Setbacks.** Required minimum setbacks for ponds are established under §4.10(1)(A) which states: *Ponds shall be set back at least ten (10') feet from all property lines, unless the abutting property owner agrees to less.* The provided site plan shows the location of the proposed pond and related improvements. The side and front setbacks are not labeled, however according to the scale the pond is located outside of the minimum required setback.
15. **Maximum Building Coverage.** Does not apply to the RR5 District.
16. **Use.** The Applicant proposes to construct a man-made pond which is accessory to the existing single-family dwelling. Single-family dwellings are a permitted use in the RR5 District.
17. **Density.** The RR5 District allows single-family dwellings at a density of one (1) per five (5) acres. The subject parcel is ± 4 and is part of the approved Robinson Springs Planned Residential Development (PRD) of varying lot sizes. No change to density is proposed under this application.
18. **Height.** Does not apply.

Conclusion: Based on the above findings, the DRB concludes the project complies with the applicable dimensional requirements.

Section 9.5 RHOD Guidelines

§9.5(1) General Requirements

19. The DRB previously found that the approved dwelling was designed and sited in a manner that would not cause undue adverse impact to the visual/scenic landscape character and the physical environment of the town. The proposed man-made pond is located lower on the property, to the south of the existing dwelling and to the north and west of the existing driveway.

§9.5(2) Designation of Vantage Points

20. The Regulations define vantage points as maintained (class 3 or higher) public roads, state highways and municipal properties. Under the prior review for the construction of the dwelling, a visual assessment identified two (2) public vantage points- one (1) on Luce Hill Road approximately ± 3.44 miles from the project site, the other from Upper Hollow Road approximately ± 7.68 miles from the project site. The DRB previously found the dwelling would not negatively impact public vantage points and will have limited visibility from public vantage points.

Standard 1.1:

21. The Applicant proposes to clear and remove trees to construct a man-made pond. No additional impervious surfaces are proposed. Peak stormwater discharge is not anticipated to increase due to the project.

Standard 2:

22. This standard addresses forest management and timber harvesting and is not applicable to the application under review.

Standard 3:

23. This standard addresses forest management activities designed as pre-development site preparation and is not applicable to the application under review.

Standard 4:

24. 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.
25. The Applicant proposes to construct a man-made pond. According to the ANR Natural Resources Atlas there are no fragile environments that will be impacted by the proposed project. The parcel is developed and contains a single-family dwelling and related improvements. No wetlands, deer wintering areas, or hydric soils are shown on the ANR Natural Resources Atlas. The DRB finds that the proposal, if constructed as approved, will not result in an undue adverse impact of fragile environments.

Standard 5:

26. 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.
27. The Applicant proposes to clear and remove trees west of the existing dwelling to construct a man-made pond. The pond will not be visible and will blend in with surroundings in winter months

Standard 6:

28. Development shall not detract from the sense of order or harmony of the landscape patterns formed by forests, agricultural fields and open meadows.
29. The Applicant proposes to construct a man-made pond on an existing developed residential parcel. The proposed clearing and pond will not detract from the sense of order or harmony of the landscape patterns. The subject lot was created in 1989 and is amongst a larger rural subdivision intended for residential development. The pond will be constructed in an existing depression.

Standard 7:

30. During construction, trees identified on the landscaping plan are to be protected.

31. The Applicant provided a site plan showing the proposed clearing and location of the pond. The proposal maintains much of the existing treeline around the existing driveway and around the dwelling. No other clearing or removal of trees is proposed under this application.

Standard 8:

32. The Regulations require that driveway grades not exceed fifteen (15%) percent and have an average grade that does not exceed twelve (12%) percent. There are no changes to the existing driveway location or grade. This standard does not apply.

Standard 9:

33. 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 DRB finds standard is not applicable, the proposal been designed in a manner that will not visually exceed the height of the land or tree line.

