

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law

IN RE: **Storage In Stowe, LLC.**
 Attention: Steven Riley
 P.O. Box 959
 Stowe, Vermont 05672

S-03-33

PROCEDURAL HISTORY:

The Development Review Board received this application on November 11, 2003. The application was warned in the Stowe Reporter and posted on December 11, 2003. A public hearing was held on January 6, 2004, at which time the hearing was closed. This decision was rendered electronically by the Board on January 22, 2004.

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

1. Storage In Stowe, LLC. is the owner of 13.68 acres located at 2858 Waterbury Road (Vermont Route 100). Currently a self-storage facility with a total floor area of 10,800 sq.ft. is located on the property.
2. The Storage In Stowe, LLC. property is located in both the Rural Residential 2 acre and 5 acre Zoning District.
3. The applicant intends to divide the property into three lots; Lot #1 being 5.5 acres and containing the storage facility; Lot #2 being 3.1 acres containing a residential house site; and Lot #3 being 4.9 acres containing a residential house site. All three lots will be accessed along an existing private driveway that connects directly to Vermont Route 100. A 50' right-of-way will be created to provide legal access to each lot. Lots #2 & #3 will each have a drilled well to provide potable water (proposed) and each has a proposed leach field site. Lot #3's leach field will be on Lot #2 by easement.
4. The applicant has submitted engineering plans and details for the three lots, prepared by Charles Grenier, P.E..

Section 5.1 – General Planning Standards:

5. **Section 5.1(1) – Character of Land for Subdivision:** The area where Lot #2 & #3 are to be located are upslope from Route 100, and is a combination of old pasture land, wetlands, areas of forest cover with ledge outcroppings. Lot #3 contains an existing pond, and both lots #2 & #3 are crossed by overhead utility lines. These features have been mapped on the engineering plans, and the subdivision has been designed to accommodate these features.

Conclusion: The Board concludes that the land is of a type and character which is suitable for this density of residential subdivision.

6. **Section 5.1(2) – Natural & Scenic Features:** The property is varied in its terrain, with areas of rock outcroppings and includes an existing pond. There are known class III wetlands on the property.

Conclusion: The Board concludes that this property is scenic in nature and contains various natural features; however; none of these features is mapped as being of a significance which requires additional protection beyond that offered by the applicant as part of the request.

7. **Section 5.1(3) – Historic Resources and Community Character:** The site is old pasture land that has gone fallow and has been kept out of forest cover only by occasional mowing by the owners.

Conclusion: The Board concludes that the property does not contain any historic resources or items significant to the community character.

8. **Section 5.1(4) – Reserved Strips:** The owner has provided a legal access via a proposed 50” right-of-way to the new lots. The design of the subdivision does not result in any strips of land being reserved by the applicant.

Conclusion: The Board concludes that there are no reserved strips.

9. **Section 5.1(5) – Screening and Landscaping:** The applicant has not submitted a landscaping plan for the subdivision. The applicant testified that there is existing tree cover on areas of the property, and that the new houses would not be particularly visible from off-site. The applicant testified further that there is an existing hedgerow of mature trees along the southeast property boundary (adjacent to Fitzko & Sands properties). The applicant agreed to retain the tree cover within the zoning setback (75”) in this area to provide protection between the existing houses in the Black Bear Run subdivision and this new subdivision.

Conclusion: The Board concludes that if the applicant maintains the existing tree cover within the above mentioned setback area, then he will have adequately addressed screening and landscaping.

10. **Section 5.1(6) – Pedestrian Access:** There are no provisions for 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 applicant 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 single family homes are known to generate traffic above that which is present currently. Traffic from this area will travel along a private driveway directly onto Vermont Route 100, Stowe’s major transportation link. There are no known safety or traffic safety issues in this neighborhood.

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

12. **Section 5.1(8) – Municipal Facilities:** The proposed lots are served by privately owned water and septic systems. The internal driveways are proposed to be privately owned and maintained. The extension of electrical utilities to the new lots is being done at the expense of the applicant.

Conclusions: The Board concludes that there should be no discernable adverse impact on Municipal Facilities.

13. **Section 5.1(9) – Lot Configuration:** The three lots have been designed so that each is usable for its intended purpose, has adequate access, and meets the minimum size required by the zoning district. The applicant testified that since Lots #2 & #3 cross the RR-2/5 zoning boundary, each has been sized so that they are proportionally correct given the area in each district.

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

14. **Section 5.1(10) – Building Area:** The applicant testified that the two house sites (Lots #2 & #3) have been designed to create an attractive and usable building area. The applicant presented engineering plans showing natural features, rights-of-ways, zoning setbacks, and other restrictions, and this plan demonstrated that there is a usable building area on each lot.

Conclusion: The Board concludes that each lot does have a usable building area suitable for the intended use for residential construction.

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

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

16. **Section 5.1(12) – Fire Protection Facilities:** The applicant testified that there are no additional fire protection facilities proposed.

Conclusion: The Board concludes that given the limited scope of this subdivision, no special or unusual fire protection facilities will be required.

17. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** The applicant testified that the intended end use of Lots #2 & #3 is for residential construction.

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

18. **Section 5.1(14) – Private Enforcement Mechanisms:** The applicant testified that there are no plans for formal private enforcement mechanisms, such as deed covenants. The Board notes that there are commonly owned items, such as the access driveway, so some form of covenant or agreement is necessary to insure the proper upkeep and maintenance of those commonly owned items. These requirements can be addressed in deed covenants.

Conclusion: The Board concludes that the applicant has adequately addressed the need for private enforcement mechanisms.

Section 5.2 – Prominent Hillside and Ridgelines:

19. This property is not located in an area mapped by the Community as a prominent hillside or ridgeline.

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.

Section 5.4 – Road Standards and Coordination with Public Highways:

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

Section 5.5 – Utilities and Stormwater Management:

22. The subdivision requires the extension of utility lines to the structures at the applicant's expense. The applicant has not submitted an engineered stormwater management plan and has testified that any stormwaters will be sheet discharged for disposal into existing channels.

Conclusion: The Board concludes that the applicant has adequately addressed the needs for utility extensions and stormwater management.

DECISION

Based upon the foregoing Findings of Fact and conclusions of law, in re: **Storage In Stowe, LLC**, the Board took the following action:

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. The final plat shall show all required easement 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 reflect a buffer zone 75' deep from the property line in common with the Black Bear Run Subdivision, said buffer zone to be labeled as follows:

"Except for the removal of dead or diseased trees, there shall be no cutting of trees larger than 4" in diameter as measured 4' from the ground for a distance of 75' from property line."
7. The final plat shall be amended so that it clearly shows the intended building zones on Lots #2 & #3, said zones consisting of the required zoning setbacks and accounting for any natural or manmade feature such as wetland buffers and/or power line rights-of-way.

Voting in favor: Mr. Aumand, Mr. Brink, Mr. Coppock, Mr. Izzo, & Mr. Walton. Voting to deny: None. Voting to abstain: Mr. Beddow who rescued himself from the hearing as he is an adjacent landowner, as well as being president of the Black Bear Run Homeowners Association, None. Absent: None (Note there is one vacancy on the Board at this time).

The motion carries (5-0-1), the applications are approved.

Dated at Stowe, Vermont this the ____ day of January 2004.

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:

- (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.