

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



PROJECT: 5950

SUBJECT PROPERTY: 1007 Mountain Road; #07-116.000

PROPERTY OWNER:

Castlestone Mansfield Inn LLC
C/O Patrick McGrath
Aristone Capital
54 W. 21st Street, Suite 709
New York, NY 10010

APPLICANT:

John Grenier, PE
Grenier Engineering PC
PO Box 445
Waterbury, VT 05676

APPLICATION:

The Applicant, John Grenier, PE on behalf of property owner Castlestone Mansfield Inn LLC (herein referred to as the "Applicant"), requests conditional use approval for modifications to a previously approved site plan. The Applicant proposes limited clearing to relocate a non-jurisdictional watercourse that currently runs between two (2) existing buildings on the parcel. The subject watercourse is a man-made drainage shown on a site plan approved in conjunction with the construction of the second lodging building on-site. The area to be cleared is proposed to be landscaped as shown on the provided site plan and described in application materials. The stated purpose of relocating the watercourse is to improve aesthetics and water quality.

The subject parcel, consisting of ±16 acres and located at 1007 Mountain Road (#07-116.000), is in the Highway Tourist (HT) Zoning District and contains an existing motel constructed in the mid-20th century. The subject parcel is bound to the north by property owned by Donna G. Carpenter containing the Harvest Market, to the west by multiple parcels with frontage on Birch Hill Road, to the south and east by multiple properties accessed via Simmons Lane. The application has been reviewed by the Stowe 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 John Grenier, PE of Grenier Engineering PC on January 18, 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 February 19, 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 January 31, 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 February 19, 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:

- John Grenier, PE, Grenier Engineering PC, PO Box 445, Waterbury, VT 05676
- Katie Whitaker, 145 Birch Hill Road, Stowe, VT 05672
- Gerald Fry, 145 Birch Hill Road, 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 1/18/2019;
2. Cover letter from Grenier Engineering, Re: "Minor Amendment to Site Plan..." (2 pages), dated 1/18/2019;
3. Mountain Road Resort- Stream Relocation Planting Images prepared by Wagner Hodgson Landscape Architecture, no date;
4. Mountain Road Resort- Stream Relocation- Soft Armoring Techniques prepared by Wagner Hodgson Landscape Architecture, no date;
5. Mountain Road Resort- Stream Relocation- Planting Concept prepared by Wagner Hodgson Landscape Architecture, Sheet L001, dated 10/26/2018;
6. Mountain Road Resort- Live Staking Overview prepared by Wagner Hodgson Landscape Architecture, no date;
7. Stream Relocation Plan- Mountain Road Resort, Sheet 1 of 2, dated 10/05/2018;
8. Comments from Ed Pierce- Permit Coordinator (VTrans), dated 1/31/2019;
9. Previously approved site plan, last revised 2/3/1987 (staff).

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 approval 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

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

Dimensional, Density & Other Requirements:

1. **Zoning District.** The subject parcel contains ±16 acres and is served by Mountain Road, a state-maintained highway. The parcel is located in the Highway Tourist (HT) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).

2. **Lot Area, Lot Width.** The ±16 -acre parcel is located in the HT district. The provided site plan depicts the parcel containing approximately ±420' of frontage along Mountain Road. Lot width, as defined as "The width of a lot measured at right angles to its lot depth at the minimum front yard setback", exceeds 400'. The minimum lot width in the HT district is 180'. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in HT are front (50'), side (50') and rear (50'). No changes to the location of any buildings, structures, or parking is proposed under this application. Section 3.10 outlines minimum setbacks from watercourses and requires a minimum 50 ft setback including a vegetation buffer be left in an undisturbed state. The regulations define watercourse as... "16.183 Watercourse: Any naturally flowing water, including rivers, streams and creeks as depicted on the Official Zoning Map." The subject drainage does not appear on the official zoning map and therefore is not subject to the riparian setback requirements listed in Section 3.10.
4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. No changes to maximum building coverage are proposed under this application.
5. **Use.** The parcel contains an existing lodging facility (i.e. motel) and related improvements constructed in the mid-20th century. No changes of use or expansions of use are proposed under this application.
6. **Height.** The maximum building height in HT is 28' feet. The regulations define building height as the "Vertical distance measured from the average elevation of the proposed finished grade at the front or rear of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the highest ridge and its contiguous eave for other types of roofs. On sloping sites the height will be measured on the uphill side." No changes in height are proposed under this application.
7. **Density.** The Applicant seeks approval for minor site plan modifications. No changes to density are proposed under this application.

