

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



PROJECT: 5953

SUBJECT PROPERTY: 17 Town Farm Lane; #07-004.000

PROPERTY OWNER:

Marc Chretien
3639 36th Road
N. Arlington, VA 22207

APPLICANT:

Dan Snyder-Stowe Cider
17 Town Farm Lane
Stowe, VT 05672

APPLICATION:

The Applicant, Dan Snyder of Stowe Cider, on behalf of property owner Marc Chretien (herein referred to as the "Applicant"), requests conditional use approval to host a food truck in front of the Stowe Cider tasting room, primarily on Saturdays starting April 13, 2019 during regular business hours. The food truck is expected to be parked on the property periodically throughout the spring, summer, and fall of 2019.

The subject parcel, consisting of ±3.1 acres and located at 17 Town Farm Lane (# 07-004.000), is in the Highway Tourist (HT) Zoning District and Source Protection Overlay District, and contains an existing commercial building currently occupied by Stowe Cider and West Branch Gallery. The subject parcel is generally bound to the north by property currently owned by Stowe Country Club LLC, to the west by a parcel currently owned by Nail LLC containing the Rusty Nail, to the south by Town Farm Lane, and to the east by property currently owned by Ronald & Lisa Mashaal (99 Town Farm Lane). The application has been reviewed by the Stowe Development Review Board (DRB) as conditional use under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) including Section 4.15 (temporary structures.)

The Development Review Board's procedural history and relevant findings are attached.

REVIEW PROCESS:

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

An application for conditional use review was filed by Applicant Dan Snyder on February 4, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing.

A public hearing of the DRB was scheduled for March 5, 2019 and warned by the Zoning Director 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 February 14, 2019. 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 March 5, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported.

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

- Dan Snyder-Stowe Cider, 17 Town Farm Lane, Stowe, VT 05672
- Mark Ray- Stowe Cider, 17 Town Farm Lane, Stowe, VT 05672
- Kellie Linskey-Stowe Cider, 17 Town Farm Lane, Stowe, VT 05672

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

1. Town of Stowe Development Application, received 2/4/2019;
2. Site Plan prepared by North American Consulting Group Limited, [last dated 7/7/95]- updated to show proposed location of food truck.

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.

FINDINGS OF FACT & CONCLUSIONS OF LAW: The Applicant's request for conditional use was reviewed by the Stowe Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) including the following:

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 12- Source Protection Overlay District
- Section 15- Parking Regulations

During its review of the application, the Board made the following Findings of Fact and Conclusions of Law:

1. The Applicant proposes to host a food truck in front of the Stowe Cider tasting room, primarily on Saturdays starting April 13, 2019. The food truck is expected to be parked on the property periodically throughout the spring, summer, and fall of 2019.
2. The subject parcel, consisting of ±3.1 acres, is located in the Highway Tourist (HT) Zoning District and Source Protection Overlay District. No changes to the dimensional requirements, use, or density are proposed under this application.

Section 4.15 – Temporary Structures

3. **Section 4.15(2)** requires "*All temporary structures including, but not limited to, trailers, tents, trucks and other registered vehicles and carts with an area greater than 32 sq. ft. selling or serving goods or food, and mobile homes used for temporary office or storage space may be permitted as a temporary accessory structure to an existing or proposed approved use. Such structures shall not be used for dwelling purposes.*" The Applicant proposes to host a food truck in front of the Stowe Cider tasting room, primarily on Saturdays starting April 13, 2019. The food truck is expected to be parked on the property periodically throughout the spring, summer, and fall of 2019. The proposed location of the food truck is shown on the site plan provided with the application.

4. **Section 4.15(3)** states “A permit for a temporary structure may be issued for a specified period of time not to exceed six (6) months.” As noted above, the Applicant proposes to host a food truck in front of the Stowe Cider tasting room, primarily on Saturdays starting on approximately April 13, 2019. The food truck is expected to be parked on the property periodically throughout the spring, summer, and fall of 2019. Temporary structures may be issued a permit not to exceed six (6) months.
5. **Section 4.15(4)** states “A temporary structure that is to be used as an extension or expansion of a conditional use will require conditional use approval from the DRB, unless the Zoning Administrator determines that the structure is a minor alteration to a conditional use and can be administratively approved.” Staff referred the application to the Board for conditional use review.
6. **Section 4.15(5)** states “A temporary structure shall be dismantled or removed upon expiration of the permit, unless the applicant applies for a new permit.”

