

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



**PROJECT:** 6002

**SUBJECT PROPERTY:** 17 Town Farm Lane; #07-004.000

**PROPERTY OWNER:**  
Marc Chretien  
3639 36<sup>th</sup> Road  
N. Arlington, VA 22207

**APPLICANT:**  
Dan Snyder (Stowe Cider)  
17 Town Farm Lane  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Dan Snyder of Stowe Cider, on behalf of property owner Marc Chretien (herein referred to as the "Applicant"), requests conditional use approval to construct a 50' x 25' outdoor patio on the south-east portion of the existing building for use by Stowe Cider. The subject parcel, consisting of ±3.1 acres and located at 17 Town Farm Lane (# 07-004.000), is in the Highway Tourist (HT) Zoning District, Source Protection Overlay District, Flood Hazard Overlay District (portions), and contains an existing commercial building currently occupied by Stowe Cider and West Branch Gallery. The subject parcel is generally bound to the north by property currently owned by Stowe Country Club LLC, to the west by a parcel currently owned by Nail LLC containing the Rusty Nail, to the south by Town Farm Lane, and to the east by property currently owned by Ronald & Lisa Mashaal (99 Town Farm Lane). The application has been reviewed by the Stowe Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of conditional use review.

The Development Review Board's procedural history and relevant findings are attached.

**REVIEW PROCESS:**

*(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)*

An application for conditional use review was filed by Applicant Dan Snyder on April 22, 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 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 May 21, 2019 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Board member Tom Hand recused himself and noted having discussed the project outside of the public hearing. No other 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:

- Dan Snyder-Stowe Cider, 17 Town Farm Lane, Stowe, VT 05672
- Mark Ray- Stowe Cider, 17 Town Farm Lane, Stowe, VT 05672

- Tom Hand-331 West Shaw Hill Rd, Stowe VT 05672

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

1. Town of Stowe Development Application, received 4/22/2019;
2. Site Plan prepared by North American Consulting Group Limited 'Stowe Cider Patio Project'[last dated 7/7/95]- updated to show proposed location of patio;

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 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 7- Flood Hazard Overlay District
- Section 12- Source Protection Overlay District
- Section 15- Parking Regulations

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

1. **Zoning District.** The subject parcel contains ±3.1 acres with direct access to the Town Farm Lane, a privately owned and maintained road. The parcel is located in the Highway Tourist (HT) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). Rear portions of the parcel are also within the Flood Hazard Overlay District (FHO); no development is proposed within the FHO.
2. **Lot Area, Lot Width.** The ±3.1-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 Town Farm Lane in the HT district, which 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 are front (50'), side (50') and rear (50'). The existing building is entirely within the HT district. The Applicant proposes to construct a 50' x 25' outdoor patio. Portions of the patio are located within the 50-foot side setback. Per Section 3.4(2), patios and terraces are not required to meet setback requirements.
4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. No changes in building coverage are proposed under this application.
5. **Use.** The subject building contains commercial uses including Stowe Cider and the West Branch Gallery. Under Project 5468, the Board approved Stowe Cider as a light manufacturing facility with 800 sf of retail use. No changes of use are proposed under this application. The Applicant seeks approval to construct an outdoor patio for Stowe Cider patron use. During the hearing the Applicant noted that the patio will be used for special events and overflow seating for patrons.

6. **Density.** No changes or increases in density are proposed.
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 in building 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. **Section 3.7(2)(A)(1) – 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. During the hearing the Applicant provided testimony that an existing utility pole will be removed as part of the project.

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

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant requests approval to construct an outdoor patio for patron use. No changes or increases in use are proposed under this application. The proposed outdoor patio is not expected to generate a significant increase in the number vehicle trips.

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

10. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the HT zoning district. The purpose of the HT district is *"To control development along the portion of the "lower" Mountain Road between designated growths centers in a manner that encourages continued moderate-density commercial and residential land uses while maintaining high quality development and site design."*

**Conclusion:** The proposal will not adversely affect the character of the area as defined under the town's zoning regulations.

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under applicable Conditional Use criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. No other known or identified municipal bylaws or ordinances apply to this project.

**Conclusion:** The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

**Conclusion:** The Board concludes the project is not expected to interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

**Section 3.7(2)(B) – Other Standards of Review:**

13. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The Applicant proposes to construct an outdoor patio alongside the existing building on the previously developed site. No changes of use or other site improvements are proposed.

**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 requests approval to construct an outdoor patio for patron use. During the hearing the Board discussed hours of operation, outdoor music, and general noise considerations. The Applicant testified the hours of operation are not changing and that the business is never opened beyond 10:00 PM.

