

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



PROJECT: 5982

SUBJECT PROPERTY: 57 Meadow Lane; #06-090.000

PROPERTY OWNER:

Edgar Road LLC
57 Meadow Lane
Stowe, VT 05672

APPLICANT:

Nicholas Donahue
57 Meadow Lane LLC
PO Box 948
Westhampton Beach, NY 11978

APPLICATION:

The Applicant, Nicholas Donahue on behalf of 57 Meadow Lane LLC (herein referred to as the "Applicant"), requests conditional use approval for a change of use from two-family dwelling to lodging facility containing three (3) lodging units. No alterations are proposed to the exterior of the building or existing site improvements. The subject parcel, consisting of ±0.57 acres and located at 57 Meadow Lane (#06-090.000), is in the Highway Tourist (HT) Zoning District and contains a historic building, as defined under the regulations. The property contains frontage on Meadow Lane, a town-maintained Class 3 highway with access to Mountain Road. 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 approval.

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 was filed by Applicant Nicholas Donahue on April 4, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Stowe Development Review Board for a public hearing. A public hearing of the DRB was scheduled for May 7, 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 April 18, 2019. The Applicant provided a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on May 7, 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:

- McKee MacDonald, 91 Main Street, 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 4/1/2019;
2. Project narrative, no date;
3. List of Attachments/Exhibits, no date;
4. Exhibit A- Assessor's Card for 1457 Mountain Road, Parcel 26064, dated 7/10/2012;
5. Exhibit B- Zoning Permit Z-93-93, dated 7/28/93;
6. Zoning Bylaw Statement and Certification, dated 8/13/1999;
7. Exhibit C- Table 6.3/page 78 of the Town of Stowe Zoning Regulations, no date;
8. Exhibit D, 1st and 2nd floor floorplans, no date;
9. Exhibit E- Site Plan prepared by Grenier Engineering- highlighting three parking spaces and current curb cut, dated 4/1/2019;
10. Exhibit F- Current Parking Area, dated 4/1/2019.

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 approval 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:

1. **Zoning District.** The subject parcel contains approximately ±0.57 acres with direct access to Meadow Lane. The parcel is located in Highway Tourist (HT) Zoning District as shown on the Official Town of Stowe Zoning Map and contains an inventoried historic building regulated under Section 10 of the zoning regulations.
2. **Lot Area, Lot Width.** The ±0.57-acre parcel is located in the HT district, requiring a minimum lot area of one (1) acre. The provided site plan shows the frontage of the parcel along the Meadow Lane running approximately 224 feet. The HT district requires a minimum lot width of 180'. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks for the HT district are front (50'), side (50') and rear (50'). No new structures or building additions are proposed under this application.
4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. No changes to building coverage are proposed under this application.
5. **Use.** The parcel contains a two-family dwelling (duplex). The Applicant requests approval for a change of use from two-family dwelling (duplex) [residential] to a 'Lodging Facility' consisting of three (3) lodging units. The regulations define 'Lodging Facility' as *'A facility operating as a lodge,*

hotel, motel, conference center, resort or similar facility that offers short-term housing intended for use by paying transient guests.' Lodging facilities are a conditional use in the HT district.

6. **Density.** Table 6.3 outlines the density standards for lodging units in the HT district as one (1) unit per 5,000 sf. The subject parcel contains ±0.57 acres or ±24,829 sf. The regulations define 'Lodging Unit' as 'A rentable accommodation whose maximum design capacity is four (4) people. A room with two (2) double beds equals one (1) unit; a suite with two (2) double beds equals one (1) unit; a suite with two (2) twin or single beds plus sofa bed equals one (1) unit; a suite with two (2) double beds plus sofa bed equals one and one-half (1 ½) units. A lodging unit may include provisions for a kitchen, provided that the facility in which the unit is located is designed for and operated as a short-term facility.'

The Applicant proposes to convert the existing two-family dwelling to a lodging facility consisting of three (3) lodging units. Three (3) lodging units in the HT district requires 15,000 sf. The Applicant's proposal is in conformance with the density requirements outlined in Table 6.3.

