

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law

**IN RE: Donald Bourgeois
P.O. Box 3084
Stowe, Vermont 05672**

S-04-10

PROCEDURAL HISTORY:

The Development Review Board received this application on March 18, 2004. The application was warned in the Stowe Reporter and posted on April 15, 2004. A public hearing was held on May 4, 2004, at which time the hearing was closed. The decision was rendered electronically by the Board on June 3, 2004.

FINDINGS OF FACT & CONCLUSIONS OF LAW: During its review of this application, the Board made the following Findings of Fact:

1. Donald Bourgeois owns 8.3 acres at 1341 Pucker Street in the town of Stowe. The property is known as the Brinkerhoff home and was formerly know as the “John Smith Farm”.
2. The lot is “L” shaped with approximately 360 feet of frontage on Pucker Street. The property is located in both the Rural Residential 2 & 5 districts.
3. The owner intends to divide the property into two (2) Lots: Lot #1 consisting of 4.3 acres and Lot #2 consisting of 3.84 acres. The western boundaries of the lots follow the east branch of the Little River. Lot #1 is located within the Rural Residential 2 zoning district and currently has a residence and garage. Lot #2 is within Rural Residential 2 (.95 acres) & 5 (2.89 acres) zoning districts. The plan is to build a two family (house with apartment) on Lot #2.
4. The owner has submitted engineering plans and details for the two lots prepared by the Little River Surveying Company.

Section 5.1 – General Planning Standards:

5. **Section 5.1(1) – Character of Land for Subdivision:** The eastern area of the land intended for subdivision into Lots #1 and #2 is characterized by two plateaus. Vegetation along the east side of the river is mowed brush while the upper plateaus are a combination of brush and lawn. The remainder of land is flood plain and the banks of the Little River (east branch). The proposed house sites are located on the plateaus.

Conclusion: The Board concludes that the property is suitable for the intended use.

6. **Section 5.1(2) – Natural & Scenic Features:**

Conclusion: The Board concludes that Section 5.1(2) is not applicable.

7. **Section 5.1(3) – Historic Resources and Community Character:** The existing building on Lot #1 is known to be an old building. The owner testified that he met with the Historic Preservation Commission, which determined that there was no need for the owner to come before them for review.

Conclusion: The Board concludes that 5.1(3) is not applicable.

8. **Section 5.1(4) – Reserved Strips:** The owner is providing access and utility easements across both lots as necessary and appropriate.

Conclusion: The Board concludes that there will be no reserved strips.

9. **Section 5.1(5) – Screening and Landscaping:** The owner testified that the existing screen of brush and evergreens between Lot #1 and the Sgantas property will be maintained as a buffer between the two properties. The site plan also identifies landscaping on both sides of the driveway to divert car headlights between the existing residence and the house site on the proposed Lot #2. The existing old stone foundation will also be used to screen vehicles. Landscaping will be kept to a minimum. It is intended that the buildings replicate old barn like structures and be visible. If at some future time Lot #1 were to be subdivided, the new house site would be on the lower plateau and the first floor would not then be visible from Pucker Street.

Conclusion: The Board concludes that the owner has adequately addressed screening and landscaping.

10. **Section 5.1(6) – Pedestrian Access:** There are no provisions for public pedestrian access as part of this subdivision.

Conclusion: The Board concludes that there are no pedestrian facilities adjacent to this property, and that there is no need for the owner to provide for pedestrian access as part of this application.

11. **Section 5.1(7) – Traffic:** The subdivision of land and the construction of new two family homes is known to generate traffic above that which is present currently. Traffic from these dwellings will access Pucker Street via the existing driveway curb cut. The owner has met with a representative of the Vermont Agency of Transportation. The Agency indicated that a new curb cut would not be granted and that access is to be by the existing driveway.

Conclusion: The Board concludes that there will be an increase in traffic as a result of this project, however, that the level of increase is unlikely to result in any observable impact on traffic in the community.

12. **Section 5.1(8) – Municipal Facilities:** All driveways and utilities serving this subdivision are private and are being extended by the owner to serve the new homes.

Conclusions: The Board concludes that there should be no discernable adverse impact on municipal facilities.