**Conclusion:** The Board concludes the project, 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 Town Farm Lane with indirect access to Mountain Road. No expansions or improvements are proposed to the existing curb cut are proposed under this application.

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

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Town Farm Lane. The parcel contains a commercial building currently occupied by Stowe Cider and West Branch Gallery. No changes are proposed to the existing access.

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

17. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 14 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The existing parking area is shared by other nearby users including the Rusty Nail and the West Branch Gallery. No changes to the number or location of parking spaces or circulation patterns are proposed under this application. During the hearing the board discussed the possible need for additional parking spaces to accommodate the added patio area and agreed the patio would require an additional four spaces, as calculated under the regulations. The Applicant testified that one of the parking spaces shown on the site plan serves as a walkway to the business entrance.

**Conclusion:** The Board concludes the existing parcel contains sufficient parking to support the proposed outdoor patio. As a condition of approval, the Board will require the Applicant provide an updated site plan showing parking calculations.

18. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided. No changes to existing pedestrian circulation or access improvements are proposed under this application. The proposed outdoor patio will be connected through the existing interior building entrance. Patrons will not be able to access the patio unless through the building.

**Conclusion:** The Board concludes that no changes to the existing pedestrian circulation and access are proposed under this application.

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 that no changes to the existing landscaping and screening are proposed under this application.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant request approval to construct an outdoor patio, approximately 1250 sf of additional impervious surface. The Applicant provided testimony that the patio will be graded to drain water and will not alter existing drainage patterns.

**Conclusion:** The Board concludes the proposed patio will not significantly alter existing drainage patterns.

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the Board shall be guided by the following standards when reviewing all site development plans in the designated zoning district. These standards apply to all site development plans, including those involving new construction, expansion, alteration or change of use. The Board may waive the specific requirements of this section when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts.

1. Additional HT, RR, MOD, UMR Standards: Within the **Highway Tourist (HT)**, (Rural Residential (RR), Meadowland Overlay (MOD)) and Upper Mountain Road (UMR) Districts, site plans shall re-enforce efficient traffic circulation, preserve such important landscape features as open fields, scenic vistas, natural and cultural focal points and a well landscaped highway corridor.

To help achieve these objectives, the following standards shall apply:

- a. **Front Yard Treatment:** A continuous strip not less than twenty (20') feet deep, measured from the edge of the highway right of- way, shall be maintained between the street line and the balance of the lot, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. In addition, no portion of the front yard may be used for storage or for any purpose except as provided herein.

- b. Parking: Parking shall be located in the rear and/or side of all commercial and multi-family residential properties, except as provided under section 14.3 of these regulations. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997, and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
- c. Driveway Access: Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
- d. Additional HT Standards: In addition to the conditional use criteria of these regulations, the DRB shall find that proposed development is designed in a manner that promotes an overall high quality of design and construction and, where appropriate, incorporates traditional building materials.

**Conclusion:** The Applicant proposes to construct an outdoor patio connected to the existing building. The Board concludes no other site plan improvements are proposed under this application. Does not apply.

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

22. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the Section 4.8(A-C). When reviewing lighting plans pursuant to Section 4.8, including proposed gas station canopy or apron lighting, proposed illumination of building façades or parking area lighting, the DRB shall consider appropriate levels and distribution of illumination. In determining appropriate levels of illumination, the Board will consider the guidelines outlined in Section 4.8(2)(A-F). No changes are proposed to the existing outdoor lighting.

**Conclusion:** This provision does not apply.

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

#### **DECISION**

Based upon the foregoing Findings of Fact, in RE: **6002** the Board finds (4-2) 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 conditions of previous approvals, except as amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall submit a revised site plan depicting the existing and proposed parking calculations.
4. Use of the outdoor patio shall be limited to regular business hours and under no circumstances be occupied later than 10:00 PM.
5. No amplified music shall be audible at the property line beyond 10:00 PM.
6. No more than thirty-six (36) seats shall be placed on the patio at any given time.

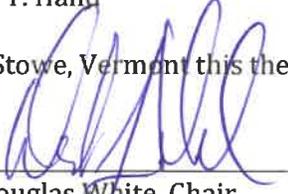
7. Any additional outdoor lighting or changes to previously approved landscaping shall require additional review as warranted under the regulations in effect at the time of application.
8. A Certificate of Occupancy must be obtained from the Zoning Administrator following the construction but prior to 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.
9. 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. Clymer, A. Volansky, T.Mumley, C.Walton

Voting to deny: D.White, P.Aumand

Recused: T. Hand

Dated at Stowe, Vermont this the 4 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.