Conclusion: The Board concludes the proposal is in conformance with the applicable provisions for temporary structures. As conditions of approval, the Board will require that the temporary structures not be used for dwelling purposes and that the zoning permit expire six (6) months following the date of Board decision. At such time, the temporary structure shall either be removed from the premises or the Applicant shall obtain a new permit in accordance with Section 4.15(5).

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. **Section 3.7(2)(A)(1) – 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, Police Department, EMS, and Parks and Recreation.

No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services.

Conclusion: The Board concludes the proposal will not result in an undue adverse effect 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 requests approval to host a food truck in front of the Stowe Cider tasting room, primarily on Saturdays starting April 13, 2019. The food truck is expected to be parked on the property periodically throughout the spring, summer, and fall of 2019. No changes or increases in use are proposed under this application. The Applicant did not provide the number of expected additional vehicle trips.

Conclusion: The Board concludes the proposed temporary food truck will have nominal impact on traffic and will not create an undue adverse impact on traffic on roads and highways in the vicinity.

9. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the HT zoning district. The purpose of the HT district is “To control development along the portion of the “lower” Mountain Road between designated growths centers in a manner that encourages continued

moderate-density commercial and residential land uses while maintaining high quality development and site design.”

Conclusion: The proposal will not adversely affect the character of the area as defined under the town’s zoning regulations.

10. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under applicable Conditional Use criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. No other known or identified municipal bylaws or ordinances apply to this project.

Conclusion: The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018.

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 concludes the project is not expected to 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.** The Applicant proposes to host a temporary food truck for a period not to exceed six (6) months. No permanent changes or improvements to the building or site are proposed under this application.

Conclusion: The Board concludes the proposal will not adversely affect 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 requests approval to host a food truck in front of the Stowe Cider tasting room, primarily on Saturdays starting April 13, 2019. The food truck is expected to be parked on the property during regular business hours periodically throughout the spring, summer, and fall of 2019. Hours of operation and expected noise were not listed in the application materials but were discussed during the hearing. During the hearing, the Applicant testified that it is their intention for the food truck to provide a food option during peak visitor and high traffic times. Currently Stowe Cider does not offer food. The food truck will primarily be operated on Saturdays, however the Applicant requested flexibility to also potentially host a food truck on Fridays and Sundays. The Applicant noted that regular tasting room hours are noon-8:00 PM.

During the hearing the Applicant testified that the food truck will rotate weekly to provide a variety of food options throughout the season. The Applicant testified that the existing building has ample utilities and any food truck would plug directly into the building eliminating a need for a generator or excessive exhaust.

Conclusion: The Board concludes the project, if completed as conditioned, will not result in undue water, noise, or air pollution.

14. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by Town Farm Lane with indirect access to Mountain Road. No expansions or improvements are proposed to the existing curb cut are proposed under this application.

Conclusion: The Board finds that no changes to the existing access are proposed under this application.

15. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Town Farm Lane. The parcel contains a commercial building currently occupied by Stowe Cider and West Branch Gallery. No changes are proposed to the existing access.

Conclusion: The Board finds that no changes to the existing access are proposed under this application.

16. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 14 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The proposed food truck will be parked near the front of the tasting room and will not impact existing parking or circulation. The parking area is shared by other nearby users including the Rusty Nail and the West Branch Gallery. No changes to the number or location of parking spaces or circulation patterns are proposed under this application.

Conclusion: The Board finds that no changes to the existing circulation or parking are proposed under this application.

17. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided. No changes to existing pedestrian circulation or access improvements are proposed under this application.

Conclusion: The Board finds that no changes to the existing pedestrian circulation and access are proposed under this application.

