

**TOWN OF STOWE  
DEVELOPMENT REVIEW BOARD**

**FINDINGS OF FACT & CONCLUSIONS OF LAW**

**IN RE: Michael & Debra Diender  
P.O. Box 835  
Stowe, Vermont 05672**

**S-03-23**

**PROCEDURAL HISTORY:**

The Zoning Administrator received this application for the subdivision of an existing motel property into two lots on August 1, 2003. The application would subdivide the existing employee/caretaker's residence onto a separate ½ acre lot, with the balance of the property remaining with the existing Sun & Ski Motel. The application was ruled complete, warned in the Stowe Reporter, and posted on August 14, 2003. A public hearing was held on September 2, 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 1613 Mountain Road, doing business as the Sun & Ski Motel. The property is improved with a motel, which includes a 3 bedroom employee/caretaker's residence.
2. The applicant has applied for a subdivision creating two parcels as follows: Lot #1 to contain the existing motel and miniature golf area and Lot #2 to be approximately ½ acre in size and will contain the existing single family dwelling.
3. The property is located in the Mountain Road Commercial (MRC) 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 9 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:** The property is located along the West Branch of the Little River, and is developed into a motel, with a miniature golf area. There is a separate employee/caretaker's residence which is a three-bedroom single-family dwelling constructed under a prior approval. The parking areas and driveways were constructed previously, and the site is well landscaped. The proposed subdivision would merely separate the house from the motel allowing it to be placed under a separate deed.

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

7. **Section 5.1(2) – Natural & Scenic Features:** A portion of the property is located within the FEMA mapped 100 year flood plain which was mapped and shown on the subdivision plans. There is no construction proposed as part of this subdivision application.

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

8. **Section 5.1(3) – Historic Resources and Community Character:** There are no known historic resources on the property.

**Conclusions:** 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 property is currently landscaped and contains a number of mature trees. There is no additional screening, clearing or landscaping proposed as part of the subdivision application.

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

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

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

12. **Section 5.1(7) – Traffic:** There is no construction proposed as part of this application.

**Conclusions:** The Board concludes that there will be no increased traffic impact as a result of this application.

13. **Section 5.1(8) – Municipal Facilities:** The property is connected to the municipal water & sewer services. This subdivision will not result in any changes to those facilities or any need for increased capacity.

**Conclusions:** 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 triangular shape, with frontage on Vermont Route 108.

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

15. **Section 5.1(10) – Building Area:** The engineering plans show the required building setback lines, contours, and floodplain. These plans demonstrate that the proposed lot has an area which is suitable to support the existing dwelling in compliance with the requirements of the Zoning Regulations.

**Conclusions:** The applicant has demonstrated that the proposed lot has a reasonable building area conforming to the requirements of the Regulations and suitable for the intended use as an separate lot for the existing dwelling. The site has access over a private internal driveway of reasonable grade and has access to municipal power, water and sewer.

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.

**Conclusions:** 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 which includes a municipal fire hydrant located roughly across the street.

**Conclusions:** 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.

**Conclusions:** 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.

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

#### **Section 5.2 – Prominent Hillside 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 for this subdivision.

**DECISION**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board took the following action in re: **S-03-23 (Diender)**:

A motion was made by Mr. Brink and seconded by Mr. Walton 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 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. The plat shall be annotated to show existing structures on the lot(s) and the required Zoning Setbacks.
5. 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 Chairmen.

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 7<sup>th</sup> 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 constitutes a violation of the Stowe Zoning Regulations as provided in Section 23.4.