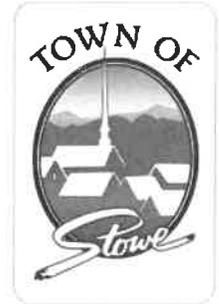


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6081

PROPERTY: 1880 Mountain Road; #06-074.000

APPLICANT:

Robb Wills/Donald P. Blake Jr. Inc.
59 Old Creamery Rd.
Morrisville, VT 05672

PROPERTY OWNER:

Andante LLC
PO Box 3049
Stowe, VT 05676

APPLICATION:

The Applicant, Robb Wills/Donald P. Blake Jr. Inc. on behalf of property owner Andante LLC (herein referred to as the "Applicant"), requests conditional use review for site plan modifications on parcel #06-074.000 located at 1880 Mountain Road, commonly known as the Gale Farm Center.

The Applicant requests review and approval of the following improvements:

- Replace and add additional pole mounted outdoor light fixtures;
- Remove existing plantings, pavers, curbing etc.; Reconstruct a concrete and brick walkway and plant ornamental grasses.

The subject parcel is in the Mountain Road Village (MRV) zoning district and Source Protection Overlay District (SPOD). The parcel contains approximately ± 2.3 acres and includes a commercial mixed-use shopping plaza and related appurtenances. The property is served by the Mountain Road (VT-108), a state-maintained highway. The subject parcel is bound to the west by a ± 2.75 - acre parcel currently owned by 1976 Mountain Road LLC and a ± 0.21 parcel currently owned by 1940 Mountain Road LLC; to the north and east by a ± 3.06 -acre parcel currently owned by Midas Enterprises Inc., and to the south by Mountain Road (VT-108). The application has been reviewed by the Stowe Development Review Board (DRB) as an amendment to a previously approved conditional use under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018).

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 Robb Wills/Donald P. Blake Jr. Inc. on July 30, 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 September 3, 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 August 15, 2019 and posted at the Library, Town Office, and Police Station. 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 September 3, 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. DRB members in attendance and participating in the review include: Paco Aumand, Drew Clymer, Tom Hand, John Beecy, Edward Frey, Peter Roberts, and Andrew Volansky.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Applicant, Robb Wills/Donald P. Blake Jr. Inc., 59 Old Creamery Rd., Morrisville, VT 05672

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

- Town of Stowe Development Application (2 pages); dated 07/30/2019;
- Site Lighting Plan, Sheet SL-1 prepared by Wilson Architects PC AIA, dated 07/16/2019;
- Parking Area- Pole Mounted Fixture Manufacturer Cut-Sheet, no date;
- Manufacturer Cut-Sheet for Outdoor Light Bulb, no date;
- Proposed landscaping photographs, no date;
- Proposed Site Modifications (and Details), Gale Farm Property, prepared by Wilson Architects PC AIA, dated 07/31/2019;
- Photographs of Existing Conditions (staff), dated 8/28/2019;
- Previously approved site plan (staff), dated 4/24/1989.

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 amended 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

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

1. **Zoning District.** The subject parcel contains ±2.3 acres and is located within the Mountain Road Village (MRV) and Source Protection Overlay District (SPOD) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The parcel is located in the MRV district. No changes to lot width or lot area are proposed under this application.
3. **Setbacks.** Required minimum district setbacks for the MRV district are front (20'), side (10') and rear (20'). No changes to the building footprint are proposed under this application.
4. **Maximum Building Coverage.** The maximum building coverage in the MRV district is 20%. No changes to the building footprint or building coverage are proposed under this application.

5. **Use.** The property contains a mixed-use commercial shopping building- Gale Farm Center. No changes of use or expansions of use are proposed under this application.
6. **Density.** Does not apply to this application.
7. **Height.** The maximum building height in MRV is 28' feet. No changes to 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. **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 requests approval to replace and add additional outdoor light fixtures and remove existing plantings, pavers, curbing etc. in order to reconstruct a new concrete and brick walkway and plant ornamental grasses. Stowe Electrical Department provided comments indicating that the proposal would have no impact on the department. No additional municipal comments were received for this application.

