

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



**PROJECT:** 5971

**SUBJECT PROPERTY:** 4968 Mountain Road; #11-085.00

**PROPERTY OWNER:**

Stowe Forks LLC  
4968 Mountain Road  
Stowe, VT 05672

**APPLICANT:**

Darrow Mansfield  
Mansfield Ventures LTD  
PO Box 6  
Greenfield Center, NY 12833

**APPLICATION:**

The Applicant, Darrow Mansfield of Mansfield Ventures LTD on behalf of the property owner Stowe Forks LLC (herein referred to as the "Applicant"), requests conditional use review to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. As shown on the provided site plan, the Applicant proposes to construct the buildings on the western portion of the lot with access to Mountain and Notchbrook roads. The parcel contains multiple existing buildings of residential and commercial uses.

The subject parcel, consisting of ±12.06 acres and located at 4968 Mountain Road (#11-085.00), is in the Upper Mountain Road (UMR) Zoning District with portions lying within the Meadowland Overlay District. The property is served by Mountain Road (VT-108), a state highway maintained by the Vermont Agency of Transportation and Notchbrook Road, a Class 3 Town-Highway. A privately owned and maintained road, Stowe Forks Lane, runs internally throughout the parcel. The subject parcel is bound to the north by a ±15.4-acre parcel currently owned by Pine Ridge Ltd Partnership, to the west by Notchbrook Road, generally to the east by Pine Ridge Road, and to the south by Mountain Road (VT-108). 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 Gary Bourne of Stowe Forks LLC on March 15, 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 April 16, 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 March 28, 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 April 16, 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:

- Applicant Darrow Mansfield, Mansfield Ventures LTD, PO Box 6, Greenfield Center, NY 12833
- Gary Bourne of Stowe Forks LLC, 4968 Mountain 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, dated 3/8/19;
2. Gary Bourne- Exterior Lighting and Landscaping Details, dated 3/8/2019;
3. Duplex Second and Third Floor Plans- Replacement Duplex 48 Notchbrook Road, Sheet A1.1 prepared by Justin Bourne, dated 3/13/2019;
4. Garage Plans- Replacement Duplex 48 Notchbrook Road, Sheet A1.2 prepared by Justin Bourne, dated 3/13/2019;
5. Elevations (front and side) - Replacement Duplex 48 Notchbrook Road, Sheet A2, prepared by Justin Bourne, dated 3/13/2019;
6. Elevations (side and rear) - Replacement Duplex 48 Notchbrook Road, Sheet A2, prepared by Justin Bourne, dated 3/13/2019;
7. Barn Floor Plans - Replacement Duplex 48 Notchbrook Road, Sheet A1, prepared by Justin Bourne, dated 3/13/2019;
8. Barn/Shop Elevations - Replacement Duplex 48 Notchbrook Road, Sheet A2, prepared by Justin Bourne, dated 3/13/2019;
9. Barn/Shop Elevations- Replacement Duplex 48 Notchbrook Road, Sheet A2.2, prepared by Justin Bourne, dated 3/13/2019;
10. Stowe Forks- 4968 Mountain Road- Density Analysis (2 pages), no date;
11. Portions of Stowe Reporter, dated March 16, 2017;
12. Manufacturer cut sheet for the parking lot light- RAB Lighting details, no date;
13. Site Plan 'Stowe Forks LLC' prepared by Grenier Engineering, Sheet 1 of 1, last revised 3/15/2019;
14. Email comments from Ed Pierce (VTrans), dated 3/25/2019; (staff)
15. ANR Natural Resources Atlas, dated 3/15/2019 (staff);
16. Comments from Stowe Electrical Department, David Kresock, dated 4/2/2019;
17. Revised density analysis, no date;
18. Comments from Department of Public Works [Harry Sheppard], dated 4/11/2019;
19. Light Pole Specifications and Details, dated 3/19/2019.

