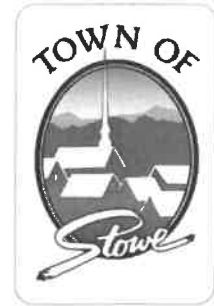


**TOWN OF STOWE**  
**DEVELOPMENT REVIEW BOARD**  
Findings of Fact & Conclusions of Law



**PROJECT:** 6421

**SUBJECT PROPERTY:** 3430 Mountain Road; #11-148.000

**PROPERTY OWNER:**

3430 Mountain Road LLC  
145 Pine Haven Shores Road, Suite 1150  
Shelburne, VT 05482

**APPLICANT:**

Doug Moses- Bullrock Corporation  
145 Pine Haven Shores Road, Suite 1150  
Shelburne, VT 05482

**APPLICATION:**

The Applicant, Doug Moses of Bullrock Corporation, on behalf of 3430 Mountain Road LLC (herein referred to as the "Applicant"), requests conditional use approval for the following site improvements:

- Relocate the driveway to the east of the existing garage;
- Relocate parking away from the building;
- Create a circular drop off area to the main entrance;
- Modify the exit ramp discharge on the southeast side of building;
- Extend the existing deck to the south;
- Add a courtyard on the west side of the building;
- Add an equipment pad to be shielded by landscaping and the building;
- Alter the façade of the garage to horizontal rainscreen;
- Modify the entrance into the garage.

The Applicant also presented conceptual landscaping and screening improvements, as well as changes to outdoor lighting, which approval is not being requested under this application. The subject parcel, consisting of ±4.25 acres and located at 3430 Mountain Road (#11-148.000), is in the Upper Mountain Road (UMR) Zoning District. The property is served by Mountain Road, a state highway maintained by the Vermont Agency of Transportation (VTTrans). The parcel is bound to the north by a ±18.56-acre parcel owned by Mountain House LLC, to the east by a ±5.34-acre parcel owned by Thomas & Rita Buchanan Estate, to the south by Mountain Road, and to the west by a ±1.10-acre parcel and dwelling owned by Eduardo Rovetto. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of conditional use review. 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 Doug Moses on November 19, 2020. 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 December 15, 2020 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 November 25, 2020 and posted at the Town Office, Library, and Police Station. 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 December 15, 2020 using a virtual meeting platform 'Zoom', with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Members who participated include: D. Clymer, F. Aumand III, T. Hand, P.Roberts, L. Wasserman, C.Walton, A.Volansky.

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

- Doug Moses- Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150 Shelburne, VT 05482
- Gregg Beldock- Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150 Shelburne, VT 05482

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

1. Town of Stowe Development Application, dated 11/20/2020;
2. Landscape Plan, Sheet L100, prepared by Wagner Hodgson Landscape Architects, dated 11/10/2020;
3. Proposed Site Plan- Mountain Road Rehab prepared by Grenier Engineering, Sheet 1 of 2, last revised 12/15/2020.

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 was reviewed by the 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 15- Parking Regulations

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

**Dimensional Requirements:**

1. **Zoning District.** The subject parcel contains ±4.25 acres and is located within the Upper Mountain Road (UMR) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in UMR are front (50'), side (50') and rear (50'). The Applicant seeks approval for various site improvements. The district setbacks are shown on the plan. An existing pool is shown to be located within the front setback and is proposed to be restored. During the hearing, the Applicant confirmed that the existing pool dimensions are not

increasing and any patio surrounding the pool that encroaches within the front setback is less than 6" in height.

4. **Maximum Building Coverage.** The maximum building coverage in the UMR district is 8%. Building coverage is defined as "That portion of a site, expressed as a percentage, occupied by all buildings or structures, (not including public utility structures), that are roofed or otherwise covered and that extend more than three (3') feet above the surface ground level. The building roof overhang up to 6 feet in length is not included as part of the building coverage area." The only proposed change in building footprint involves an expanded deck on the front of the building facing south towards Mountain Road. The provided site plan indicates the proposed building coverage to be 4.0% or 7,455 sf.
5. **Use.** The parcel previously received approval for a change of use from school to long-term care facility. No change of use is proposed.
6. **Height.** The maximum building height in UMR is 28' feet. No change in building height is proposed.

**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. The Board reviewed the application and found the following conditional use standards not to be applicable this application:
  - Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution
  - Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity
  - Section 3.7(2)(B)(4) – Shared Access
8. **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. The property is served by onsite septic and potable water. Under a prior application, the Applicant proposed to connect to the municipal system water system.

Fire Chief Kyle Walker provided comments dated 11/19/2020: "I have review Project #6421. I do not have any further notes to add on this."

David Kresock of the Stowe Electrical Department provided the following comments "Project #6421 – SED is working with property owner on service size and type."

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

**Conclusion:** Based on the above findings, the Board concludes the proposal will not result in an undue adverse effect on the Town's existing or planned facilities or services.

9. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the UMR zoning district. The purpose of the UMR district is "To control development along the "upper" Mountain Road in a manner that allows for residential, recreation and low-density commercial uses of property while preserving the rural character of the landscape, discouraging strip development and

*promoting the ongoing viability of existing land uses.”* The Applicant requests approval for various site improvements as noted in the application and further discussed during the hearing. Adjacent to the subject parcel are other nearby residential, commercial, and lodging uses.

**Conclusion:** Based on the above findings, the Board concludes the proposed site improvements will not result in an undue adverse effect of the character of the area affected.