Conclusion: The Board concludes the proposed improvements 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:** No changes of use or expansions of the current use are proposed under this application. The proposed site plan modifications will not result in an undue adverse impact on traffic on roads and highways in the vicinity.

Conclusion: The Board concludes the proposed improvements 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 MRV district. The general purpose of the MRV districts is as follows:

To foster a development pattern along the Mountain Road (Route 108) corridor comprised of compact, mixed-use settlements separated by rural countryside. ...the MRV District is intended to serve as a larger commercial village characterized by an integration between land uses, pedestrian accessibility, a mix of uses compatible with a four-season resort community and a village streetscape defined by narrow streets, street-trees, curbing and sidewalks.

Existing uses within the general area include a mix of commercial, resort, recreation, and residential. The Applicant requests approval for site plan modifications at 1880 Mountain Road commonly known as the Gale Farm Center. No changes of use are proposed under this application. The Applicant proposes modifications to the outdoor lighting and interior pedestrian access improvements.

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

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under the Conditional Use standards. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The property is connected to municipal water and sewer services under the Town’s Sanitary Sewer Ordinance. No changes of use or expansions to existing use are proposed under this application. 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.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant requests approval to replace and add additional outdoor light fixtures and remove existing plantings, pavers, curbing etc. in order to reconstruct a new concrete and brick walkway and plant ornamental grasses. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

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

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

13. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The property is previously developed and is located in the MRV district. The Applicant requests approval to replace and add additional outdoor light fixtures and remove existing plantings, pavers, curbing etc. in order to reconstruct a new concrete and brick walkway and plant ornamental grasses. The proposed site plan improvements are not expected to cause an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

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 replace and add additional outdoor light fixtures and remove existing plantings, pavers, curbing etc. in order to reconstruct a new concrete and brick walkway and plant ornamental grasses. The proposed modifications 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 the existing shared curb cut and drive off Mountain Road. No changes to the existing access are proposed.

Conclusion: The Board finds that the existing access provides adequate service. No changes of use or expansions of use are proposed under this application.

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by an existing shared access/driveway. No changes to the existing shared access are proposed.

Conclusion: The Board finds that the property is served by an existing access/driveway serving the property. No changes to this access are proposed under this application.

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. No changes of use or expansion of use that warrant additional parking are proposed under this application. No changes to the existing circulation or parking are proposed under this application. Staff provided a copy of the previously approved site plan.

Conclusion: The Board the Applicant is not proposing any changes to the existing circulation and parking improvements.

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 Applicant proposes to remove existing plantings, pavers, curbing etc. in order to reconstruct a new concrete and brick walkway. The proposed improvements will better define pedestrian access around the building and building entrances. The Applicant provided a construction drawing detailing the typical section entry, drip zone, and overall site plan. During the hearing the Applicant provided an overview of the proposal and testified the curb would be reset to be 7" with a 2% grade sidewalk and that the location of the existing ADA curb ramp will not change. The existing ADA accessible route runs from a ADA delineated parking space up alongside the front of the building to serve the store entrances.

Conclusion: The Board finds the proposed pedestrian circulation and access improvements, represents safe and adequate pedestrian access and circulation.

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 purpose of the landscaping standards is to enhance the overall appearance of individual properties; integrate new development into its natural and historic surroundings; preserve and enhance the particular identity of individual sites; and to maintain compatibility among neighboring properties and consistency within the community. The Applicant proposes to remove the existing plantings in the garden bed running along the eastern side of the building and replant ornamental grasses. The original landscaping was approved in 1989 (subsequently revised) and included plantings of azaleas and rose shrubs in this area. Existing conditions include a mulched garden bed adjacent to the building with low lying evergreen bushes. Existing bushes are planted at regular intervals in front of the building windows on the eastern façade. During the hearing the Applicant testified that the existing landscaping is overgrown and is causing damage to the building. The property owner intends on removing the existing plantings to allow for greater visibility of storefronts and pedestrian window shopping. The original proposal included cedars, however the Applicant indicated that the cedar trees have subsequently been removed from the project. The Board reviewed the proposal and noted the need for the landscape plan to show the species, size, and quantity.

