

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



PROJECT: 6091

PROPERTY: 876 Mountain Road; #07-021.000

APPLICANT/PROPERTY OWNER:

Hotel Sportiva Stowe dba Town & Country
876 Mountain Road
Stowe, VT 05672

APPLICATION:

The Applicant, Edwin Bitter on behalf of Hotel Sportiva Stowe (herein referred to as the "Applicant"), requests conditional use review for site plan modifications to the previously approved landscaping plan under Project 5814. The Applicant proposes to remove three (3) large existing pine trees located adjacent to Mountain Road.

The subject parcel [#07-021.000] is located at 876 Mountain Road and commonly known as the Town & Country Inn. The parcel is located primarily within the Highway Tourist (HT) zoning district with rear portions within the Flood Hazard Overlay District (FHOD) and the Fluvial Erosion Hazard Overlay District. No development is proposed within the FHOD or the Fluvial Erosion Hazard Overlay District. The parcel contains approximately ±9 acres and includes a lodging facility and related accessory uses and structures. The property is served by the Mountain Road (VT-108), a state-maintained highway. 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 E.W. Bitter on August 15, 2019. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for September 17, 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 29, 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 17, 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. Board members in attendance and participating in the review included Paco Aumand, Drew Clymer, Peter Roberts, Chris Walton, Andrew Volansky, and Michael Diender.

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

- Applicant, Edwin Bitter, 876 Mountain Road, Stowe, 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 08/15/2019;
- Site Plan showing proposed alterations, no date;
- Previously approved landscaping plan, dated 05/07/2019; (staff)
- Google Earth image showing existing conditions; dated Oct. 2018. (staff)

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
1. **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 three large existing pine trees located adjacent to Mountain Road. The pine trees are shown on a previously approved landscaping plan under Project 5814.

Conclusion: The Board concludes the proposed landscape alterations will maintain compatibility among neighboring properties and consistency within the community.

DECISION

Based upon the foregoing Findings of Fact, in RE: **6091** the Board finds (6-0) 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. 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.
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 purpose of ascertaining compliance with the conditions of approval.

Voting favor: P.Aumand, D.Clymer, P.Roberts, C. Walton, A.Volansky, M. Diender

Voting to deny: None

Abstain: None

Dated at Stowe, Vermont this the 06 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.