7. **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 of height 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. The Applicant proposes a change of use from two-family dwelling to lodging facility which requires additional water and sewer allocation. The Applicant has received municipal water and sewer approval for nine (9) bed spaces.

No other Municipal Department review forms were received.

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 is required to obtain all necessary municipal water and sewer allocations, approvals, and connections.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to convert the existing two-family dwelling to a lodging facility consisting of three (3) lodging units. The Applicant did not provide an estimated number of vehicle trips generated by the change of use. There are a number of larger lodging facilities in the general vicinity along Mountain Road.

Conclusion: The Board concludes the proposal will not create an undue adverse impact on traffic on roads and highways in the vicinity. No additional road improvements are needed to accommodate proposed development.

10. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the HT zoning district. The general purpose of the HT district is as follows:

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 Stowe Zoning Regulations (as adopted October 9, 2018).

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed as a Conditional Use. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant proposes a change of use which requires additional water and sewer allocation 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. The Applicant is required to obtain all necessary municipal water and sewer allocations, approvals, and connections. No other known or identified municipal bylaws or ordinances apply to this project.

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 parcel contains an inventoried historic property (0808-125), the Bedell Place (c. 1825), a vernacular style house with historic additions. No exterior alterations are proposed. Any future exterior alterations of the building will require review and approval under the regulations in effect at the time of application. There are no other known or identified scenic or historic sites located on the parcel.

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 Applicant proposes a change of use resulting in a lodging facility with three (3) lodging units. The proposed improvements are not expected to generate any significant water or air pollution compared to other uses in the vicinity. No changes to the site plan or exterior building alterations are proposed under this application.

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

15. **Section 3.7(2)(B)(3) –Access Management:** The parcel is served by a single existing curb cut connecting to Meadow Lane. No changes or improvements to the existing access are proposed under this application.

Conclusion: The Board concludes the proposal provides adequate access management in accordance with Section 3.1.

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by an existing curb cut 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 that 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 Applicant is not proposing any improvements to the existing parking area as shown on the provided site plan and photographs. Table 15. 2 outlines the minimum parking requirements for lodging units. Lodging units are required to provide one space for every guest room plus one space for each person employed at peak times. The Applicant proposes to convert the existing two-family dwelling into three (3) lodging units. The provided site plan and photographs show the location of the existing parking area containing three (3) parking spaces.

Conclusion: The Board concludes the existing circulation and parking improvements represents safe and adequate access and circulation for the intended use.

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 and circulation access are proposed under this application.

Conclusion: The Board concludes the existing site layout, including pedestrian circulation and access, represents safe and adequate pedestrian access and circulation for the intended use.

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. No changes to the existing landscaping are proposed under this application.

Conclusion: The Board concludes the existing landscaping and screening are appropriate for the intended use and site location.

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. No construction activities are proposed under this application.

Conclusion: The provision does not apply.

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the DRB 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 DRB 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 concludes the proposal satisfies the requirements of Section 3.7(2)(C)(1). 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.

23. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the standards outlined in Section 4.8. No changes to existing outdoor lighting are proposed under this application.

Conclusion: The provision does not apply.

24. **Section 15 Parking Regulations.** – See discussion above.

DECISION

Based upon the foregoing Findings of Fact, in RE: 5982 the Board finds (7-0) the proposal meets the Stowe Zoning Regulations, as adopted October 9, 2018, subject to the following conditions of approval:

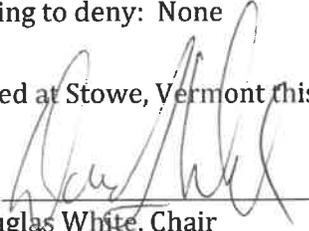
1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required.

2. Prior to the issuance of a zoning permit, the Applicant shall provide a site plan which clearly documents the location and dimensions of the existing parking spaces including a parking table illustrating the total number of required and existing parking spaces.
3. The Applicant must obtain all necessary municipal water and sewer allocations, approvals, and connections.
4. 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 permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

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

Voting to deny: None

Dated at Stowe, Vermont this the 21 day of May 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.

