

- Condition 1.1 of the Settlement Agreement provides that Burt's will be closed and all patrons, invitees, and guests will vacate the building no later than 11:00 pm.
6. In early 2003 the applicant purchased Burt's Pub from Chester Burton. . The Settlement Agreement allows for a new owner to apply to the Development Review Board seeking to extend the hours of operation.
 7. This application seeks to extend the hours of operation until 1:00 a.m. seven days a week.

4.7(2)(A) – Standards of review (Conditional Use Applications)

8. **Section 4.7(2)(A)(1) – Capacity of existing or planned community facilities & services:** This application is for an increase in the business hours with no physical changes to the structure itself. During the hearings, the Board heard extensive testimony from adjacent property owners that noise and unruly behavior by Burt's patrons is a problem and that the police have been called on numerous occasions to investigate. The Board received copies of Stowe Police Department reports of complaints from June 12, 2003 and August 25, 2003.

Conclusion: The Board concludes that an expansion of hours of operation may require additional police presence to respond to potential complaints.. The Board concludes that this will create an additional demand on police services; however, there is no evidence to suggest that the additional demand will create an adverse impact on the ability of the Police Department to properly perform its functions.

9. **Section 4.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** Luce Hill Road is a paved Class III Town Highway, which in addition to providing for local traffic, also serves as an official State Bypass around the Village of Stowe. Luce Hill Road is known to be a busy road. There are two driveways serving this building. Burt's utilizes the easterly driveway (Route 108 end) to access the existing parking lot. The site distance to the west is restricted by the bridge over the West Branch of the Little River. There was testimony at the hearings that Luce Hill Road is relatively less traveled during the nighttime hours.

Conclusion: The Board concludes that the expansion of the business hours into the late night hours should create no discernable impact on traffic.

10. **Section 4.7(2)(A)(3) – The character of the area affected:** The area of Luce Hill Road immediately adjacent to Burt's currently consists of three residential homes to the south-east, a motel/hotel complex known as the Stowe Motel across the street, and a condominium complex known as Stonybrook to the west across the river. The Mountain Road Village Zoning District allows one and two family dwellings as permitted uses, and restaurants and motels as conditional uses with the approval of the Development Review Board. There was extensive testimony from neighboring property owners that Burt's has caused disturbances in this neighborhood, including noise from patrons in the parking lot, squealing tires, music from the bar and the like.

In addition to the Stowe Police Department reports mentioned in item 8, the Board received copies of the June 10, 2003 Department of Liquor Control Violation Report. In that report, Liquor Control Investigator Matthew Gonyo outlined repeated complaints by adjacent property owners about the operation of Burt's Pub.

Mr. Gonyo reports that he interviewed the applicant with regard to the alleged violations. Quoting directly from the report "Ms Martinez advised that she only had so much control as to the on-goings out in the parking lot".

Mr. Gonyo notes that "Based on the statements provided: Burt's Irish Pub, since the change in ownership and within the last couple of months, has disturbed the general public, violated rules of outside consumption and committed unlawful conduct by operating beyond the legal serving hours set forth by the Town of Stowe."

Mr. Gonyo issued Ms. Martinez a verbal warning on June 10th.

The Board also received a copy of a July 1, 2003 "letter of warning" to Ms. Martinez from William Goggins, Education, Licensing & Enforcement Director of the Vermont Department of Liquor Control. In this letter, Mr. Goggins notes that they had received Mr. Gonyo's written report alleging that " from Feb 12 – June 12, 2003 you were in violation of General Regulations No. 41 & 48 in that you failed to control the conduct of your patrons by allowing them to render the streets, sidewalks and highways adjacent to the licensed premise as a public nuisance and for allowing consumption of alcoholic liquor outside the licensed establishment without obtaining an outside consumption permit..."

Conclusion: The Board concludes that this area of the MRV zoning district is characterized by residential and other "quiet uses" and that while a restaurant/bar may be allowed as a conditional use in this zone, the expansion of hours of Burt's Pub until 1:00 am will have an adverse affect on the character of the area. Burt's Pub has generated a substantial level of complaints from adjacent property owners and the Vermont Department of Liquor Control has found it necessary to warn the applicant as to the operation of the establishment. The Board concludes that the extension of hours would only exacerbate the existing situation.

11. **Section 4.7(2)(A)(4) – Bylaws then in effect:** This Zoning District does permit the proposed use as a restaurant as a conditional use.

Conclusion: There should be no adverse impact on any ordinance currently in effect.

DECISION:

Based upon the foregoing Findings of Fact and Conclusions of Law, in re: **BA 6-053-4 (Northeast Real Estate Enterprises, LLC & MK Enterprises, Inc.)**, the Board took the following action:

A motion was made by Mr. Brink and seconded by Mr. Izzo to approve the application as presented.

Voting in favor: None Voting against: Mr. Aumand, Mr. Beddow, Mr. Brink, Mr. Coppock, Mr. Izzo, & Mr. Walton. Abstaining: None. Absent: None (There was one vacancy on the Board at the time of this application.

The motion fails (0-6), the application is denied.

Dated at Stowe, Vermont this the 21st day of October 2003.

By: _____
Allan J. Coppock, Chairman
Stowe Development Review Board

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