

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

FINDINGS OF FACT & CONCLUSIONS OF LAW

**IN RE: Bonnie S. Knight
P.O. Box 213
Moscow, Vermont 05662**

S-03-22

PROCEDURAL HISTORY:

The Zoning Administrator received this application for the subdivision of a 6.5± acre parcel of land into two lots on August 5, 2003. The application was ruled complete and warned in the Stowe Reporter and posted on August 28, 2003. A public hearing was held on September 16, 2003. This decision was rendered by the Board after deliberations on October 7, 2003.

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

1. The applicant owns property at 989 Moscow Road. The property is 6.5± acres in size and is improved with the applicant's home.
2. The applicant has applied for a subdivision creating two parcels as follows: "Lot 1": 3.9± acres with the existing home and improvements, and; "Lot 2": 2.6± acres parcel which is to be improved to allow for the construction of a new single-family home.
3. The property is located in the Moscow Commercial (MC) Zoning District as established by the Town of Stowe Zoning Regulations last revised June 13, 2002. The minimum lot dimensions for this district are established by Section 12 of the Stowe Zoning Regulations.
4. The application was reviewed by the Board for compliance with the standards of the Stowe Subdivision Regulations last revised June 13, 2002.
5. The Board concludes that the plans and information presented do meet the minimum standards established in Section 4.2 (Final Subdivision Application) and were of sufficient detail to allow the Board to review the proposal and to apply conditions if approval were to occur.

Section 5.1 – General Planning Standards:

6. **Section 5.1(1) – Character of Land for Subdivision:** Lot 1 contains an existing home which is set back from Moscow Road at the edge of the river. The balance of the applicant's property is a mixture of immature woodlands and open fields which have been kept mowed. The proposed lot is located in an open mowed area adjacent to Moscow Road. The property is characterized as having a relatively level area adjacent to Moscow Road, which then drops off rapidly near the river to an area which is part of the FEMA mapped flood plain. The proposed home is located on the higher plateau, above the flood plain.

Conclusion: The Board concludes that this property contains characteristics which make it appropriate for subdivision.

7. **Section 5.1(2) – Natural & Scenic Features:** The property is known to contain an area of 100 year flood plain which was mapped and shown on the subdivision plans. The property is not mapped as being an area of significant scenic importance to the community. However, the area does contain open meadows visible from the adjacent Town Highway. The applicant has proposed to locate their home behind an existing stand of trees where it will be less visible to passing motorists.

Conclusion: The Board concludes that while the property does contain scenic and natural features, these features have been given due consideration as part of the proposed subdivision.

8. **Section 5.1(3) – Historic Resources and Community Character:** The property contains an old stone foundation along Moscow Road. There are no other known historic resources on the property.

Conclusion: The Board concludes that there are no known historic or community resources on this property.

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

10. **Section 5.1(5) – Screening and Landscaping:** The existing home is largely screened from Moscow Road by existing stands of trees. The proposed home will be located behind an existing grove of young trees along Moscow Road. There is no other screening or landscaping proposed as part of the subdivision application.

Conclusion: The Board concludes that screening and landscaping have been adequately addressed.

11. **Section 5.1(6) – Pedestrian Access:** There are no provisions for pedestrian access.

Conclusion: The Board concludes that there are no existing community sidewalks or paths in the area of this neighborhood, and that no pedestrian facilities are required of this applicant.

12. **Section 5.1(7) – Traffic:** The eventual construction of a new home on Lot 2 will result in additional traffic on area roads.

Conclusion: Despite this additional traffic, the Board concludes that the modest level of increased traffic is unlikely to result in any adverse impact.

13. **Section 5.1(8) – Municipal Facilities:** Municipal water and/or sewer lines do not extend to this property. The property has frontage on Moscow Road, a paved Town Highway. The new home will share a driveway with the existing house, so no new curb-cut is required onto Moscow Road.

Conclusion: The Board concludes that there should be no adverse impact on Municipal facilities.

14. **Section 5.1(9) – Lot Configuration:** The proposed lot is a roughly rectangular shape, with frontage on Moscow Road

Conclusion: The Board concludes that the proposed lot meets or exceed the minimum dimensional standards established by the Zoning Regulations, and that the proposed subdivision results in an adequate building site for the proposed house.

