

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



PROJECT: 6000

SUBJECT PROPERTY: 3576 Mountain Road; #11-146.000

PROPERTY OWNER:

Mt. Mansfield Winter Academy, Inc.
PO Box 3269
Stowe, VT 05672

APPLICANT:

Sam Scofield, A.I.A.
PO Box 773
Stowe, VT 05672

APPLICATION:

The Applicant, Sam Scofield on behalf of Mt. Mansfield Winter Academy, Inc. (herein referred to as the "Applicant"), requests conditional use approval to construct a two-story classroom building, reconfigure parking and circulation, demolish two historic A-frame cabins, and a dimensional waiver to exceed the maximum building coverage. No increase in student enrollment is proposed under this application.

The subject parcel, consisting of ± 3.5 acres and located at 3576 Mountain Road (#11-146.000), 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 (VTrans). The parcel is bound to the north by a ± 18.56 -acre parcel owned by Mountain House LLC, to the east by a ± 1.1 -acre parcel owned by Edward Rovetto, to the south by Mountain Road and the Topnotch Resort event fields, and to the west by a ± 1.75 acre parcel and dwelling owned by George Hutchinson. 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 and the dimensional waiver provisions. The subject parcel contains a private school certified by the Agency of Education and therefore may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use [24 VSA 4413].

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 and dimensional waiver was initially filed by Applicant Sam Scofield on February 11, 2019. Upon receiving recommendations from the Historic Preservation Commission, 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 May 21, 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 May 2, 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 May 21, 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 participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Sam Scofield Sam Scofield, A.I.A, PO Box 773, Stowe, VT 05672
- Clifford Borden, 1002 Sherbrooke St West, Suite 700, Montreal, Qc, Canada H3A 3L6 (written comments)
- John Grenier, P.O. Box 445, Waterbury, VT 0567
- Gordon Dixon, 111 Innisfree Lane, Stowe, VT 05672
- Brian Leven, 212 Moulton Lane, Stowe, VT 05672
- Lori Furrer, 3576 Mountain Road, Stowe, VT 05672
- Doug Moses, Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150, Shelburne, VT 05482 (written comments)
- Gregg Beldock, Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150, Shelburne, VT 05482
- Nick Lizotte, PO Box 323, 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 2/11/2019;
2. Stowe Historic Preservation Commission, dated 2/14/2019;
3. Manufacturer Cut Sheets for proposed outdoor lighting (5 pages), no date;
4. Site Details prepared by Grenier Engineering, Sheet 2 of 2, dated 4/30/2019;
5. Site Grading Plan prepared by Grenier Engineering, Sheet 1 of 2, dated 4/30/2019;
6. East and West Elevations 'MMWA Classroom and Administration Building' Sheet A-4 prepared by Sam Scofield Architect AIA, dated 4/29/2019;
7. N & S Elevations 'MMWA Classroom and Administration Building' Sheet A-5 prepared by Sam Scofield Architect AIA, dated 4/29/2019;
8. Upper Floor Elec./Reflec. Clg. Plan 'MMWA Classroom and Administration Building' Sheet E-3 prepared by Sam Scofield Architect AIA, dated 4/29/2019;
9. Upper Floor Elec./Reflec. Clg. Plan 'MMWA Classroom and Administration Building' Sheet E-2 prepared by Sam Scofield Architect AIA, dated 4/29/2019;
10. Comments from Ed Pierce (VTrans Permit Coordinator), dated 4/30/2019;
11. Email comments from Clifford Borden, Re: Project 6000 tear down historic A-frames on 108, dated 5/6/2019 at 7:40 AM;
12. Email comments from Doug Moses, Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150, Shelburne, VT 05482, dated 5/21/2019;
13. Email comments from Gregg Beldock, Doug Moses, Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150, Shelburne, VT 05482, dated 5/21/2019;
14. Site Grading Plan prepared by Grenier Engineering, Sheet 1 of 2, dated 4/30/2019 [last revised 5/20/2019];
15. Easement Plan prepared by Grenier Engineering, Sheet 1 of 2, dated 5/20/2019;
16. Previously approved landscaping & lighting plan prepared by Lamoureux & Dickinson, Sheet #5, last revised 1/11/2018;

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 a dimensional waiver and 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
- Section 15- Parking Regulations

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

1. The subject ±3.5-acre parcel is located at 3576 Mountain Road (#11-146.000). The parcel contains a private school certified by the Agency of Education. 24 VSA §4413 establishes limitations on municipal bylaws and states the following:

"The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use:

- A. State- or community-owned and operated institutions and facilities.
- B. Public and private schools and other educational institutions certified by the Agency of Education.
- C. Churches and other places of worship, convents, and parish houses.
- D. Public and private hospitals.
- E. Regional solid waste management facilities certified under 10 V.S.A. chapter 159.
- F. Hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a."

