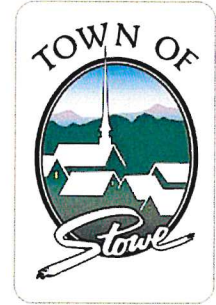




**TOWN OF STOWE**  
**DEVELOPMENT REVIEW BOARD**  
Findings of Fact & Conclusions of Law



**PROJECT#** 7201

**SUBJECT PROPERTY:** Spruce Peak Road; #14-011.000 (Lot 31 & Adjoining Lots)

**APPLICANT/PROPERTY OWNER:**

Spruce Peak Realty LLC  
7320 Mountain Road  
Stowe, VT 05672

**APPLICATION/OVERVIEW**

The applicant/property owner, Spruce Peak Realty LLC (herein referred to as the "Applicant"), requests approval for boundary line adjustments between Lot 31 and related adjoining Lots 45, 46, 54, 55, and 11.3 as shown on the proposed parcel plan. Following adjustment, Lot 31 will contain  $\pm 0.919$  acres; other adjoining lots will be slightly reduced in area. The purpose of the proposed adjustments is to accommodate the future Building C on its own parcel of land, Lot 31. The subject Lot(s) are located off Hourglass Drive (#14-011.000) in the Rural Residential 5 (RR5) zoning district. The parcels are part of the previously approved Spruce Peak at Stowe Subdivision. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (effective June 13, 2022) and the Subdivision Regulations (as amended through July 16, 2012) for the purpose of subdivision review. The DRB's procedural history and relevant findings are attached.

**REVIEW PROCESS**

*(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)*

A development application was filed by Applicant Spruce Peak Realty on June 30, 2023. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for August 15, 2023 and warned by the Zoning Administrator in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on July 27, 2023. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on August 15, 2023 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No other *ex parte* communications or conflicts of interests were reported. DRB members participating in the review included: Drew Clymer, Patricia Gabel, Mary Black, David Kelley, and Tom Hand. The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

**INTERESTED PERSONS/PARTICIPANTS**

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

1. Sam Gaines & Rob Apple, Spruce Peak Realty LLC, 7320 Mountain Road, Stowe, VT 05672
2. Engineer Dave Marshall, 10 Mansfield View Lane, South Burlington, VT 05403

**THE RECORD**

The following materials were submitted in support of the application and entered into the hearing record:

1. Town of Stowe Development Application (2 pages); dated 6/29/2023;
2. Proposed Parcel Plan, Sheet C1.31, prepared by Civil Engineering Associates, Inc., dated 6/2/2023;

3. Existing Parcel Plan, Sheet C1.30, prepared by Civil Engineering Associates, Inc., dated 6/2/2023.

### **FINDINGS OF FACT & CONCLUSIONS OF LAW**

*During its review of the application, the DRB made the following Findings of Fact*

The Applicant's request for a boundary line adjustment was reviewed by the DRB for conformance with applicable requirements of the Zoning Regulations (effective June 13, 2022), including the following:

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density

The Applicant's request for a proposed boundary line adjustment was reviewed under the Subdivision Regulations (as amended through July 16, 2012) including the following:

- Section 2- General Provisions
- Section 3- Administration and Enforcement
- Section 4- Subdivision Requirements
- Section 5- Planning and Design Standards

#### **Zoning District**

1. The subject lot(s) are within the Rural Residential 5 (RR5) zoning district as shown on the Official Town of Stowe Zoning Map.

#### **Lot Area, Lot Width**

2. The Applicant requests approval for boundary line adjustments between Lot 31 and related adjoining Lots 45, 46, 54, 55, and 11.3 as shown on the proposed parcel plan. Following adjustment, Lot 31 will contain  $\pm 0.919$  acres; other adjoining lots will be reconfigured and slightly reduced in area.
3. Section 13.4(3) allows the DRB the authority to modify applicable dimensional requirements of the underlying zoning districts in association with PUD approval.
4. The SKI-PUD is comprised of numerous individual lots that do not meet minimum lot area or lot width requirements, as approved by various Stowe Planning Commissions and DRB's over the last twenty years or so.
5. The proposed boundary line adjustments are consistent with the existing lot area and lot width patterns of the surrounding lands within the SKI-PUD.

#### **Setbacks**

6. Setback requirements within a SKI-PUD are outlined under Section 13.6(4)(B). Section 13.6(4)(3) outlines the standards of development and requires buildings containing conditional uses be setback not be less than permitted by the Vermont Department of Fire Safety.