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:

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.

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.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant seeks approval for minor site plan modifications. No changes or increases in use are proposed under this application.

Conclusion: The Board concludes the proposed site plan modifications will have no effect on traffic and will not create an undue adverse impact on traffic on roads and highways in the vicinity.

10. **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 Board concludes the proposal will not adversely affect the character of the area as defined under the town’s zoning regulations.

11. **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.

12. **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:

13. **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 property contains a man-made, unnamed non-jurisdictional watercourse running through the center of the property which was included on a site plan approved by the Town of Stowe in conjunction with the construction of the second lodging building on the parcel. The Applicant proposes to relocate this watercourse along the western property boundary and install erosion netting on steep slopes, rock weirs, boulder clusters, and landscaping including shade trees and low growing trees/vegetation for stream shading. Relocating the watercourse will require limited clearing of areas shown on previously approved site plan as tree cover. The Applicant’s project narrative states native deciduous trees such as red and sugar maple will be used, along with a combination of native deciduous shrubs. The majority of the rear of the site will remain wooded.

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.

14. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The property contains a man-made, unnamed non-jurisdictional watercourse running through the center of the property which was included on a site plan approved by the Town of Stowe in conjunction with the construction of the second lodging building on the parcel. The Applicant proposes to relocate this watercourse along the western property boundary and install erosion netting on steep slopes, rock weirs, boulder clusters, and landscaping including shade trees and low

growing trees/vegetation for stream shading. The Applicant's project narrative states the project is expected to result in improved water quality.

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

15. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by Mountain Road. No expansions or improvements are proposed to the existing curb cut are proposed under this application. 24 VSA §4416 requires proposals involving access to a state highway provide a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 VSA §1111. Staff referred the application to Craig Keller, Chief of Permitting Services. Permit Coordinator, Ed Pierce, responded on 1/31/2019 and indicated that a §1111 permit is not required for this project.

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

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Mountain Road and is not shared with other users.

Conclusion: This provision does not apply.

17. **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. No changes to the number or location of parking spaces or circulation patterns are proposed under this application.

Conclusion: This provision does not apply.

18. **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: This provision does not apply.

19. **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. The property contains a man-made, unnamed non-jurisdictional watercourse running through the center of the property which was depicted on a site plan approved by the Town of Stowe in conjunction with the construction of the second lodging building on the parcel. The Applicant proposes to relocate this watercourse along the western property boundary and install erosion netting on steep slopes, rock weirs, boulder clusters, and landscaping including shade trees and low growing trees/vegetation for stream shading. Relocating the watercourse will require limited clearing of areas shown on previously approved site plan as tree cover. The Applicant's project narrative states native deciduous trees such as red and sugar maple will be used, along with a combination of native deciduous shrubs. The majority of the rear of the site will remain wooded. The Applicant provided the landscaping details and planting specifications.

Conclusion: The Board finds the proposed landscaping and modifications to previously approved site plan in keeping with the landscaping and screening requirements outlined in Section 4.6 of the regulations.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant request approval for minor modifications to a previously approved site plan. The Applicant proposes to relocate a non-jurisdictional watercourse that currently runs between two (2) existing buildings on the parcel. One of the stated purposes of relocating the watercourse is to improve water quality. The project includes removing existing culverts and filling in an existing channel to the south of the existing buildings. The relocated watercourse is proposed to run along the western property line before joining the existing channel and draining to the existing 58” x 38’ elliptical culvert under Route 108 (Mountain Road). No increases in impervious surface are proposed under this application.

Conclusion: The Board concludes, if constructed and maintained as approved, the proposed improvements will improve drainage and water quality and will not cause an undue adverse impact on neighboring properties, town highways or surface waters.

21. **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 Board finds the proposed site plan modifications are in conformance with the additional standards outlined in Section 3.7(2)(C). Where appropriate, the Board waived the specific requirements when it was found that mitigation through design, screening or other mitigation has accomplished the objectives of the HT district.

Section 4: Specific Use Standards

22. **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.

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

DECISION

Based upon the foregoing Findings of Fact, in RE: **5950** 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. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that the project has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
3. 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, P.Roberts, C.Walton, A. Volansky, T.Mumley, T. Hand

Voting to deny: None

Dated at Stowe, Vermont this the 6th 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.