

TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law

PROJECT #: 5790

LOCATION: 1199 & 1203 Waterbury Road (#07-309.010)

APPLICANT/PROPERTY OWNER:

Thomas C. Michelson
87 Farr Hill Road
Stowe, VT 05672

PROCEDURAL HISTORY:

The Development Review Board received this application on April 2, 2018. The application was warned in the Stowe Reporter on April 12, 2018 for a public hearing to be held on May 1, 2018. The Board continued the hearing to June 5, 2018 pending additional information from the Applicant. The continued hearing was re-opened on June 5th. The Board closed the hearing that evening initiating the 45-day period for the issuance of a written decision. Thomas C. Michelson, property owner and applicant, along with his son Sid Michelson presented the application to the Board.

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

1. Thomas Michelson owns the 3.04± acre parcel at 1199 and 1203 Waterbury Road within the Residential I (RR-I) zoning district.
2. The Applicant has requested conditional use approval to construct a three-unit residential dwelling and 26' x 27' two-car garage. Portions of this project received prior approval by the Development Review Board in a written decision dated August 19, 2008.
3. Current residential uses on the property include a three-unit triplex, a two-unit duplex, and related accessory structures including three existing garages.
4. The parcel is within the Residential I (RR-I) zoning district which allows a density of three (3) units per acre.
5. In addition to the development application dated 4/2/2018, the following materials were submitted in support of the application:
 - Proposed elevation drawings of the 2-car garage, no date;
 - Proposed elevation and floorplan drawings of the triplex, no date;
 - Site plan showing existing and proposed improvements, no date;
 - Two permits issued by the VT Agency of Transportation (dated 10/24/86 and 11/25/86);
 - Manufacturer details for proposed outdoor lighting;
 - DRB decision dated August 19, 2008 (staff);
 - Email comments from Fire Chief Mark Sgantasm, dated 4/15/2018 (staff);
 - E911 map showing location of existing structures and e911 numbers, no date;
 - Letter from the applicant to Sarah McShane (Stowe Zoning Director), dated 5/28/2018;

- Revised site plan showing location of existing and proposed improvements, dated 5/22/2018;
- Survey plat prepared by Glen Towne, dated May 2008- revised to show proposed improvements;
- Assessors card for 1203 Waterbury Road showing area of existing improvements, dated 5/23/2018;
- Revised hand-drawn building elevation drawings (east and west elevations), dated 5/23/2018;
- Revised hand-drawn building elevation drawings (north and south elevations), dated 5/23/2018;
- Revised hand-drawn floor plans, dated 5/23/2018.

Application materials are kept on file in the Zoning Office at the Town Office.

6. Under the provisions of the Stowe Zoning Regulations (amended through July 3, 2017), the application is being referred to the Development Review Board under conditional use review.

Section 3.7(2)(A) – Standards of review (Conditional Use Applications): The Development Review Board must determine that the use will conform to the following set of standards and will not result in an undue adverse effect on the following:

7. **Capacity of existing or planned community facilities and services:** Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, EMS, Parks and Recreation, and Police Department. Fire Chief Mark Sgantas provided written comments recommending a dry hydrant for fire. No other Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services. During the June 5th hearing, the Applicant requested relief from the recommendation of the Fire Chief and asked that he not be required to install a dry hydrant. The Applicant provided testimony that although in common ownership, the pond is on a separately deeded parcel and requested that the parcel not be encumbered with a permit condition requiring a dry hydrant for fire protection.

Conclusion: The Board recognizes the intent of the recommendations of the Fire Chief and encourages the Applicant to consider installing a dry hydrant for fire protection, however the Board finds that the pond is on an adjacent parcel not subject to review under this application and does not require the Applicant install a dry hydrant. The Board concludes the project as proposed will not create an undue adverse impact on the Town’s existing or planned facilities or services

8. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant is proposing an additional 3-unit residential dwelling. Estimated vehicle trip generation numbers were not provided. The parcel is served by a curb cut off Waterbury Road (Rt. 100).