Given the existing use being a private school certified by the Agency of Education, the Board's review is limited to the items listed above and only to the extent that regulations do not have the effect of interfering with the intended functional use.

Dimensional Requirements:

2. **Zoning District.** The subject parcel contains ±3.5 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).
3. **Lot Area, Lot Width.** The provided site plan depicts the existing frontage and width of the parcel. No changes to lot area or lot width are proposed under this application.
4. **Setbacks.** Required minimum district setbacks in UMR are front (50'), side (50') and rear (50'). The Applicant seeks approval for the construction of a two-story classroom building and associated site improvements. The provided site plan also shows the location of the existing buildings, including the historic A-frame cabins proposed to be removed as part of this project. The proposed building will not encroach on required setbacks.

5. **Maximum Building Coverage.** The maximum building coverage in UMR is 8%. The Applicant provided the following building coverage calculations: Based on a 3.41 acre parcel size, the existing coverage equals 7.46% [Lodge, chalets, yurt and gym = 11,087 SF]. The proposed total is 12,071 resulting in a 8.13% building coverage. The Applicant seeks a waiver for the maximum building coverage. Per Section 3.4(9), "*The Development Review Board may grant a waiver from setback and lot coverage requirements for Protected Public Uses as described in Section 4.12 of these regulations and 24 V.S.A. § 4413 in order to allow for reasonable expansion.*" The Board discussed the requested waiver during the hearing and agreed to waive the maximum building coverage, as allowed under Section 3.4(9) to provide for the reasonable expansion of the school.
6. **Use.** The existing parcel contains a private school. No changes of use or increase in intensity are proposed under this application.
7. **Height.** The maximum building height in UMR is 28' feet. The Applicant seeks approval for the construction of a two-story classroom building. The proposed building will be approximately 25' 5.75", thus in conformance with the district height requirement.
8. **Design Review.** The parcel contains documented historic buildings protected under Section 10 of the Regulations. The Applicant met with the Historic Preservation Commission on February 11, 2019 to review the demolition of the historic A-frame cabins and the architectural design of the proposed classroom building. The Commission voted in favor of the demolition and design of the proposed building. The Commission reviewed revised plans including lighting placement and fixture type during the May 15, 2019 meeting and approved the revisions as presented.

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:

9. **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: 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the capacity of existing or planned community facilities and services cannot be considered or reviewed under 24 VSA §4413.

10. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to construct a two-story classroom and associated site plan improvements. No additional employees or increase in enrollment are proposed under this application. The project is not expected to impact traffic on roads and highways in the vicinity.

Conclusion: The Board concludes the proposal will not create an undue adverse impact on traffic on roads and highways in the vicinity.

11. **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 to construct a two-story classroom building and associated site plan improvements. Adjacent to the subject parcel are other nearby residential, commercial and lodging uses.

Conclusion: The Board concludes 24 VSA §4413 establishes limits municipal bylaws. The character of area affected cannot be considered or reviewed under 24 VSA §4413.

12. **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: 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. The project was reviewed under the limitations of 24 VSA 4413.

13. **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:

14. **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 documented historic buildings protected under Section 10 of the Regulations. The proposed classroom building is located to the rear of the lot and will generally not be visible from the Mountain Road. The site is previously developed.

Conclusion: The Board concludes 24 VSA §4413 establishes limits municipal bylaws. The scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas cannot be considered or reviewed under 24 VSA §4413.

15. **Section 3.7(2)(B)(2) – Project will not result in undue water, noise or air pollution.** The Applicant proposes to demolish two historic A-frame cabins, construct a 2-story classroom building, and related site improvements. Under the provisions of Section 3.7(2)(B)(2) and 24 VSA §4413, the Board’s authority is limited to the review of noise. During the hearing, the Board discussed the proposed construction schedule including timing and days of week.

Conclusion: 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the project, as conditioned, will not result in undue noise pollution.

16. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by direct access to Mountain Road. The Applicant proposes to remove the existing access drive in the center of the parcel connecting directly to Mountain Road and construct a new 24’ wide entrance off the existing Mountain Haus Drive. The parcel is proposed to be served by a total of two curb cuts off from Mountain Haus Drive, one existing and one proposed under this application. During the hearing the Board heard testimony regarding the location of an existing 50’ wide access and utility easement over the lower portion of Mountain Haus Drive and the proposed extension of the easement. The Applicant testified that the extended easement has not yet been secured and the submitted easement plan by Grenier Engineering was provided to show the intended proposed easement area.

The existing easement needs to be extended to provide access to the proposed secondary curb cut. During the hearing the project engineer provided testimony regarding the location, safety, and delivery considerations that went into the placement of the proposed curb cut.

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 Ed Pierce, Permit Coordinator with VTrans. Ed Pierce provided comments dated 4/30/2019 indicating that removal of the existing driveway will require a §1111 permit.

Conclusion: 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the proposed access improvements, as conditioned, provide safe and adequate access for the existing and proposed improvements.

17. **Section 3.7(2)(B)(4) – Shared Access:** The Applicant proposes to remove the existing access connecting to Mountain Road and provide improved access via Mountain Haus Drive, a privately owned and maintained road. Mountain Haus Drive is shared by other users including a rear residential apartment building and a single-family dwelling.

Conclusion: 24 VSA §4413 establishes limits municipal bylaws. The Board concludes the proposed shared access improvements provide safe and adequate access.

18. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 14 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The Applicant proposes to construct a two-story classroom building and related site improvements. No changes in enrollment or increase in students or staff are proposed under this application. The provided site plan depicts a total of forty-one (41) parking spaces which include four (4) ADA accessible spaces. The parcel is proposed to be served by a total of two curb cuts off from Mountain Haus Drive, one existing and one proposed under this application. The existing southern curb cut on Mountain Haus Drive will provide vehicular access to the existing main lodge building and the exercise facility. The proposed northern curb cut will provide access to a proposed parking area consisting of thirty-one (31) parking spaces with additional vehicular access to the proposed two-story classroom building and to the rear of the existing main lodge. Under prior approval (September 6, 2005) the Board established a requirement of forty (40) parking spaces for the school. The parking area is proposed to contain forty-one (41) parking spaces satisfying prior Board decisions.

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

19. **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. This portion of Mountain Road does not contain sidewalks. As shown on the provided site plan, a curbed concrete sidewalk is proposed along the southern portion of the upper parking area connecting to the rear of the main lodge building. A similar sidewalk is shown to connect the parking area to the new classroom building. An exposed aggregate concrete walk of 6% grade is shown to connect the new classroom building to the exercise facility. A second exposed aggregate concrete walk of 5% is also shown to connect the new classroom building to the existing main lodge building. The existing main lodge building and exercise facility building both contain existing

pedestrian-oriented areas near the building entrances. No other pedestrian circulation or access improvements are proposed under this application.

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

20. **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 proposes to construct a two-story classroom building. The lot contains existing mature trees and landscaping as depicted on the provided site plan.

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."* The Site Plan prepared by Grenier Engineering, shows the location of six (6) proposed red and sugar maples dispersed throughout the site. The proposed trees are all shown to be a minimum of 3.5"-4" caliper. The site plan also shows where the existing treeline will be impacted by the proposed project.

During the hearing the Board reviewed the previously approved landscaping plan for the Mountain Haus apartment building to the rear of the subject parcel and the required plantings along Mountain Haus Drive. Under prior approvals, landscaping was required along the eastern side of Mountain Haus Drive to provide screening of the apartment building. The Applicant's proposed curb cut on Mountain Haus Drive requires the removal of several eastern hemlocks previously required under project 5730 & 5124. During the hearing the Board heard considerable testimony regarding possible impacts from vehicle headlights shining on the residential building located on the adjacent parcel. Testimony was received regarding the elevation change between the two buildings and existing landscaping between the two parcels.

Exterior mechanical equipment is shown on the site plan to be on the rear of the classroom building. The proposed Site Plan shows the location of a dumpster in the upper parking area.