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 review 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 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 ±12.06 acres with access to Notchbrook Road and Mountain Road in 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.** The ±12.06 -acre parcel is located in the UMR district. The provided site plan shows the lot containing over +700' of frontage along Mountain Road and approximately 240' along Notchbrook Road, satisfying the minimum lot width of 200'. 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 to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. The provided site plan incorrectly labels the front setback as 75' from the *centerline* of Notchbrook Road. According to Section 3.4(1)(D) *"In the case of a corner lot, the required front yard setback shall apply on all streets. Side yard setbacks will apply to the remaining sides."* The subject parcel is a corner lot, as defined under the regulations, and is therefore subject to two front setbacks. The remaining sides are considered side yards. The proposed buildings appear to meet the required front setback and side setbacks, with the exception of the proposed 24' x 60' garage/shop which is located approximately 10 feet from the northern side property line, as shown on the provided site plan. Section 3.9(3) provides allowances for setback reductions for damaged nonconforming structures as follows: *"Nothing in these regulations shall prevent the issuance of a permit for restoration or reconstruction within two (2) years of a nonconforming structure damaged or destroyed by fire, explosion, accident, or any other means, subsequent to the adoption of these regulations, to its condition prior to such damage or destruction, nor prevent the restoration of an unsafe wall or structural member."* The Applicant provided documentation that the former Brook House was damaged by fire on March 17, 2017. The footprint of the former building appears on the provided site plan. The proposed building does not encroach any further on the side yard setback than the previous building damaged by fire. The proposed 3-story duplex building appears to meet all required setbacks. As a condition of approval, the Board will require the Applicant provide a revised site plan correctly noting the 50' setback as measured from the Notchbrook Road right-of-way.
4. **Maximum Building Coverage.** The maximum building coverage in UMR is 8%. The Applicant provided a list of the existing and proposed buildings and associated area. According to staff calculations, the total proposed lot coverage equals approximately 27,577 sf or 5.2%. As a condition of approval, the Applicant will be required to confirm the existing and proposed building coverage.
5. **Use.** The parcel contains a mix of residential and commercial uses including retail, office, storage and associated accessory structures. The Applicant seeks approval to replace Building #3 (Brook

House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. The property contains numerous residential and commercial uses which are subject to conditional use review.

6. **Height.** The maximum building height in UMR is 28' feet. The Applicant provided architectural drawings for the proposed buildings. 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.*" The elevation drawings do not label the proposed height as defined under the regulations (see Sheet A2 and A2.2). As a condition of approval, the Board will require revised elevations be submitted labeling the height.
7. **Density.** In the UMR district, two-family and multi-family dwellings are allowed at a density of three (3) units per acre. The subject parcel contains ±12.06 acres which allows thirty-six (36) two-family and/or multi-family dwelling units. The Applicant provided a list of existing buildings and associated uses. According to the Applicant's calculations, the existing parcel contains a total of thirty-one (31) existing and proposed dwelling units and four (4) existing lodging units in the Peterson House. According to staff calculations, the parcel contains 31 dwelling units (~10.33 acres) and 4 lodging units (~30,000 sf/0.69 acres).

**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. The Applicant seeks approval to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. Comments were received from David Kresock of the Stowe Electrical Department, dated 4/2/2019, indicating the property owner will need to complete Stowe Electric's Line Extension Application to provide new electric services to the new buildings. Owner's electrical engineer will need to provide a load study for the new buildings so SED can verify if the existing pole mounted transformer can support the new load or will need to be replaced with a larger unit.

Harry Sheppard, Director of DPW provided comments dated 4/11/2019 stating the following:

*No Adverse Impacts noted. The project replaces the Brook House with a sewer allocation equal to what existed-9 bedrooms and a 2-employee office/garage. The original Brook House building was served by private water supply and it appears that the applicant proposes to use this water supply for the new buildings. Each residential unit and the garage/office unit will need to be individually metered. Metering arrangement will need to be coordinated with the Stowe Water Dept.*

No additional comments were received for this application. No Municipal Department review forms returned indicated that the proposed development would have any undue 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. As a condition of approval, the Applicant will be required to obtain all necessary municipal allocation and connection permits from the Department of Public Works prior to the issuance of a Certificate of Occupancy.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant seeks approval to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. The parcel contains a mix of existing commercial and residential uses. The Applicant did not provide the estimated number of vehicle trips. Under current ITE standards each dwelling unit is expected generate no more than ten (10) additional trip ends per day, representing a nominal increase in traffic on each of the roads and highways in the vicinity.

**Conclusion:** The Board concludes the proposal represents a nominal increase in traffic on roads 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 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 seeks approval to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. Adjacent to the subject parcel are other nearby residential, commercial, and lodging uses.

**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 is subject to review under the Conditional Use standards. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant proposes to connect to municipal services under the Town's Sanitary Sewer Ordinance. No other known 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. No increase in flow is proposed under this application. The Applicant will be required to obtain all necessary municipal allocations and connection permit(s) from the Department of Public Works.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant seeks approval to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. 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.

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 parcel is located in the UMR District on a previously developed lot. According to the ANR Natural Resource Atlas, no rare, threatened, or endangered species, deer wintering areas, or significant natural communities are located on the parcel.

**Conclusion:** The Board concludes the proposal, as conditioned, 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 Applicant seeks approval to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. The proposed improvements are not expected to result in undue water, noise, or air pollution.