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 municipal bylaws or ordinances apply to this project.

**Conclusion:** Based on the above findings, the Board concludes the proposal is in conformance with the applicable Stowe Zoning Regulations, as adopted October 9, 2018. No other identified municipal bylaws or ordinances apply to this project.

11. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant proposes various site improvements. No change in building height is proposed. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

**Conclusion:** Based on the above findings, 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 site is previously developed containing an existing building and related improvements. The Applicant seeks approval for various site improvements. The requested alterations are not expected to impact the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

**Conclusion:** Based on the above findings, the Board concludes the proposed site improvements 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)(3) – Access Management:** The parcel is served by direct access to Mountain Road, a state-maintained highway. No change to the existing access is proposed under this application.

**Conclusion:** Based on the above findings, the Board concludes no change to the location or number of access points is proposed under this application.

14. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 15 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The Applicant seeks approval for various site improvements. The Applicant proposes to remove the parking along with western side of the access and relocate it away from the building; relocate two (2) parking spaces along the eastern access driveway; create a circular drop off area to the main entrance; relocate the driveway to the east of the existing garage; and modify the parking area to the rear of the building. A fire truck turn-around is shown to the rear of the parcel. The six (6) existing parking spaces, including

one (1) ADA space, along the eastern access drive is proposed to remain in essentially its current configuration. A total of twenty-two (22) modified parking spaces are proposed. A service area parking space is proposed to be located east of the expanded deck toward the front of the building.

Under a prior approval, the Board approved the following parking requirements for the Long-Term Care Facility:

Proposed Parking Needs	
16 parking spaces	Employee
3 parking spaces	Admissions/Discharges
1 parking spaces	Extra/Miscellaneous

**Conclusion:** Based on the above findings, the Board concludes the proposed circulation and parking improvements represents safe and adequate access and circulation for the approved use and are in conformance with the standards outlined in Section 15.

15. **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. The Applicant proposes various site improvements including creating a circular drop off area to the main entrance; modifying the exit ramp discharge on the southeast side of building; extending the deck to the south; and adding a courtyard on the west side of the building. The proposed improvements are expected to improve pedestrian access and circulation.

**Conclusion:** Based on the above findings, the Board concludes the proposed site layout, including pedestrian circulation and access, represents safe and adequate pedestrian access and circulation for the approved use.

16. **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. During the hearing, the Applicant testified that due to existing site drainage issues, the landscaping and screening shown on the plan is only being presented for conceptual review only and the Applicant intends on coming back before the Board at a later date with a formal landscape planting plan. On the provided conceptual plan, the Applicant proposed various landscaping and screening improvements including a fence and a line of shrubs along the frontage of Mountain Road, approximately nineteen (19) deciduous shade trees throughout the site (most notable along either side of the main vehicular entrance drive), additional trees and shrub plantings to the rear of the building, a wood slated fence to screen the service area, a wood slated fence to screen the dumpster, and a series of evergreen screenings between the building and the adjacent parcel to the west. The species and caliper of plantings were not identified. During the hearing, the Board agreed to review the non-planting screening including the wood slated fence to screen the service area, a wood slated fence to screen the dumpster, and the proposed screening for the two (2) mechanical equipment areas as shown on the plan; the remainder of the planting and/or screening will require additional review by the Board. The only proposed change to existing landscaping is an area shown as ‘future clearing area for replacement septic system.’

**Conclusion:** Based on the above findings, the Board concludes the proposed screening of garbage collection areas, outdoor storage, loading and unloading areas, and mechanical equipment areas

provides adequate screening in accordance with Section 4.6. With the noted exception above, the Applicant is not proposing any changes to landscaping. As a condition of approval, additional review will be required for a formal planting/landscaping plan.

17. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction. The Applicant seeks approval for various site improvements. The proposed improvements will not create more than ½ acre of impervious surfaces.

**Conclusion:** Based on the above findings, the Board concludes the proposed alterations will not impact existing storm drainage patterns.

18. **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 should consider the guidelines outlined in Section 4.8(2)(A-F). During the hearing, the Applicant testified that any changes to outdoor lighting will be submitted under a separate future application. The lighting changes noted within the application were for conceptual discussion and approval is not being sought under this application.

**Conclusion:** Based on the above findings, the Board concludes no changes to the existing outdoor lighting are proposed under this application.

## **DECISION**

On a motion by A.Volansky, seconded by C.Walton, the Development Review Board hereby approves the Applicant's request for various site improvements as indicated on the application dated 11/12/2020 and related submittals, subject to the following conditions of approval:

1. The project shall be completed and maintained 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. 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 relevant prior conditions of approval, unless amended herein, remain in full force and effect.
3. Except as noted above, any change to existing landscaping or outdoor lighting shall require additional review and be submitted under a separate application.
4. Any fence installed or constructed must be no more than eight (8) feet in height and shall not interfere with public street corner visibility or extend into the public right-of-way.
5. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
6. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
7. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.

8. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided to ensure compliance with the provisions of Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
9. An adequate stormwater drainage system must be maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
10. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
11. 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 Applicant 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 in favor: D. Clymer, T. Hand, P. Roberts, C. Walton, A. Volansky, L. Wasserman, F. Aumand III.  
Voting to deny: None

Motion PASSED 7-0

Dated at Stowe, Vermont this the 12 day of January 2021

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 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.