Conclusion: The proposed site layout including the secondary curb cut on Mountain Haus Drive requires modifying a previously approved landscaping plan. The landscaping was originally required to provide screening of the rear building from vantage points along Mountain Road. During the hearing concerns were raised regarding impacts from vehicle headlights shining on the adjacent parcel and residential building. The Applicant's engineer and architect testified that the existing conditions, including the topography and grade along with the thickly vegetated buffer, will screen headlights from shining on the adjacent property. The Board concludes that many of the lighting concerns raised were not substantiated or supported by proof or evidence and the proposed landscaping and existing mature trees provide adequate screening in accordance with Section 4.6. As a condition of approval, the Applicant will be required to provide an inventory of any previously approved landscaping impacted by the proposed 24' wide curb cut on Mountain Haus Drive. Any impacted landscaping must be replanted within the easement along Mountain Haus Drive to provide for the continued and intended screening of development on the adjacent rear parcel.

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 proposes to construct a two-story classroom building and related site improvements including reconfiguring the parking areas. The Applicant provided the existing and proposed impervious surface calculation as follows: existing impervious cover on the site is 0.91 acre. The total impervious cover after new site construction is 0.84 acre. A new 12” HDPE storm drain is shown generally running east/west. The drain is designed to daylight at 868.0 and includes three (3) catch basins. A new 12” HDPE driveway culvert is shown to serve the new northern entrance.

Conclusion: 24 VSA §4413 establishes limits municipal bylaws. The Board concludes stormwater management cannot be reviewed under the provisions of §4413.

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.

Conclusion: The Board concludes the project can only be reviewed under the limitations of 24 VSA 4413. The site is previously developed containing a private school and related improvements. The Board concludes the proposed development is designed in a manner

compatible with the area's rural character. 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

23. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the following standards:

- A. Sodium vapor lights are prohibited.
- B. All lighting fixtures shall be 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.
- C. The mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation directly below the fixture to the bottom of the lighting fixture. The height shall be the minimum necessary to illuminate the project area, and in no case shall exceed sixteen (16') feet for parking lot lighting.

When reviewing lighting plans the DRB considers appropriate levels and distribution of illumination as outlined in Section 4.8. The Applicant proposes to construct a two-story classroom building and reconfigure the site layout. Building mounted outdoor lighting is shown on the elevation drawings. Parking area lighting is shown on the site plan. The Applicant provided manufacturer cuts sheets for the proposed light fixtures. A total of three (3) parking area light fixtures are proposed in the upper parking area. One fixture is proposed for the southern parking area. The site details sheet provides details on the pole mounted parking area lighting. These fixtures are proposed to be installed on a 14' pole for a total of height of 15', as measured from the finished grade. The pole mounted RAB fixture is cut-off and mounted to direct light downward. Building mounted light fixtures include a decorative 'Allegheny Outdoor Pendant', an 'Allegheny Outdoor Wall Sconce', a cut-off 'Hatteras Bay 1 light Olde Bronze' fixture, and a shielded LED dual security lighting. The location of the building mounted light fixtures are shown on the elevation drawings. No other changes to the existing outdoor lighting are proposed under this application.

Conclusion: The Board concludes the proposed outdoor light fixtures will provide safe and adequate lighting for the intended use. As a condition of approval all outdoor lighting fixtures will be required to be 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: **6000** the Board finds (6-1) 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 relevant 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 file the following documents with the Zoning Administrator:
 - A §1111 Letter of Intent from the VT Agency of Transportation for the removal of the existing curb cut.
 - A revised site plan depicting the required rear setback, the location of an enclosed dumpster, and utilities routed to avoid conflicts with the trees.
 - A copy of the executed access easement, as recorded in the Town of Stowe Land Records.
 - An inventory of any previously approved landscaping impacted by the proposed 24' wide curb cut on Mountain Haus Drive. Any impacted landscaping must be replanted within the easement along Mountain Haus Drive to provide for the continued and intended screening of the adjacent rear parcel.
4. Construction activity is limited to Monday-Friday from 7:00 AM to 5:00 PM.
5. The Applicant shall obtain all necessary municipal water and sewer allocation and connection permit(s). Final plans, details, and technical specifications for proposed Water and Sewer Connections are subject to review and approval by the Department of Public Works.
6. All outdoor lighting fixtures shall be 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.
7. Exterior lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150-watt incandescent bulb).
8. All mechanical systems shall be located or screened in a manner that they are not visible from the public right-of-way.
9. Landscaping shall be installed as shown in provided plans prepared by Grenier Engineering. Any dead and dying plants and trees as shown on said plans shall be replaced within one (1) year of death.
10. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
11. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
12. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
13. 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.
14. 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, P.Aumand, C.Walton, A. Volansky, T.Mumley, T. Hand

Voting to deny: D. Clymer

Dated at Stowe, Vermont this the 17 day of June 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.

