

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law

**IN RE: Alexander Nachman
Juliet Bareuti
95 Lower Sanborn Road
Stowe, Vermont 05672**

S-04-15

**Steven Nachman
95 Lower Sanborn Road
Stowe, Vermont 05672**

PROCEDURAL HISTORY:

The Development Review Board received this application on April 23, 2004. The application was warned in the Stowe Reporter and posted on May 13, 2004. The first public hearing was held on June 1, 2004. Subsequent public hearings (as a result of motions to recess) were held on July 20, September 7, October 19 and November 16 at which time the hearing was closed. This decision was rendered electronically by the Board on December 8, 2004.

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

1. The applicant is proposing to subdivide 5.8 acres into two lots: Lot 1 being 1.88 acres and Lot 2 being 3.86 acres.
2. The property is located in the both the Upper Mountain Road (UMR) and the Rural Residential (RR) 5 zoning districts.
3. The property is accessed via a private road off of Route 108.
4. A site walk was held on July 17, 2004. In attendance were: Steven Nachman, DRB member Ed Izzo, the Zoning Administrator, Consultant Kim Brown and as interested parties: Kirsten Sultan, Marvin Rosenbloom, Jan Reynolds and Chapman Smith. DRB members Chris Walton, Allan Coppock and Larry Jones, Francis Aumand also visited the site on their own.
5. The applicant has submitted engineering plans and details for the two lots prepared by Llewellyn Howley Inc. and Button Professional Land Surveyors.

Section 5.1 – General Planning Standards:

6. **Section 5.1(1) – Character of Land for Subdivision:** The land intended for both lots is sloping with the steeper area making up Lot 1 and the gentler contours being in Lot 2. The land is forested with mixed hardwoods. Proposed house sites are identified on the site plan prepared by Llewellyn Howley.

Conclusion: The land is of a character that it can be used for the intended purposes without undue adverse impact on public health or safety, or the environment or, neighboring properties or the rural and historic character of the community.

7. **Section 5.1(2) – Natural and Scenic Features:** Due regard shall be given to the preservation, protection and enhancement of existing natural features.

Conclusion: As a result of the site walk, the Board concludes that there are no natural or scenic features on the property to be subdivided.

8. **Section 5.1(3) – Historic Resources and Community Character:** Due regard shall be given to the preservation and enhancement of historic resources and the rural character of the Town.

Conclusion: The two-lot subdivision will not adversely impact the rural character of the area. As a result of the site walk, the Board concludes that there are no historic resources in the immediate area of the proposed subdivision.

9. **Section 5.1(4) – Reserved Strips:** A narrative prepared by Button Professional Land Surveyors, PC indicated that no reserved strips are proposed as part of the subdivision.

Conclusion: There are no reserved strips.

10. **Section 5.1(5) – Screening and Landscaping:** No plans for screening or landscaping were presented to the Board given the small scale of the subdivision. The applicant testified that the clearing zones are described in the deeds.

Conclusion: Not applicable given the small scale of the subdivision.

11. **Section 5.1(6) – Pedestrian Access:** No plans for pedestrian access were presented to the Board given both the small scale of the subdivision and its location on a private road.

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

12. **Section 5.1(7) – Traffic:** Traffic to be generated by the proposed subdivision will not create unreasonable traffic congestion or cause unsafe conditions regarding use of existing roadways..

Conclusion: The traffic increases will be minimal given the small nature of the subdivision. The proposed changes to the private road (see No.21 Section 5.4) will lessen the likelihood of unsafe conditions on both the private road and the intersection with Route 108.

13. **Section 5.1(8) – Municipal Facilities:** The applicant testified that both lots would be served by Town water system. The site plans show an onsite waste water system to be shared by both lots. The applicant also testified that power to the lots would be buried.

Conclusions: There should be no discernable adverse impact on municipal facilities. The applicant will provide the Board with a letter from the Town indicating the availability of water for the proposed subdivision.

14. **Section 5.1(9) – Lot Configuration:** The two lots have been designed so that each has adequate access, and meets the minimum size required by the zoning district.

Conclusion: The applicant has adequately addressed lot configuration.

15. **Section 5.1(10) – Building Area:** The applicant testified that the building envelopes are described in the deeds. The proposed house sites are shown on the site plan prepared by Llewellyn Howley Inc.

