

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law

**IN RE: Michael and Judy Alexander
300 Magoon Pasture Lane
Stowe, Vermont 05672**

S-04-033

PROCEDURAL HISTORY:

The Development Review Board received this application on September 10, 2004. The application was warned in the Stowe Reporter and posted on September 30, 2004. A public hearing was held on October 19, 2004 at which time the hearing was closed. This decision was rendered electronically by the Board on November 1, 2004. Kirsten Sultan, P.E. of Sultan Consulting represented the property owners.

FINDINGS OF FACT & CONCLUSIONS OF LAW:

1. Michael and Judy Alexander own 36-forested acres located between Magoon Pasture Lane and Tabor Hill Road.
2. The property is located in the Rural Residential (RR) 5 and 2 zoning districts.
3. The property is divided into two pre-existing lots: Lots 6 and 7. The property owners' residence is on Lot 6. The applicants also own an existing .15 acre lot bordering proposed Lot 7C and Taber Hill Road.
4. The applicant intends to adjust the lot line between existing Lots 6 and 7 and to subdivide Lot 7 into 3 lots: Lots 7A, 7B and 7C.
5. The applicant has submitted: Engineering plans and details for the lots prepared by Kirsten Sultan, P.E.

Section 5.1 – General Planning Standards:

6. **Section 5.1(1) – Character of Land for Subdivision:**

Conclusion: There is nothing in the character of the land that would preclude it from being subdivided.

7. **Section 5.1(2) – Natural and Scenic Features:** The land is not located within the Ridgeline and Hillside Overlay District (RHOD) nor is there anything unique to the land to argue for restrictive development. A letter from Bradley A. Wheeler (Wheeler Environmental Services, LLC) identifies wetlands on proposed Lots 7A, 7B and 7C. The wetlands on Lots 7B and 7C are Class III wetlands. The letter indicates that the proposed development will not impact the wetlands.

Conclusion: The proposed subdivision and subsequent development will not adversely affect the natural features on the land.

8. **Section 5.1(3) – Historic Resources and Community Character:** There are no known historic structures on the property. The proposed residential subdivision is within the rural residential zoning districts.

Conclusion: The property does not contain any historic resources and the proposed development is in keeping with the character of the area.

9. **Section 5.1(4) – Reserved Strips:** There are no reserved strips.

Conclusion: There are no reserved strips.

10. **Section 5.1(5) – Screening and Landscaping:** The building envelope boundaries as shown on the site plan (except for lot 7C) establish the limit of tree cutting. No landscaping is proposed as part of the subdivision application.

Conclusion: The Board concludes that the applicant has adequately addressed screening.

11. **Section 5.1(6) – Pedestrian Access:**

Conclusion: Not Applicable.

12. **Section 5.1(7) – Traffic:**

Conclusion: The creation of two additional lots on the property will not create an undue burden on the traffic in the area.

13. **Section 5.1(8) – Municipal Facilities:** All driveways and utilities serving this subdivision will be private and are identified on the site plan. Existing power lines are buried. Additional power lines will also be buried.

Conclusions: There should be no discernable adverse impact on municipal facilities.

14. **Section 5.1(9) – Lot Configuration:** The acreage is divided amongst the lots as follows: Lot 6-10 acres, Lot 7A-13.4 acres, Lot 7B-10.2 acres and Lot 7C-2.2 acres.

Conclusion: The lots have been designed so that each has adequate access, and meets the minimum size required by the zoning district.

15. **Section 5.1(10) – Building Area:** The building envelopes are identified on the site plan. There is no house site proposed for Lot 7C at this time.

Conclusion: The lots are suitable for the intended use of residential construction. The property owners will have to return to the DRB for approval of any house site on Lot 7C.

16. **Section 5.1(11) – Energy Conservation:**

Conclusion: The Board concludes that the applicant has made adequate provisions for energy efficiency.

17. **Section 5.1(12) – Fire Protection Facilities:** At the request of the Stowe Fire Department, the future owner of Lot 7A will have to either install a dry hydrant on the pond adjacent to the building envelope or equip any to be built residence with a sprinkler system.

