

**Notice of DRB Decision  
Town of Stowe Zoning Office  
PO Box 730  
Stowe VT 05672**

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Please note that there are conditions of approval required to be met before your Zoning Permit can be issued. Once you fulfill these conditions your zoning permit will be sent to you

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

**APPLICATION INFORMATION**

Project Number 6130  
Application Date 10/8/2019  
Physical Location 3430 MOUNTAIN RD  
Map ID 11-148.000 Tax ID 25037  
Project Description CONDITIONAL USE REVIEW FOR A CHANGE OF USE FROM SCHOOL TO LONG TERM CARE FACILITY  
Owner NORTH AMERICAN HOCKEY ACADEMY INC SILVER PINES- UNDER CONTRACT  
Applicant GRISTMILL BUILDERS BRENDAN O'REILLY & DAVE LACHTRUPP  
Applicant Address 5430 WATERBURY-STOWE RD  
WATERBURY CENTER VT 05677

**APPROVALS ON RECORD**

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	11/19/2019	12/19/2019	12/19/2021

*Sarah McShane*

Zoning Office

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



**PROJECT:** 6130

**SUBJECT PROPERTY:** 3430 Mountain Road; #11-148.000

**PROPERTY OWNER:**

North American Hockey Academy (NAHA)  
Silver Pines [Under Contract]  
3430 Mountain Road  
Stowe, VT 05672

**APPLICANT:**

Brendan O'Reily & Dave Lachtrupp  
Gristmill Builders Ltd.  
5430 Waterbury-Stowe Road  
Waterbury Center, VT 05677

**APPLICATION:**

The Applicant, Gristmill Builders Ltd. on behalf of Silver Pines (herein referred to as the "Applicant"), requests conditional use approval for a change of use from school to long-term care facility. Modifications to the previously approved site plan include additional outdoor lighting (ground mounted bollards and building mounted fixtures), an emergency vehicle turn-around, and formalizing the existing parking configuration and circulation.

The subject parcel, consisting of  $\pm 4.25$  acres and located at 3430 Mountain Road (#11-148.000), 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 (VTTrans). The parcel is bound to the north by a  $\pm 18.56$ -acre parcel owned by Mountain House LLC, to the east by a  $\pm 5.34$ -acre parcel owned by Thomas & Rita Buchanan Estate, to the south by Mountain Road, and to the west by a  $\pm 1.10$  acre parcel and dwelling owned by Eduardo Rovetto. 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 a change of use was filed by Applicant Gristmill Builders Ltd. on October 8, 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 November 5, 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 October 17, 2019 and posted at the Town Office, Library, and Police Station. 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 November 5, 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:

- Brendan O'Reily & Dave Lachtrupp, Gristmill Builders Ltd., 5430 Waterbury-Stowe Road, Waterbury Center, VT 05677

- William Cats-Baril, 324 Summit View Drive, Stowe, VT 05672
- Dr. Sanchit Maruti, 40 College Street #609, Burlington, VT 05401
- John Grenier, PO Box 445, Waterbury, VT 05676
- Ed Rovetto, 3538 Mountain Rd, Stowe, VT 05672
- Rick Barnett, 53 Old Farm 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, dated 10/04/2019;
2. Outdoor Lighting Cut-Sheets
  - D-Series LED Bollard (2 pages), no date;
  - WPLED10N RAB Outdoor (2 pages), no date;
3. Zoning Board Narrative (5 pages), dated 10/7/2019;
4. Photographs (5 pages) showing existing outdoor lights, no date
5. Site Plan 'Silver Pines' 3340 Mountain Road prepared by Grenier Engineering, Sheet 1 of 1, dated 10/4/2019;
6. Comments from Fire Chief Kyle Walker, dated 10/10/2019;
7. Comments from Ed Pierce, dated 10/16/2019;
8. Comments from Dave Kresock of Stowe Electrical Department, dated 10/24/2019;
9. Comments from Fire Chief Kyle Walker, dated 10/30/2019;
10. Comments from Fire Chief Kyle Walker, dated 11/05/2019;
11. Revised Site Plan 'Silver Pines' 3340 Mountain Road prepared by Grenier Engineering, Sheet 1 of 1, last revised 11/04/2019.

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 a change of 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 15- Parking Regulations

**Dimensional Requirements:**

1. **Zoning District.** The subject parcel contains ±4.25 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).
2. **Lot Area, Lot Width.** No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in UMR are front (50'), side (50') and rear (50'). The Applicant seeks approval for a change in use. No new structures or expansions to the existing structure are proposed under this application.