Conclusion: The lots are suitable for the intended use for residential construction.

16. **Section 5.1(11) – Energy Conservation:** No plans for energy conservation were presented to the Board given the small scale of the subdivision.

Conclusion: Not applicable given the small scale of the subdivision.

17. **Section 5.1(12) – Fire Protection Facilities:** Trafton M. Crandall, P.E., on behalf of the applicant, received a letter from the Stowe Fire Department (SFD) expressing concern over the steepness of the private access road. The SFD recommended that houses be built with sprinklers, that a fire hydrant be placed at the top of the access road between the two lots and that a pullout section be located mid-way up the access road. Subsequent to the SFD letter a private landowner (Alan Hayes) has made improvements to the access road. In addition, the applicant has agreed to provide an emergency pullout at a point approximately 450' up the road and install a 6-inch water line to run approximately 800' to a fire hydrant located adjacent to the intersection between the driveways to Lots 1 and 2. The proposed changes to the private road (see No. 21 Section 5.4) will also address the SFD concerns. These changes however, will not meet the SFD guidelines of an 8% average grade with a maximum grade of 10%.

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 both lots would be used for single-family residential purposes.

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

19. **Section 5.1(14) – Private Enforcement Mechanisms:** No plans for private enforcement mechanisms were presented to the Board given the small scale of the subdivision.

Conclusion: Not applicable given the small scale of the 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 this criteria.

22. **Section 5.4 – Road Standards and Coordination with Public Highways:** Lots 1 and 2 will access Route 108 via a privately owned 50' right of way (row). The row serves an existing residence below the Nachman subdivision. The row becomes a driveway to a lot being developed by Alan Hayes as a single-family residence after passing the Nachman subdivision. Alan Hayes has widened the roadway to a width of 20' and has installed drainage swales and underground power lines. The applicant is proposing to make further changes to the row as outlined the letter from Trafton M. Crandall, P.E. dated November 9, 2004. The proposed road design changes will meet or exceed the Vermont AOT Design Standards for Residential and Town Roads.

Conclusion: The proposed road design changes meet the requirements of Section 5.4(5). The road design standards will be conditions of this decision.

23. **Section 5.5 – Utilities and Stormwater Management:** The proposed improvements to the access road include drainage culverts and swales for run-off and erosion control. No lot development is proposed at this time.

Conclusion: The applicant has adequately addressed the needs for erosion control and stormwater management.

DECISION

Based upon the foregoing Findings of Fact and conclusions of law in re: **S-04-15 (Alexander Nachman and Juliet Bareuti)**, the Board took the following action:

A motion was made by Mr. Izzo 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. The access road will be constructed so as to maintain a maximum slope of less than 15% and greater than or equal to 13%.
3. A revised Road Improvement Plan will be prepared that shows the proposed driveway grades. This report shall be submitted to the Zoning Administrator for his review prior to construction. A survey of the recently improved road will be performed to generate existing grades.
4. The approach area at the intersection with Route 108 will be maintained at less than 3% for a minimum of 50' and at 4% to 6% for the next 50' and will meet the Vermont AOT standards in all aspects.
5. The radius of the intersection with Route 108 will be made as large as possible.
6. Guardrails, a water supply line and fire hydrant will be placed as indicated on the Road Improvement Plan, sheet 3 of 3, Revision #1, 10/19/04.
7. Emergency Pull-Off: A vehicle pull-off will be provided on the road between station 4+00 and 6+00.
8. Drainage swales, culverts and erosion control measures will be provided as shown on the Site Plan.
9. The applicant will provide the Board with a letter affirming that the Town will provide water to the lots.
10. 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.
11. The final plat shall show all required easements for access rights-of-way and utilities.
12. 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.

13. 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.
14. The final plat shall be annotated to clearly show the proposed limits of clear cutting around each house site.
15. Pursuant to the requirements of Section 5.1(12) of the Subdivision Regulations, prior to construction of any improvements on Lot #1, the applicant shall return to the Board with the written approval of the Stowe Fire Department indicating that the proposed driveway is adequate access for fire protection to the site.

Voting in favor: Mr. Aumand, Mr. Izzo, Mr. Jones, Mr. Morton and Mr. Walton. Voting to deny: None. Voting to abstain: None. Absent: Mr. Coppock, (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 8th day of December, 2004.

By: _____
Mr. 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.