

**TOWN OF STOWE
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law

**IN RE: Nancy A. Tooley
215 Logging Hill Road
Stowe, Vermont 05672**

S-03-15

PROCEDURAL HISTORY:

The Zoning Administrator received this application for the subdivision of a 65± acre parcel of land into two lots on July 7, 2003. The application was ruled complete and warned in the Stowe Reporter and posted on July 24, 2003. A public hearing was held on August 5, 2003, and continued to August 19, 2003. This decision was rendered by the Board on September 16, 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 215 Logging Hill Road. The property is 65± acres in size and is improved with the applicant's home which is accessed off of Logging Hill Road, and an historic barn located at the corner of Stowe Hollow Road and Upper Hollow Road. The property is subject to a conservation easement granted to the Stowe Land Trust that restricts future development on the property to one additional residence and requires the barn and the open fields along Upper Hollow Road to remain.
2. The applicant has applied for a subdivision creating two parcels as follows: "Farm Lot": 42.2± acres with the existing barn and fields and including one potential house site, and; "Home Lot": 22.8± acres with the existing home.
3. The property is located in the RR-5 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 6 of the Stowe Zoning Regulations. In addition, a portion of the "Home Lot" is in the Ridgeline and Hillside Overlay Zoning District, the regulations for which are established by Section 16.
4. The "Home Lot" is already improved with a home. The "Farm Lot" is improved with an historic barn and open lands. The "Farm Lot" has a designated and previously developed building site which includes a driveway, and cleared area. In addition, the applicant's engineer has prepared a plan for the disposal of wastewater at the site.
5. A significant portion of the "Farm Lot" is subject to a development restriction in favor of the Stowe Land Trust. Only one home can be developed on the Farm Lot given the pre-existing conservation restrictions.
6. The application was reviewed by the Board for compliance with the standards of the Stowe Subdivision Regulations last revised June 13, 2002.
7. 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 judge the proposal and to apply conditions if approval were to occur.

Section 5.1 – General Planning Standards:

8. **Section 5.1(1) – Character of Land for Subdivision:** The site consists of a mixture of open pasture lands and a wooded hillside. There is an existing home on the property and that home is located on the interior of the site in a spot which is not particularly visible from the roadway. The property includes an historic barn located at the corner of Upper Hollow Road and Stowe Hollow Road. The property is located with frontage on two gravel Town Highways, and is located in a neighborhood characterized by farm lands, woodlands, and residential areas.
9. **Section 5.1(2) – Natural & Scenic Features:** The property is very scenic in nature, affording motorists along the Town Highway a dramatic view of open farm fields against the back drop of the Worcester Range. The most scenic area of the property has already been preserved by the applicant through a conservation easement with the Land Trust. There are no identified natural features on this property. A small portion of the property is mapped as having areas of high scenic importance as identified by the Ridgeline and Hillside Overlay District. No portion of this project affects the scenic qualities of the site as no construction is proposed within the open fields along the Town Highway.
10. **Section 5.1(3) – Historic Resources and Community Character:** There are no known community resources on this property. The barn on the property is historic, and the structure and surrounding agricultural lands have been preserved by the Stowe Land Trust.
11. **Section 5.1(4) – Reserved Strips:** There are no reserved strips.
12. **Section 5.1(5) – Screening and Landscaping:** There is existing forest cover on the property. The applicant has demonstrated, as part of the application materials, the location of the existing forest cover and the probable extent of further clearing when the new house is constructed on the “Farm Lot”. There is no other screening or landscaping proposed as part of the subdivision application.
13. **Section 5.1(6) – Pedestrian Access:** There are no provisions for pedestrian access.
14. **Section 5.1(7) – Traffic:** The eventual construction of a new home on the “Farm Lot” will result in some additional traffic on area roads. Despite this additional traffic, the Board concludes that the level of increased traffic is unlikely to result in any adverse impact.
15. **Section 5.1(8) – Municipal Facilities:** Municipal water and/or sewer lines do not extend to this property. The property is served by an existing Class III Town Highway. The Board therefore concludes that there should be no adverse impact on Municipal facilities.
16. **Section 5.1(9) – Lot Configuration:** The proposed lots meet or exceed the minimum dimensional standards established by the Ordinance.
17. **Section 5.1(10) – Building Area:** The applicant has demonstrated that the proposed “Farm 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.
18. **Section 5.1(11) – Energy Conservation:** Any home constructed on the “Farm 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.

19. **Section 5.1(12) – Fire Protection Facilities:** There are no fire protection facilities proposed. The site is located within an existing residential neighborhood. The Board therefore 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.
20. **Section 5.1(13) – Disclosure of Subsequent Development Plans:** There are no known future plans for subdivision, nor would further subdivision be possible given the existing deed restrictions placed upon the property by the Stowe Land Trust.
21. **Section 5.1(14) – Private Enforcement Mechanisms:** No proposed deed covenants were submitted to the Town as a part of this application. The applicant has testified as to the language of the deed restrictions on the property in favor of the Stowe Land Trust which demonstrates the limitation on the further development of the property.

Section 5.2 – Prominent Hillsides and Ridgelines:

22. This property is partially located in an area mapped by the Community as a prominent hillside or ridgeline. The property is known to have visual sensitivity in relation to the broader community. No area which might be affected by development as part of this subdivision is within the Ridgeline Zone.

Section 5.3 – Open Space and Cluster Development:

23. The applicant has not proposed a cluster development, nor have they proposed permanent open spaces. The Board concludes that the pre-existing development restrictions of the easement granted to the Stowe Land Trust will adequately protect the open spaces on the parcel

Section 5.4 – Road Standards and Coordination with Public Highways:

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

Section 5.5 – Utilities and Stormwater Management:

25. Given that there are no plans for construction at this time, no utility or stormwater plans have been prepared. These plans will be required prior the issuance of any building permits for construction on the site.

DECISION

Based upon the foregoing Findings of Fact, in **RE: S-03-15 (Nancy A. Tooley)**, the Board took the following action:

Motion made by Mr. Beddow and seconded by Mr. Brink 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. Prior to filing the subdivision plat, the applicant shall submit plans and details relating to driveway construction, including an indication of driveway grades, and plans for erosion control both during and after construction.
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”:
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.

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 16th day of September, 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.

Any interested person may appeal this decision to the Vt 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.