Conclusion: The Board concludes the construction of a 3-unit residential dwelling and related accessory structure will not adversely affect roads and highways in the vicinity or generate a significant increase in traffic.

9. **Section 3.7(2)(A)(3) – The character of the area affected:** The parcel is within the Residential I (RR-I) zoning district. The purpose of this district is to allow a higher density closer to available municipal services while maintaining the quality of the neighborhood.

Conclusion: The Board finds the project is not expected to create an undue adverse effect on the character of the area affected, as defined under the Town’s Zoning and Subdivision Regulations, as amended through July 3, 2017.

10. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application is being reviewed under the conditional use standards. Applicable bylaws include the Stowe Zoning Regulations, as amended through July 3, 2017. No other municipal bylaws or ordinances apply to this project.

Conclusion: The Board finds residential uses are allowed in the RR-I District. All setbacks are satisfied. The proposed use is in conformance with the bylaws in effect at the time of application.

11. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

Conclusion: The Board finds the project will not interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

Section 3.7(2)(B) – Other Standards of Review:

12. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** There are no known or identified scenic or historic sites located on the parcel.

Conclusion: The Board finds the construction of a 3-unit residential dwelling and related accessory structure will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

13. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant is proposing to construct a 3-unit residential dwelling and associated 2-car garage. The parcel has been previously developed and contains a three-unit dwelling, a two-unit dwelling, and related accessory structures including three existing garages.

Conclusion: The Board concludes there will be no undue noise, water, or air pollution resulting from this proposed project.

14. **Section 3.7(2)(B)(3) –Access Management:** The parcel is served by two existing curb cuts on Waterbury Road (VT Route 100), a State Highway. No expansions or improvements are proposed to the existing curb cuts. 24 VSA §4416 requires proposals involving access to a state highway provide a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 VSA §1111. The Applicant did not provide a letter of intent or access permit from VT Agency of Transportation. Staff provided testimony that the Applicant has been in contact with VT Agency of Transportation and that it was her understanding that the agency was prepared to issue an access permit upon receiving the required application fee.

Conclusion: The Board finds the Applicant failed to provide the necessary letter of intent or access permit prior to the hearing and concludes that prior to the issuance of the zoning permit, the Applicant will be required to submit a copy of the approved access permit from the VT Agency of Transportation. The requirements of the state access permit are incorporated herein.

15. **Section 3.7(2)(B)(4) – Shared Access:** The existing northern shared drive provides common access to the rear property containing 87 Farr Hill. The Applicant is not proposing any expansions or improvements to the existing curb cuts or access drives but recognizes improvements may be required under the VT Agency of Transportation access permit.

Conclusion: The Board finds that the subject parcel provides shared access to the rear parcel at 87 Farr Hill Road which is currently under common ownership. The Applicant is not proposing any improvements to this shared access but may be required to make upgrades to the portions

within the Rt. 100 right-of-way as required by the state access permit. The Board incorporates the requirements of the state access permit herein.

16. **Section 3.7(2)(B)(4) – Circulation and Parking:** Current uses on the property include a three-unit triplex, a two-unit duplex, and related accessory structures including three existing garages. Table 15.2 requires a total of ten (10) on-site parking spaces for the existing uses. The Applicant is proposing an additional three residential units, which requires an additional six (6) parking spaces. A total of sixteen (16) parking spaces are required. Section 15 outlines the requirements for parking facilities and requires that parking facilities be designed to minimize the visibility of parking vehicles from off-site through location, landscaping, and screening. Parking shall generally be located to the rear of the interior side of buildings. The Applicant provided a hand-drawn site plan showing the location three existing two-garages, a proposed two-car garage, and nine surface parking spaces. Per the provided site plan, the parcel can accommodate seventeen (17) parking spaces.