Conclusion: The applicant has provided sufficient evidence of adequate fire protection for the lots.

18. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** The applicant testified that Lots 7A and 7B will be used for single-family residential purposes, and that they will return to the Board with plans for the house site on Lot 7C.

Conclusion: The applicant has adequately disclosed subsequent plans for the property.

19. **Section 5.1(14) – Private Enforcement Mechanisms:**

Conclusion: There are no private enforcement mechanisms proposed as part of this subdivision.

20. **Section 5.2 – Prominent Hillside and Ridgelines:** This property is not located in an area mapped by the Community as a prominent hillside or ridgeline.

Conclusion: The Board concludes that review is not required under these criteria.

21. **Section 5.3 – Open Space and Cluster Development:** This is a small-scale subdivision and no open space plan or cluster development has been proposed.

Conclusion: The Board concludes that review is not required under these criteria.

22. **Section 5.4 – Road Standards and Coordination with Public Highways:** There are no new public roads proposed as part of this subdivision.

Conclusion: The Board concludes that review is not required under these criteria.

23. **Section 5.5 – Utilities and Stormwater Management:** The applicant has submitted a stormwater management plan for the construction of the driveway to access Lot 7A.

Conclusion: The property owners have made provisions for stormwater management.

DECISION

Based upon the foregoing Findings of Fact and conclusions of law in re: **S-04-33 (Michael and Judy Alexander)**, the Board took the following action:

A motion was made by Mr. Izzo and seconded by Mr. Jones to approve the application with the following conditions:

1. 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.
2. The applicant will return to the Board for approval of any build envelope on Lot 7C.
3. The applicant will return to the Board with a site plan showing the "to be built" width of the right of way across Lots 7C and 7B.
4. The applicant will provide the Zoning Office with a copy of the "ability to serve" letter from the Stowe Electric Department.
5. There will be no blasting while building the driveway to Lots 7C and 7B. Should existing conditions require blasting, the applicant will ask the Zoning Administrator for approval and then notify adjacent property owners should such approval be granted.

6. Pursuant to Section 3.5(1) of the Subdivision Regulations, the approval of this final subdivision application shall expire after ninety (90) days from such approval unless a final subdivision plat shall have been duly filed or recorded in the office of the Town Clerk. No land development associated with this subdivision shall be commenced until such time as the survey plat has been duly signed and filed in the Land Records.
7. The final plat shall show all required easements for access rights-of-way and utilities.
8. The following statement shall be placed upon the plat; "This plat is subject to the terms and conditions of subdivision approval by the Stowe Development Review Board per the Subdivision Regulations of the Town of Stowe. The terms and conditions of approval and related information is on file in the Stowe Planning and Zoning Office" and shall include an area for the Board to sign and date their approval of the plat.
9. The plat shall include the following minimum information: The name of the town; name of the subdivision; name of the owner of record; subdivider, name and seal of engineer, if any, and land surveyor, licensed by the State of Vermont; the accurate location of all monuments to be set at the corners of the lots.

Voting in favor: Mr. Aumand, Mr. Coppock, Mr. Izzo, Mr. Jones and Mr. Morton. Voting to deny: None. Voting to abstain: None. Absent: Mr. Walton (Note there is one vacancy on the Board at this time).

The motion carries (5-0), the application is approved.

Dated at Stowe, Vermont this the 1st day of November, 2004.

By: _____
Allan J. Coppock, Chair
Stowe Development Review Board

A final survey plat must be filed with the Town not later than ninety (90) days from the date of this decision as required by Section 3.5(1) of the Stowe Subdivision Regulations and by Vermont State Statute.

Any interested person may appeal this decision to the Vermont Environmental Court within thirty days in accordance with 24 V.S.A. S 4471.

The foregoing represents the decision of the Development Review Board, and is NOT a permit. A zoning permit will not be issued by the Administrative Officer until:

- (1) All necessary approvals have been obtained
- (2) All conditions imposed as part of the approval have been met
- (3) A survey has been filed with the Stowe Town Clerk.

The commencement of the activities described within this decision without a valid permit constitutes a violation of the Stowe Zoning Regulations as provided in Section 23.4.