Conclusion: The Board concludes the requested modifications to the previously approved landscaping will enhance the overall appearance of the property and is compatible with the

neighboring properties and the MRV district. As a condition of approval, the Board will require a landscaping plan be provided outlining the species, size, and quantity of plantings.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12 outlines the requirements for Stormwater and Erosion Control. No changes to existing drainage patterns are proposed under this application. During the hearing the Applicant indicated that the proposal will improve drainage by adding a drip line to connect to the existing drainage.

Conclusion: The Board finds the proposed improvements will not result in changes to storm drainage patterns or 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 DRB shall be guided by the standards outlined in Section 3.7(C)(a-i) when reviewing all site development plans. The DRB may waive the specific requirements when it is found that mitigation through design, screening or other mitigation will accomplish the objectives outlined for the designated districts. The Applicant requests approval to replace and add additional outdoor light fixtures and remove existing plantings, pavers, curbing etc. in order to reconstruct a new concrete and brick walkway and plant ornamental grasses. The property is previously developed and contains an existing mixed-use commercial shopping center.

Conclusion: Based on the above findings, the Board concludes the proposed improvements have been designed in a manner compatible with, and are consistent with, the defined purpose of the MRV district.

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, the DRB must 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 proposes modifications to the existing outdoor lighting. The site lighting plan indicates seven (7) new fixtures will be installed on 10' mounting pole set at grade along edge of existing sidewalk. Fixture A is a new fixture with a new 10' pole on a new concrete base with square base cover plate. Fixture A is proposed to replace the existing fixture and support post. Fixture C includes three (3) new fixtures with new 10' pole on existing concrete support base. Fixture C is located along the shared drive on the edge of the existing parking area. Fixture D is an existing light fixture and post to be re-used. The site lighting plan states that the existing light fixtures at the north and east parking areas are to remain as is. The Applicant provided the manufacturer cut sheet information for the proposed light fixtures. During the hearing the Applicant testified that the existing lighting and proposed lighting will be on timers. The Board reviewed the standards outlined in Section 4.8 and discussed lighting requirements for parking areas and sidewalk lighting. The regulations state "*Parking lot and security lighting should be designed and installed with a minimum illumination level of not less than 0.2-foot candles and not greater than 1.0-foot candles, and with a uniformity ratio of not more than 4:1.*" There are no specific standards for sidewalk lighting. Board members noted the absence of a photometric plan and reported that without a photometric plan indicating the illumination levels it is not possible to find conformance with the regulations. The Applicant indicated that a photometric plan could be submitted to document conformance with the stated lighting provisions.

Conclusion: The Board concludes the proposed modifications to outdoor lighting are appropriate for the existing uses and likely in conformance with adopted outdoor lighting standards. As a

condition of approval, the Board will require a photometric plan be submitted documenting conformance with the requirements set forth in Section 4.8(2)(A).

DECISION

Based upon the foregoing Findings of Fact, in RE: **6081** the Board finds (7-0) that the application meets the Stowe Zoning Regulations, as adopted October 8, 2018, criteria for approval with the following conditions of approval:

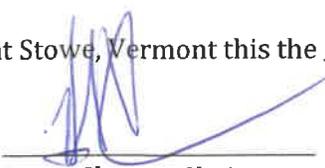
1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted 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 previous conditions of approval remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall submit the following to the Zoning Administrator:
 - A landscaping plan outlining the species, size, and quantity of plantings. No invasive species shall be allowed;
 - A photometric plan documenting conformance with the requirements set forth in Section 4.8(2)(A). Additional review by the Development Review Board shall be required if the Applicant is unable to provide a photometric plan in conformance with Section 4.8(2)(A) given the proposed number and placement of outdoor light fixtures.
4. Landscaping shall be installed as shown on provided plans as amended herein. Any dead and dying plants as shown on said plans shall be replaced within one (1) year of death.
5. 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.
6. 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 purpose of ascertaining compliance with the conditions of approval.

Voting favor: P.Aumand, D.Clymer, T. Hand, J.Beecy, E.Frey, P.Roberts, A.Volansky

Voting to deny: None

Abstain: None

Dated at Stowe, Vermont this the 17th day of September 2019

By: 
Drew Clymer, 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.