7. All of the commercial, mixed-use, and multi-family buildings within the resort area are considered public buildings which receive permits from the Vermont Department of Fire Safety.

### **Section 13.6 SKI – PUD**

8. The lots are part of a SKI-PUD approved by the Stowe Planning Commission on May 5, 2003 under permit S-03-05, as recorded in Map Book 14 Pages 2-17 in the Land Records of the Town of Stowe.
9. The SKI-PUD is comprised of ±3188 acres and is owned by both private and public entities- see also Project 5757 for the most recent amendment to the SKI-PUD.
10. Other than reconfiguring the shape and area of Lot 31 and surrounding lots, no changes are proposed to the larger SKI-PUD.

### **SUBDIVISION REGULATIONS**

11. The DRB reviewed the proposed boundary line adjustments and finds that the following review criteria are not applicable to the proposed project. The project will have no impact on the following subdivision standards.

Section 5.1(1) – Character of Land for Subdivision

Section 5.1(2) – Natural and Scenic Features

Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities

Section 5.1(4) – Historic Resources and Community Character

Section 5.1(5) – Reserved Strips

Section 5.1(6) – Screening and Landscaping

Section 5.1(7) – Pedestrian Access

Section 5.1(8) – Traffic

Section 5.1(9) – Municipal Facilities

Section 5.1(11) – Building Zone

Section 5.1(12) – Fire Protection Facilities

Section 5.1(13) – Disclosure of Subsequent Development Plans

Section 5.1(14) – Private Enforcement Mechanisms

Section 5.2 – Prominent Hillside and Ridgelines (RHOD)

Section 5.3 – Open Space and Cluster Development

Section 5.4 – Road Standards and Coordination with Public Highways

Section 5.5 – Utilities and Stormwater Management

### **Section 5.1(10) – Lot Configuration**

12. Flag lots, elongated lots, and other odd-shaped lots which include narrow strips of land are prohibited unless the DRB finds the configuration is appropriate given the existing topography and natural features, existing development, or the existing configurations of internal or adjacent lots.
13. The Applicant proposes boundary line adjustments between Lot 31 and related adjoining Lots 45, 46, 54, 55, and 11.3 as shown on the proposed parcel plan.
14. Following adjustment, Lot 31 will contain ±0.919 acres; other adjoining lots will be reconfigured in shape and slightly reduced in area.

15. The subject lots are previously developed containing buildings, parking, roadways, and landscaping, all part of the compact Spruce Peak Hamlet development.
16. Although the boundary line adjustments will result in irregularly shaped lots, the lots are intended to follow existing development patterns and accommodate existing buildings and related improvements.

**Conclusion:** Based upon the above findings, the DRB concludes the project meets applicable dimensional requirements, subdivision planning standards, and finds the amended lot configuration is appropriate given the existing development patterns and the existing configurations of adjacent lots.

#### DECISION

On a motion by Tom Hand, seconded by Patricia Gabel, the DRB hereby approves the Applicant's boundary line adjustment request as outlined in the application dated 6/29/2023 and supplemental materials, subject to the following conditions of approval:

1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Planning & Zoning Office and other material representations. 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. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.
2. All conditions of previous approvals, except as amended herein, remain in full force and effect.
3. The 'Proposed Parcel Plan, Sheet C1.31, prepared by Civil Engineering Associates, Inc., dated 6/2/2023, shall be submitted for recording in the land records of the Town of Stowe within 180 days of the date of this approval, or the approval shall expire. The Applicant shall provide written confirmation that Lot 48 is not involved in the boundary line adjustments.
4. The Applicant shall file the Mylar plat, signed by the Chair or other authorized representative of the DRB, with the Stowe Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17 and the Stowe Subdivision Regulations. 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. Two paper copies of said plat shall be filed with the Zoning Administrator.
5. The final survey plat as recorded shall carry the following notation:

*"This plat is subject to the terms and conditions of subdivision approval by the Stowe DRB per the Subdivision Regulations of the Town of Stowe. The terms and conditions of the approval and related information are on file in the Stowe Zoning Office".*

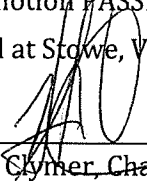
6. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the permittee and his successors agree to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

Voting in favor: Drew Clymer, Mary Black, David Kelly, Patricia Gabel, Tom Hand.

Voting to deny: None

The motion PASSED, 5-0

Dated at Stowe, Vermont this the 5 day of September 2023

By:   
Drew Clymer, Chair

**NOTICES:**

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a request for reconsideration that specifies the basis for the request with the Secretary of the Development Review Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.