4. **Maximum Building Coverage.** No changes proposed.
5. **Use.** The Applicant requests approval for a change of use from school to long-term care facility. Long-term care facility is defined as “*An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for twenty-four (24) or more consecutive hours to two (2) or more patients who are not related to the governing authority or its members by marriage, civil union, blood or adoption.*” Long-term care facilities are a conditional use in the UMR district. The Applicant provided a project narrative outlining the proposed use. During the hearing the Applicant testified that no outpatient services will be provided, nor special events held.
6. **Height.** The maximum building height in UMR is 28’ feet. 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:

7. **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 property is served by onsite septic and potable water. No connections to municipal systems are proposed under this application.

Fire Chief Kyle Walker provided initial comments dated 10/10/2019 requesting additional information from the Applicant. In response the Applicant provided additional details regarding the existing access and circulation improvements. The Fire Chief identified access and circulation improvements necessary to provide adequate service. The Applicant revised the site plan to widen the pavement area to provide for vehicle turn-around, extended an existing culvert by ten (10) feet and regraded the existing swale, as well as incorporated a new 30’ x 30’ turn-around for fire and garbage access. The Fire Chief provided positive comments on 11/5/2019 and requested that any approval include a condition that the turn-around be designed in accordance with the Fire Department Recommended Construction Guidelines and that adequate snow removal be required.

Dave Kresock of Stowe Electrical Department provided comments dated 10/24/2019 indicating no impact to the department.

No other Municipal Department review forms returned indicated that the requested modifications would have any adverse impact on existing or planned community facilities and services.

**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 Board will require that the emergency turn-around be designed, constructed, and maintained in accordance with the Stowe Fire Department Construction Guidelines including an adequately reinforced surface to support an emergency vehicle(s) and that the driveway access and minimum required number of parking spaces be maintained year-round including snow removal and disposal.

8. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant requests approval for a change of use from school to long-term care facility. The Applicant’s project narrative states the proposed facility will have sixteen (16) double rooms to serve a maximum

capacity of thirty-two (32) patients. Treatment will be provided by a staff of 20 ½ full-time equivalents over three (3) shifts. The Applicant estimates an average of nineteen (19) patients at the facility at any one time. Patients will be driven to the facility and picked up upon discharge. The Vermont Agency of Transportation (VTrans) Traffic Impact Study Guidelines generally state that a traffic impact study should be considered when the proposed development generates seventy-five (75) or more peak hour trips. During the hearing the Applicant's engineer testified that the proposed use will generate far less than seventy-five (75) peak hour trips.

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

9. **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 for a change of use from school to long-term care facility. Adjacent to the subject parcel are other nearby residential, commercial, and lodging uses.

**Conclusion:** The Board concludes the requested change of use will not result in an undue adverse effect of the character of the area affected.

10. **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.

11. **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:**

12. **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 is previously developed. No change to building footprint or building height are proposed under this application. The requested change of use is not expected to impact the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

**Conclusion:** The Board concludes the requested change of use will not adversely affect the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

13. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The parcel is previously developed. The requested change of use is not expected to result in undue water, noise or air pollution.

**Conclusion:** The Board concludes the requested change of use will not result in undue water, noise, or air pollution.

14. **Section 3.7(2)(B)(3) – Access Management:** The parcel is served by direct access to Mountain Road- a state-maintained highway. The Applicant proposes to utilize the existing access, no changes to the access are proposed under this application. Staff referred the application to VT Agency of Transportation (VTrans) on October 15, 2019 to inquire whether an §1111 permit is required. Ed Pierce, Permit Coordinator with the Vermont Agency of Transportation, provided written comments dated 10/16/2019 that the project does not require a §1111 permit, however the Applicant will need to remove the existing sign and support structure completely outside of the state highway right-of-way and any planting of hedges must be located completely outside of the state highway right-of-way. Mr. Pierce indicated that a §1111 permit is required to remove the sign. During the hearing the Applicant testified that no landscaped hedges are proposed under this application.

**Conclusion:** The Board finds no changes to the location or number of access points are proposed under this application. As a condition of approval, the Board will require that the Applicant remove the existing sign and support structure completely outside of the state highway right-of-way.

15. **Section 3.7(2)(B)(4) – Shared Access:** The Applicant proposes a change of use to a long-term care facility utilizing the existing access. The existing access is not shared with other users.

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

16. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 15 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The Applicant seeks approval for a change of use to a long-term care facility. With the exception of additional lighting and access improvements, no changes are proposed to the existing approved site plan. The Applicant proposes to utilize the existing paved parking area and rear gravel area for employee parking. The rear parking area contains nine (9) parking spots. The front parking area contains eleven (11) parking spaces. One (1) ADA van accessible parking space is shown near the front entry. The previously approved site plan for the former school use did not delineate parking spaces.