Standard 10:

34. 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 DRB finds standard is not applicable, proposal and has been designed to minimize visual impacts and compliment the scenic quality of the surrounding landscape.

Standard 11:

35. Offsite light impacts shall be minimized. Outdoor lighting must comply with the standards contained in §4.8 of the Regulations. The DRB finds standard is not applicable, no outdoor lighting is proposed.

Standard 12:

36. 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 DRB concludes the proposed development is in conformance with all applicable RHOD standards and guidelines.

DECISION

Based upon the foregoing findings of fact and conclusions of law, the DRB hereby approves the Applicant's request for RHOD approval to construct a man-made pond as outlined in the application dated August 6, 2025, 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 &

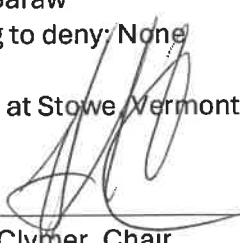
Zoning Office and other material representations. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted the authority to review 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. The approved plans, amended herein, include:

1. Town of Stowe Development Application, dated 8/6/2025
 2. Narrative, prepared by Grenier Engineering, PC, dated 8/5/2025
 3. Grenier Engineering Letter to Mike Hollister, dated 8/1/2025
 4. Proposed Pond Site Plan, prepared by Grenier Engineering, PC, Sheet C-1, dated 8/1/2025
 5. Pond Cross Section, prepared by Grenier Engineering, PC, Sheet C-2, dated 8/1/2025
6. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 7. Clearing for the pond shall be restricted to the areas shown on the plan entitled Proposed Pond Site Plan, prepared by Grenier Engineering, PC, Sheet C-1, dated 8/1/2025.
 8. Site construction shall adhere to the standards outlined in §3.12(2)(A-F) including:
 - a) The amount of soil exposed at any one time must be kept to a minimum.
 - b) Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
 - c) Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
 - d) 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.
 - e) Existing drainage patterns must not be altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
 9. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that the project has been constructed as approved by the DRB. Prior to the issuance of a Certificate of Occupancy the Applicant shall submit the following to the Zoning Administrator:
 - a. A licensed engineer shall provide written stamped certification that the pond has been constructed in conformance with the approved plans.
 10. These conditions of approval shall run with the land and are binding upon and enforceable against the Applicant and its heirs, successors and assigns. By acceptance of this approval, the Applicant, and his successors, agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

Voting in favor: Drew Clymer, David Kelly, Mary Black, Andrew Volansky, Patricia Gabel, Peter Roberts, and Scot Baraw

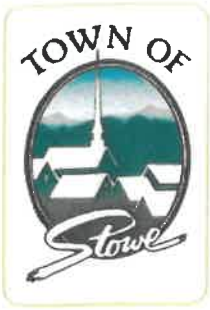
Voting to deny: None

Dated at Stowe, Vermont this the 3rd day of Oct 2025

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 request for reconsideration that specifies the basis for the request with the Secretary of the Development Review 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 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.



Town of Stowe
Department of Planning & Zoning
PO Box 730
Stowe, VT 05672
www.townofstowevt.org

Dear Interested Person:

Our records indicate you recently participated in a Town of Stowe Development Review Board (DRB) public hearing. Pursuant to Section 2.11(1)(E) of the Town of Stowe Zoning Regulations and 24 V.S.A. § 4464(b)(3), a copy of the DRB decision is being mailed to every person or body appearing and having been heard during the hearing.

In accordance with Section 2.11(4) and 24 V.S.A. § 4471, an interested person who has participated in a regulatory proceeding of the Board may appeal the decision within thirty (30) days to the Vermont Superior Court Environmental Division.

Please do not hesitate to contact Planning and Zoning Director Sarah McShane with any questions or if we can be of any further assistance. Sarah may be contacted at telephone number 253-6141 or by email at smcshane@stowevt.gov.

Sincerely,

Sarah McShane

Sarah McShane, Director
Department of Planning & Zoning