15. **Section 5.1(10) – Building Area:** The engineering plans shows the required building setback lines, contours, and floodplain area

Conclusion: The applicant has demonstrated that the proposed lot has a reasonable building area conforming to the requirements of the Ordinance and suitable for the intended final use as a location for a new single family home. The site has access over a private driveway of reasonable grade, has access to required utilities such as electrical power, and has a source of water and a solution for the disposal of wastewater.

16. **Section 5.1(11) – Energy Conservation:** Any home constructed on the lot must, by law, comply with the minimum energy standards established by the State of Vermont. Those standards assure compliance with this section of the Ordinance.

Conclusion: The Board concludes that through the application of these State standards, the applicant will achieve reasonable compliance with this requirement.

17. **Section 5.1(12) – Fire Protection Facilities:** There are no fire protection facilities proposed. The site is located within an existing residential neighborhood.

Conclusion: The Board concludes that the ability of the Town to provide fire protection to this property is no different than its ability to serve the adjacent neighborhood or the Town as a whole.

18. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** There are no known future plans for subdivision. The applicant has testified that a single-family home will be constructed on the new lot.

Conclusion: The Board concludes that the applicant has made a reasonable effort to disclose the intended use of the proposed lot.

19. **Section 5.1(14) – Private Enforcement Mechanisms:** No proposed deed covenants were submitted to the Town as a part of this application.

Conclusion: The Board concludes that there are no private enforcement mechanisms required for this single-lot subdivision.

Section 5.2 – Prominent Hillsides and Ridgelines:

20. This property is not located in an area mapped by the Community as a prominent hillside or ridgeline. The property is not known to have visual sensitivity in relation to the broader community.

Section 5.3 – Open Space and Cluster Development:

21. The applicant has not proposed a cluster development, nor have they proposed permanent open spaces. The Board concludes that the modest scope of this proposal negates the need for a formal plan for the preservation of open space.

Section 5.4 – Road Standards and Coordination with Public Highways:

22. There are no new roads proposed as part of this subdivision.

Section 5.5 – Utilities and Stormwater Management:

23. The applicant submitted engineering plans for the subdivision, which did not include plans for the control of surface waters on the site. Given the very modest scope of this subdivision, the Board waives the requirement for the submission of a stormwater management plan.

DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law the Board took the following action in re S-03-22 (Bonnie Knight):

A motion was made by Mr. Walton 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. All exterior lighting on the property shall be installed and operated in accordance with the requirements of Section 4.4 of the Zoning Ordinance. All lighting fixtures shall be of a design which prevents the light source, directly or indirectly, from being apparent beyond the area being illuminated, and all light fixtures shall be shielded and/or aimed so that they do not cast direct illumination or cause glare beyond the property boundary. In no instance shall the installation or operation of the lighting approved herein cause the source of illumination to be visible from a public roadway or from a neighboring property and at all times illumination levels shall be maintained at or below those maximums prescribed by the Zoning Ordinance.

All interior lighting and the lighting of entryways, signs, or similar features, shall be done in a manner which prevents the light source from being visible from a public roadway or a neighboring property, nor shall it illuminate or cause glare beyond the property boundary.

The Zoning Administrator will not issue a Certificate of Occupancy for any use on the newly created lot until such time as all of the outdoor lighting has been installed, and has been inspected during the evening hours for compliance with these requirements.

4. Prior to filing the plat, the landowner shall submit a letter to the Board stating that she appointed Bill Reichelt to act as her agent for the presentation of the application.
5. The final plat shall be prepared in a manner which highlights the approved building zone, and which excludes the regulated flood plain from the building zone.
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 a signature line for the Board Chairman.

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

The motion carries, the application is approved.

Dated at Stowe, Vermont this the 7th day of October, 2003.

By: _____
Allan J. Coppock, Chairman
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 all necessary approvals have been obtained and a survey has been filed with the Stowe Town Clerk. Commencement of the activities described within this decision without a valid permit constitute a violation of the Stowe Zoning Regulations as provided in Section 23.4.