**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 project is served by Mountain Road and Notchbrook Road. No changes to the existing accesses are proposed under this application. The provided site plan shows the location of two existing curb cuts on Mountain Road and an existing curb cut on Notchbrook Road. 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 requested comments from Ed Pierce, Permit Coordinator (VTrans) on 3/20/2019. Ed Pierce, VTrans Permit Coordinator, provided comments dated 3/25/2019 indicating that no new §1111 permit was required for the project.

**Conclusion:** The Board finds that the existing access and proposed driveway improvements are adequate for the intended and existing use(s).

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by existing curb cuts including a private road, Stowe Forks Lane, running internally throughout the parcel. No changes to the existing shared access are proposed under this application.

**Conclusion:** The Board finds that the existing access is sufficient for the intended and existing use(s).

17. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require that parking be provided per the requirements of Section 14 and be designed to minimize the off-site visibility of parking areas through the location, landscaping and screening of such areas. The Applicant seeks approval to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. The parcel contains a mix of existing residential and commercial uses. Section 15.1(3) provides the following guidance for projects in the UMR district: *"In the HT and UMR districts, parking shall be located in the rear and/or side of all commercial and multi-family residential properties, except as provided elsewhere in these regulations. Projects involving the upgrade and expansion of pre-existing conditional uses built prior to January 1, 1997, and designed with outside access to individual rooms fronting on parking areas, may continue parking within front yards."*

Table 15.2 outlines the minimum parking requirements and requires two (2) parking spaces for each dwelling unit. The provided site plan shows the location of the existing driveways and parking areas. The existing parking areas are labeled, but individual parking spaces are not depicted. The Applicant provided a list of existing buildings, associated uses, and number of required parking spaces. The provided parking analysis indicates that eighty-one (81) parking spaces are required. As calculated by staff a total of eighty-five (85) parking spaces are required. The total number of existing parking spaces equals eighty-five (85), as noted in the application.

Under this application, the Applicant proposes to develop an additional six (6) parking spaces. Four (4) parking spaces are shown in front of the proposed 3-story duplex and two (2) parking spaces are shown near the fenced dumpster. Section 15.5(3) states the following: *"No parking space shall be used for any purpose that interferes with its availability for required parking, including the location of trash or recycling dumpsters. Temporary construction dumpsters may be permitted for up to six (6) months. Required parking spaces shall be maintained (plowed) for winter use."* During the hearing the Applicant testified that the four (4) proposed spaces are currently used as overflow and its intention to formalize the spaces to be viable parking spaces. The Board voiced concern over the design of the four (4) spaces including the position, grade, and limited turn-around space.

**Conclusion:** The Board finds the proposed circulation and parking improvements represents adequate access and circulation for the intended and existing use(s). As a condition of approval, the Board will require a revised site plan and parking calculations be provided.

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. The proposed site plan shows the location of two walkways leading from the proposed 24' x 60' garage/shop and duplex to four (4) parking spaces near the building marked as the Skelton House, as noted above. This portion of Mountain Road (VT Route 108) does not contain sidewalks. No additional pedestrian improvements are depicted on the site plan or proposed under this application.

**Conclusion:** The Board finds the existing site layout, including the proposed pedestrian circulation and access improvements, represents safe and adequate pedestrian access and circulation for the intended and existing use(s).

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 Applicant provided a site plan depicting the location of proposed landscaping around the two proposed buildings. The Applicant provided the landscaping details including six (6) 3" sugar maples, twelve (12) 6' high Fraser Fir-Abies Fraser (with a full maturity of 50' x 20') planted 5' apart, and twenty (20) Juniper shrubs- Juniperus Virginiana "Grey Owl" (6' at full maturity) planted 3' apart. A bed of low plantings and shrubs is proposed to be located to the south the proposed duplex. During the hearing the Applicant testified that all existing landscaping is proposed to remain with the exception of the landscaping that is dead or burned, which is proposed to be replaced.

Section 4.6(3)(C)(1) provides the following general requirements: *"Shade trees shall be of sufficient size to achieve the desired effect, but in no event shall they be smaller than 2.5" - 3.0" caliper (trunk diameter), measured at a height of five (5') feet, or, in the case of coniferous trees, a minimum of 8' -*

10' in height. The DRB may require the planting of larger diameter trees upon consideration of the site conditions.”

No exterior mechanical equipment is shown on the provided architectural drawings or on the site plan. During the hearing, the Applicant testified on the location of exterior mechanical equipment and reported that the proposed duplex building will have two AC units mounted to the building; one unit will be on the façade parallel with Mountain Road, the other on the south building elevation.

The provided site plan shows the location of a fenced dumpster between the two (2) proposed buildings.

