

ASK THE LEAGUE

When a town creates a development review board (DRB), is the planning commission still responsible for approving access to lots without road frontage pursuant to 24 V.S.A. § 4412(3)?

No. The planning commission does not retain its approval authority under this provision once a DRB is created. As provided in 24 V.S.A. § 4460(a), “If a municipality establishes a [DRB] ..., the [DRB] ..., until its existence is terminated ... shall exercise all of the functions otherwise exercised [under Chapter 117] by the board of adjustment. It also shall exercise the specified development review functions otherwise exercised under this chapter by the planning commission. ... In situations where this chapter refers to functions that may be performed by a [DRB] or a planning commission or functions that may be performed by a [DRB] or a board of adjustment, it is intended that the function in question shall be performed by the [DRB] if one exists” Because the required frontage/access provision is a development review function, the authority to approve such proposals would transfer to the DRB, once created.

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