Section 15.2 does not provide a minimum parking requirement for Long-Term Care Facilities. Prior DRB decisions involving the North American Hockey Academy did not identify a minimum number of parking spaces. The project narrative states “*the existing parking is adequate for our needs.*” The Applicant estimates to have ten and a half (10.5) employees on the first shift, six (6) during the second shift, four (4) overnight, and an average of nineteen (19) patients at any given time. The Applicant testified that patients will be driven to the facility and picked up upon discharge and therefore not utilize parking spaces. The Applicant provided a proposed parking schedule including the following:

Proposed Parking Needs	
16 parking spaces	Employee
3 parking spaces	Admissions/Discharges
1 parking spaces	Extra/Miscellaneous

During the hearing the Board discussed the proposed use and the individual parking needs of the facility.

**Conclusion:** The Board concludes the proposed circulation and parking improvements represents safe and adequate access and circulation for the proposed use. As a condition of approval, the Applicant will be required to maintain the required minimum number of parking spaces year-round which may require periodic snow removal and disposal to ensure required parking is available.

17. **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 provided site plan shows the location of the front entry and rear staff/delivery entry. No changes to previously approved 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 proposed use.

18. **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 lot contains existing mature trees and landscaping as depicted on the provided site plan. The project narrative indicates that there will be no changes to the existing landscaping with the exception of adding hedges adjacent to Mountain Road. During the hearing the Applicant testified that no changes are proposed to the existing landscaping and it is their intent to come before the Board at a later date with a master landscaping plan designed to meet the needs of the facility. During the hearing an abutting property owner testified that they own the adjacent parcel containing a single-family dwelling and requested that additional screening be required along the shared property boundary to provide screening and privacy. The Applicant agreed to install a landscaped hedge or fence along the property line to provide the necessary screening.

**Conclusion:** The Board concludes no changes are proposed to the existing landscaping and screening with the exception of the required screening along the western property boundary to provide privacy to the adjacent residential use.

19. **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. During the hearing the Applicant's engineer testified that only a minor increase in impervious surface is proposed under this application and does not trigger the need for a State Stormwater Permit or additional treatment under the town's regulations.

**Conclusion:** The Board concludes no changes to stormwater improvements or drainage patterns are proposed under this application.

20. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting 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 should consider the guidelines outlined in Section 4.8(2)(A-F). The Applicant proposes to utilize the existing light fixtures on the main

building, as well as install five (5) light bollards and two (2) building mounted light fixtures on the existing garage. Manufacturer cut sheets were provided for the proposed light fixture and bollard. During the hearing the Applicant testified that the one (1) existing light fixture on garage will be replaced to match the two (2) proposed wall mounted fixtures. No additional changes to 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**

On a motion by T. Hand, seconded by D.Kelly, the Stowe Development Review Board hereby approves the Applicant's request for a change of use and related site improvements located at 3430 Mountain Road as indicated in the application dated 10/04/2019 and related submittals, 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 revised site plan depicting the location of the proposed screening along the western property boundary currently owned by Eduardo Rovetto. The screening shall be properly maintained and consists of a vegetative hedge or solid fence to provide adequate screening and privacy to the adjacent residential property.
4. The site plan improvements shall be installed and maintained as depicted on the approved site plan 'Silver Pines' 3340 Mountain Road prepared by Grenier Engineering, Sheet 1 of 1, last revised 11/4/2019 and amended herein.
5. No outpatient services or special events shall be provided or held without additional review.
6. The required emergency turn-around must be designed, constructed, and maintained in accordance with the Stowe Fire Department Construction Guidelines including an adequately reinforced surface to support an emergency vehicle(s).
7. The driveway access and minimum required number of parking spaces shall be maintained year-round which may require periodic snow removal and disposal to ensure proper access, circulation, and required parking is available year-round.
8. The Applicant shall remove the existing sign and support structure completely outside of the state highway right-of-way. The installation of any new signage shall require review under the regulations in effect at the time of application.
9. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that is has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
10. 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

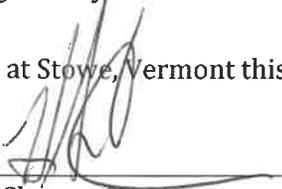
allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Motion PASSED 5-0

Voting favor: D. Clymer, T. Hand, D. Kelly, E. Frey, L. Wasserman

Voting to deny: None

Dated at Stowe, Vermont this the 19<sup>th</sup> day of November 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.