**Conclusion:** The Board concludes the proposed landscaping and screening plan, as conditioned, meets the standards outlined in Section 4.8. As a condition of approval, the Board will require the landscaping schedule be revised to include the appropriately sized landscaping, as required under the regulations and for the Applicant to provide revised elevation drawings showing the proposed mechanical equipment.

20. **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 did not provide the total existing and proposed impervious surface calculations. During the hearing the Applicant testified that the existing conditions include a drop inlet near the road intersection provides drainage for the site and the proposed project involves approximately 1200 sf of additional impervious surfaces. The Applicant reported that the property pre-dates the stormwater regulations and operates under an Act 250 permit. The proposed project will require additional state review, as reported by the Applicant.

**Conclusion:** The Board concludes, if constructed and maintained as approved and conditioned, the proposed improvements 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 the 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 UMR Standards:** In addition to the conditional use criteria of the regulations, the Board shall find that proposed development is designed in a manner compatible with area's rural character. At a minimum the Board will consider:
  - Adequacy and appropriateness architectural design and visual context of the project. Generally, architectural designs shall reinforce the rural landscape of the district through contextual scale and orientation of the buildings within the site and should reflect vernacular Vermont residential and agricultural building styles and incorporate, where appropriate, traditional materials; and
  - Buildings should generally be designed with a pitched roof and be of a mass and scale compatible with neighboring properties and the site.

The Applicant seeks approval to replace Building #3 (Brook House) destroyed by fire in 2017. The Applicant proposes to construct Building #3A containing a duplex with parking below and Building 3B containing a facilities/shop building with a second story manager's apartment. The proposed buildings are designed to contain a gable roof with cedar shingles and a variety of window sizes and shapes. The proposed barn has been designed to incorporate two (2) cupolas.

**Conclusion:** The Board concludes the proposed buildings have been designed in a manner compatible with the areas rural character and are consistent with the defined purpose of the UMR district. 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 UMR district.

#### **Section 4: Specific Use Standards**

22. **Section 4.6 Landscaping Standards.** See discussion above.

23. **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 considers the guidelines outlined in Section 4.8(2)(A-F).

The Applicant provided exterior lighting details including building entry lights and parking area light fixtures. The building mounted light is proposed to be mounted in the soffits of the building.

The parking area light fixtures are proposed to be a pole mounted fully shielded wall pack with a mounting height of 10' on a 6" x 6" post. The manufacturer details and photometric information was provided for the proposed parking lot lighting. The Applicant provided testimony that the lighting will not be on timers or dimmers, but the yard lighting will be on photocells.

**Conclusion:** The Board concludes the proposed outdoor light fixture will provide safe and adequate lighting for the intended and existing uses. As a condition of approval, all outdoor light fixtures shall be cut-off fixtures and shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.

## **DECISION**

Based upon the foregoing Findings of Fact, in RE: **5971** the Board finds (4-0) the proposal meets the Stowe Zoning Regulations, as adopted on October 9, 2018, subject to the following conditions of approval:

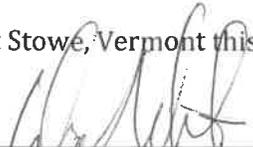
1. The project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted 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 prior conditions of approval, unless amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall submit the following information:
  - A revised site plan correctly depicting the front setback- as measured from the Notchbrook right-of-way; the existing and proposed building coverage; areas for snow storage, the number of existing and proposed parking spaces, the location of exterior mechanical equipment.
  - Revised building elevations labeling the height, as defined under the regulations, and depicting the location and dimensions of all exterior mechanical equipment.
  - A revised planting schedule in conformance with the sizing requirements set forth in Section 4.6(3)(C)(1) including a minimum 2.5" - 3.0" caliper for shade trees measured at a height of five (5') feet, or, in the case of coniferous trees, a minimum of 8' - 10' in height.
4. All mechanical systems shall be located or screened in a manner that they are not visible from the public right-of-way.
5. Landscaping shall be installed as shown on the approved plans as amended herein. Any dead and dying plants and trees as shown on said plans shall be replaced within one (1) year of death.
6. The Applicant shall complete Stowe Electric's Line Extension Application to provide new electric services to the new buildings.
7. All outdoor light fixtures shall be cut-off fixtures and shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.
8. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
9. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
10. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.

11. 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.
12. 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.
13. The Applicant shall obtain all necessary municipal water and sewer allocation and connection permits from the Department of Public Works prior to the issuance of a Certificate of Occupancy.
14. 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.
15. 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 favor: D.White, D. Clymer, P.Aumand, T.Mumley

Voting to deny: None

Dated at Stowe, Vermont this the 26 day of April 2019

By:   
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.

