

**TOWN OF STOWE  
DEVELOPMENT REVIEW BOARD**

**Findings of Fact & Conclusions of Law**

**IN RE:            Gordon G. and Cathy A. Hay  
                     280 Maple Street  
                     Stowe, Vermont 05672**

**S-04-20**

**PROCEDURAL HISTORY:**

The Development Review Board received this application on May 19, 2004. The application was warned in the Stowe Reporter and posted on July 1, 2004. The Board held a site walk prior to the public hearing held on July 20, 2004 when the hearing was closed. The decision was rendered electronically by the Board on August 16, 2004.

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

1. Gordon G. and Cathy A. Hay own a 1.8-acre lot at 280 Maple Street in the town of Stowe within the Village Residential (VR) 20 and 40 zoning districts.
2. The owners propose to divide the property into two (2) Lots: Lot 1 consisting of 20,064 sq. ft. and Lot 2 consisting of 42,508 sq. ft.
3. The existing residence, attached barn and driveway will be on Lot 1. Lot 2 will have on it an existing building currently used as a workshop and garage.
4. The owners propose to extend the existing driveway to Lot 2.
5. 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:**

6. **Section 5.1(1) – Character of Land for Subdivision:** The general topography is relatively flat and drops down from the road for about 100 feet past the existing buildings, then from the rear of the property slopes up quickly to the top of Sunset Hill. The type, character, location and zoning of this property are suitable for residential subdivision and will not create an undue adverse impact on public health, safety, the environment or neighboring properties. The project is in conformance with the Stowe Master Plan, which encourages additional residential units within the Village. The site has ample parking for all residents and guests. The site is within walking distance of the village.

**Conclusion:** The land is suitable for subdivision.

7. **Section 5.1(2) – Natural and Scenic Features:** There are no significant natural features other than the existing gardens along the front of the property, a drainage ditch on one side and the steep hill to the rear. The proposed subdivision will not impact any of these natural features. The applicants intends to preserve the garden areas by creating a permanent garden easement on the lot.

**Conclusion:** There is no adverse impact to the natural or scenic features of the area.

8. **Section 5.1(3) – Historic Resources and Community Character:** This proposed subdivision reflects traditional village settlement patterns thus preserving and enhancing the historic resources of the

Village. The small driveway, existing buildings front and rear plus concentrated residential units within the Village limits, all fall within the intent of the zoning regulations. The scale and design of the proposed subdivision has no adverse impact on the historic context of the property, neighborhood and the Village.

**Conclusion:** There will be no adverse impact to historic resources or community character as a result of this subdivision unless another large building were to be built on Lot 2.

9. **Section 5.1(4) – Reserved Strips:** No reserve strips are proposed. 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.

10. **Section 5.1(5) – Screening and Landscaping:** No significant landscaping or screening is proposed.

**Conclusion:** Not applicable.

11. **Section 5.1(6) – Pedestrian Access:** No provisions for pedestrian access are proposed due to small scale of the subdivision.

**Conclusion:** Not applicable.

12. **Section 5.1(7) – Traffic:** The garage/workshop will be converted to a two-bedroom apartment with a one-car garage and as such will create a slight increase in traffic on Maple Street.

**Conclusion:** There will be a slight increase in traffic as a result of this subdivision. The level of increase is unlikely to result in any observable impact on traffic in the area.

13. **Section 5.1(8) – Municipal Facilities:** The applicants testified that the Select Board has approved a municipal sewer and water connection for this subdivision.

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

14. **Section 5.1(9) – Lot Configuration:** The proposed lots have been designed so that each has adequate access and exceeds the minimum size required by the VR 20 and VR 40 zoning districts.

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

15. **Section 5.1(10) – Building Area:** The minimum side yard setback in the VR 20 zoning district is 10'. The subdivision will result in side yard setbacks between the garage on Lot 1 and the workshop/garage on Lot 2 that are less than 10'. The applicant testified that they would remove .6' from the eaves on the garage and .9' from the eaves on the workshop/eaves to create 10' side yard setbacks for both buildings.

**Conclusion:** The applicants plan to meet the setback requirements.

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

**Conclusion:** Not applicable.

17. **Section 5.1(12) – Fire Protection Facilities:** The owner testified that the lot features should not hamper fire protection and that a fire hydrant is nearby on the north side of Maple Street.

**Conclusion:** There is adequate water distribution available for fire protection.

18. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** The owner plans to subdivide Lot 2 into two lots one of which would be a non-complying lot to be transferred to adjoining landowner Donald Bourgeois in return for the easement necessary to create a 25' access to both lots.

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

19. **Section 5.1(14) – Private Enforcement Mechanisms:** The applicants do not anticipate creating any private enforcement mechanisms at this time.

**Conclusion:** Not applicable.

**Section 5.2 – Prominent Hillsides and Ridgelines:**

**Conclusion:** Not applicable.

**Section 5.3 – Open Space and Cluster Development:**

**Conclusion:** Not applicable.

**Section 5.4 – Road Standards and Coordination with Public Highways:**

**Conclusion:** Not applicable.

**Section 5.5 – Utilities and Stormwater Management:**

20. **Section 5.5(1) – Utilities:** Applications for a State Wastewater System and Potable Water Supply Permit have been submitted.

**Conclusion:** The owners have made adequate provisions for water supply and sewage disposal.

21. **Section 5.5(2) – Power and Telecommunications:** These utilities are along Maple Street and are provided to the buildings underground.

**Conclusion:** The owner has made adequate provisions for power and telecommunications.

22. **Section 5.5(3) – Street Lighting:**

**Conclusion:** Not applicable.

23. **Section 5.5(4) – Erosion and Sedimentation:** No formal erosion and sediment control measures are proposed.

**Conclusion:** Not applicable.

24. **Section 5.5(5) – Stormwater Management:** No formal stormwater management plan has been prepared for this subdivision.

**Conclusion:** Not applicable.

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

**Conclusion:** The subdivision complies with Section 5.5(6).

#### **Section 4.5 – Dimensional Requirements:**

26. **Section 4.5(1) – A right of way serving not more than three family dwellings units or lots may not be less than twenty five feet wide:** The applicants propose to obtain an easement from abutting landowner Donald Bourgeois in order to create a 25' right a way to both lots. The applicants also propose to enter into an agreement with Bourgeois allowing the applicants to remove 2' feet of his house so that the applicants can put the easement into effect.

**Conclusion:** The easement and agreement will allow for a right of way that is not less than 25' wide.

#### **DECISION**

Based upon the foregoing Findings of Fact and conclusions of law in re: S-04-20 (Gordon G. and Cathy A. Hay), 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 "garden easement" shall be shown on the final plat. Copy of the easement language shall be submitted to the Zoning Office for the record.
3. A copy of both the easement and the agreement creating the 25' driveway access shall be submitted to the Zoning Office for the record.
4. 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.
5. The final plat shall show all required easements for access rights-of-way and utilities.
6. 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.
7. 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.
8. No permit shall be granted for this subdivision until the 2 foot section of the building on the adjacent lot has been removed and the 25 foot access easement has been created.

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

The motion carried (4-0); the application is approved.

Dated at Stowe, Vermont this the 16<sup>th</sup> of August, 2004.

By: \_\_\_\_\_  
Mr. 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.