13. **Section 5.1(9) – Lot Configuration:** The two lots have been configured so as to provide the minimum lot size for three dwelling units (only one new two family dwelling is authorized by this decision) as well buildable surfaces for the proposed dwelling units. Each lot will have its own designed water and wastewater system.

Conclusion: The Board concludes that the owner has adequately addressed lot configuration.

14. **Section 5.1(10) – Building Area:** The owner presented engineering plans showing natural features, zoning setbacks, and other restrictions. This plan demonstrated that each lot has the necessary usable building area.

Conclusion: The Board concludes that both lots are suitable for the intended use.

15. **Section 5.1(11) – Energy Conservation:** The owner testified that the structures would be built to industry standards for energy conservation and efficiency.

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

16. **Section 5.1(12) – Fire Protection Facilities:** The owner testified that the lot features should not hamper fire protection. No additional fire protection facilities proposed.

Conclusion: The Board concludes that the owner has not provided sufficient evidence of adequate fire protection for the lots. The Board will require that the owner review the plans with the Fire Department and request their approval in writing for Board's files.

17. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** The owner reserves the right to subdivide lot #1 at some time in the future. The application shows a second house site on Lot #1, although no subdivision of lot #1 is authorized by this decision. Lot #2 cannot be further subdivided.

Conclusion: The Board concludes that the owner has adequately disclosed subsequent plans for the property.

18. **Section 5.1(14) – Private Enforcement Mechanisms:** The owner testified that there are no plans for formal private enforcement mechanisms, such as deed covenants, at this time.

Conclusion: The Board concludes that Section 5.1(13) is not applicable.

Section 5.2 – Prominent Hillsides and Ridgelines:

19. This property is not located in the Ridgeline Hillside Overlay District. The property is not located on any prominent hillsides or ridgelines.

Conclusion: The Board concludes that Section 5.2 is not applicable.

Section 5.3 – Open Space and Cluster Development:

20. This is a small-scale subdivision and no open space plan or cluster development has been proposed. The 100-year floodplain will always remain open.

Conclusion: The Board concludes that Section 5.3 is not applicable.

Section 5.4 – Road Standards and Coordination with Public Highways:

21. There are no new roads proposed for this subdivision.

Conclusion: The Board concludes that Section 5.4 is not applicable.

Section 5.5 – Utilities and Stormwater Management:

22. **Section 5.5(1) – Utilities:** The owner has submitted a State Wastewater System and Potable Water Supply Permit application.

Conclusion: The Board concludes that owner has made adequate provisions for water supply and sewage disposal.

23. **Section 5.5(2) – Power and Telecommunications:** These utilities are along Pucker Street and will be provided to the building underground.:

Conclusion: The Board concludes that owner has made adequate provisions for power and telecommunications.

24. **Section 5.5(3) – Street Lighting:** No street lighting is proposed due to the small scale of the subdivision.

Conclusion: The Board concludes that Section 5.5(3) is not applicable.

25. **Section 5.5(4) – Erosion and Sedimentation:** The lots are gently sloped. No extensive construction or site modification is anticipated for this sub-division. The owner has stated that erosion and site modification should be minimal.

Conclusion: The Board concludes that Section 5.5(4) is not applicable.

26. **Section 5.5(5) – Stormwater Management:** The proposed development involves less than one acre of disturbed soil and does not warrant a stormwater management plan under state criteria. The owner anticipates being the builder for the residential buildings and believes that it is in his own best interest to minimize the construction impact on the property.

Conclusion: The Board concludes that Section 5.5(5) is not applicable.

27. **Section 5.5(6) – Monuments:** Monumentation defining the new subdivided lots will be set upon approval of the subdivision.

Conclusion: The Board concludes that the subdivision complies with Section 5.5(6).

DECISION

Based upon the foregoing Findings of Fact and conclusions of law in re: S-04-10 (Donald Bourgeois), the Board took the following action:

A motion was made by Mr. Beddow and seconded by Mr. Aumand 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. 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.
3. The final plat shall show all required easements for access rights-of-way and utilities.
4. 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.
5. 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.

6. The final plat shall be annotated to clearly show the proposed limits of clear cutting around each house site.

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

The motion carried (4-1); the application is approved.

Dated at Stowe, Vermont this the _____.

By: _____
Chris Walton, Acting 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.