Conclusion: The Board finds that the proposal provides an adequate number of parking spaces to serve the proposed use. The Board further concludes that the proposed site layout represents safe and adequate vehicular access and circulation and is in conformance with the provisions listed in Section 3.7.

17. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require that pedestrian circulation and access through the site to adjacent properties be provided. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon the property's location, site conditions, and proximity to other facilities. The Applicant provided a hand-drawn site plan showing the existing and proposed improvements including interior vehicular access and circulation. There are no sidewalks in this vicinity of Rt. 100.

Conclusion: The Board finds that no existing or proposed pedestrian circulation or access improvements are shown on the site plan, however given the intended use, the existing site layout represents safe and adequate internal pedestrian access and circulation for the intended use.

18. **Section 3.7(2)(B)(7) – Landscaping and Screening:** The regulations require the Applicant provide landscaping and screening details including the screening of garbage collection areas, outdoor storage, commercial ventilation system over two square feet; loading and unloading areas and other outdoor utilities, including solar installations. Such plans are required to include detailed specifications, including the size, type, and location of all existing and proposed planting and landscape materials and indicate fencing or other screening mitigation measures. The parcel is previously developed and contains existing mature vegetation and landscaping. No additional landscaping or screening is proposed under this application. During the hearing, the Applicant provided testimony regarding the location of shared waste receptacles.

Conclusion: The Board concludes that the existing mature landscaping is appropriate for the intended use and site location. As a condition of approval, the shared waste receptacles will be required to be appropriately screened.

19. **Section 3.7(2)(B)(8) – Stormwater Management:** The regulations require the Applicant provide, at the request of the Board, a plan for the management of stormwater generated by the proposed development. All stormwater management plans are required to meet the applicable State of Vermont Stormwater Discharge Regulations.

Conclusion: The Board concludes no additional stormwater management is required for this project.

Section 4.8 Outdoor Lighting

20. Section 4.8 outlines the requirements for outdoor lighting. As part of the original application, the Applicant provided manufacturer's specifications on the proposed outdoor lighting to be installed on the proposed two-car garage. The Board noted during the May 1st hearing that the proposed spot-light did not meet the requirements for outdoor lighting. The Applicant subsequently revised the application to eliminate outdoor lighting on the garage and provided testimony that the lighting on the proposed triplex would be recessed and installed under the roof over-hang.

Conclusion: The Board concludes that the proposed outdoor lighting is in conformance with Section 4.8 and that the lighting has been designed to minimize spill into the night sky and is appropriate for the intended use and site location.

DECISION

Based upon the foregoing Findings of Fact, in RE: 5790 (Thomas Michelson), the Board finds that the application meets the Stowe Zoning Regulations, as amended though July 3, 2017, criteria for approval 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. Prior to the issuance of a zoning permit, the Applicant shall file with the Zoning Administrator the following documentation:
 - A copy of the approved Vermont Agency of Transportation access permit. The conditions and requirements of the state access permit are incorporated as conditions of approval herein.
3. All outdoor lighting permanently installed on the site shall meet the requirements of Section 4.8, including the requirement that outdoor lighting be cast downward or be designed to minimize glare (e.g., through the use of recessed, shielded, cutoff or shaded fixtures), and shall not direct light upward or outward onto adjoining properties, or public rights-of-way.
4. All trash and recycling receptacles shall be securely stored away from public view or in a screened structure approved by the Zoning Administrator.
5. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposed of ascertaining compliance with the conditions of approval.

Voting favor: D.White, D.Clymer, T. Hand, P.Aumand, C.Walton.

Voting to deny: None

Abstain: A. Volansky, T.Mumley

The motion carries 5-0, the application is approved.

Dated at Stowe, Vermont this the 15th day of June 2018

By: *Douglas White*
Douglas White, Chair

Any interested person may appeal this decision to the Vermont Environmental Court within thirty (30) days in accordance with 24 V.S.A. § 4471.