18. **Section 3.7(2)(B)(7) – Landscaping and Screening:** The regulations require landscaping details and screening of garbage collection areas, outdoor storage, commercial ventilation systems over two square feet; loading and unloading areas and other outdoor utilities, including solar installations, be provided as part of proposed site development plans. No changes to the existing landscaping are proposed under this application.

Conclusion: The Board finds that no changes to the existing landscaping and screening are proposed under this application.

19. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant request approval to host a food truck in front of the Stowe Cider tasting room, primarily on Saturdays starting April 13, 2019. The food truck is expected to be parked on the property periodically throughout the spring, summer, and fall of 2019. No change to drainage patterns or increases in impervious surface are proposed under this application.

Conclusion: This provision does not apply.

20. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the Board shall be guided by the following standards when reviewing all site development plans in the designated zoning district. These standards apply to all site development plans, including those involving new construction, expansion, alteration or change of use. The Board may waive the specific requirements of this section when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts.

1. Additional HT, RR, MOD, UMR Standards: Within the **Highway Tourist (HT)**, (Rural Residential (RR), Meadowland Overlay (MOD)) and Upper Mountain Road (UMR) Districts, site plans shall re-enforce efficient traffic circulation, preserve such important landscape features as open fields, scenic vistas, natural and cultural focal points and a well landscaped highway corridor.

To help achieve these objectives, the following standards shall apply:

- a. **Front Yard Treatment:** A continuous strip not less than twenty (20') feet deep, measured from the edge of the highway right-of-way, shall be maintained between the street line and the balance of the lot, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. In addition, no portion of the front yard may be used for storage or for any purpose except as provided herein.
- b. **Parking:** Parking shall be located in the rear and/or side of all commercial and multi-family residential properties, except as provided under section 14.3 of these regulations. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997, and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
- c. **Driveway Access:** Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
- d. **Additional HT Standards:** In addition to the conditional use criteria of these regulations, the DRB shall find that proposed development is designed in a manner that promotes an overall high quality of design and construction and, where appropriate, incorporates traditional building materials.

Conclusion: The Applicant proposes to host a temporary food truck for a period of no more than six (6) months. The Board finds no permanent changes or improvements to the building or site are proposed under this application. Does not apply.

Section 4: Specific Use Standards

21. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the Section 4.8(A-C). When reviewing lighting plans pursuant to Section 4.8, including proposed gas station canopy or apron lighting, proposed illumination of building façades or parking area lighting, the DRB shall consider appropriate levels and distribution of illumination. In determining appropriate levels of illumination, the Board will consider the guidelines outlined in Section 4.8(2)(A-F). No changes are proposed to the existing outdoor lighting.

Conclusion: This provision does not apply.

22. **Section 15- Parking Regulations-** See discussion above.

DECISION

Based upon the foregoing Findings of Fact, in RE: **5953** the Board finds (6-0) the proposal meets the Stowe Zoning Regulations, as adopted on October 9, 2018, subject to the following conditions of approval:

1. The project shall be completed according to the plans hereby approved. 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. All conditions of previous approvals, except as amended herein, remain in full force and effect.
3. The temporary structure (food truck) shall not be used for dwelling purposes.
4. The zoning permit shall expire six (6) months from the date effective. At such time, the temporary structure (food truck) shall either be removed from the premises or the Applicant shall obtain a new permit in accordance with Section 4.15(5).
5. The temporary structure (food truck) shall use on-site electrical utilities. The use of generators is strictly prohibited.
6. The approved days and hours of operation for the temporary structure (food truck) are limited to primarily Saturdays with the option to occasionally operate on Fridays and/or Sundays from noon-9:00 PM.
7. Outdoor music shall not be audible at any property line beyond 9:00 PM.
8. All temporary signage must comply with Section 14 of the town's zoning regulations.
9. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of a 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 purpose of ascertaining compliance with the conditions of approval.

Voting favor: D.White, D. Clymer, P.Aumand, A. Volansky, T.Mumley, T. Hand

Voting to deny: None

Dated at Stowe, Vermont this the 11 day of March 2019

By: *Douglas White*
Douglas White, 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 notice of appeal that specifies the basis for the request with the Secretary of the Development 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 on appeal 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.