

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



**PROJECT:** 6167

**SUBJECT PROPERTY:** 687 Stowe Hollow Road; #07-315.000

**PROPERTY OWNER & APPLICANT:**

Marilyn Olimpio & Ross Mitchell  
303 Cole Avenue  
Providence, RI 02906

**APPLICATION:**

The Applicant, Marilyn Olimpio & Ross Mitchell (herein referred to as the "Applicant"), requests conditional use and design review approval to construct a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. The subject parcel is located at 687 Stowe Hollow Road (#07-315.000) and contain lands within the Rural Residential II (RR2) zoning district. The parcel contains a three (3)-unit multi-family dwelling historically referred to as the Sunny Davis House- a historic building as defined under the regulations. The building was converted from an inn, formerly known as the High Hills, to a three (3) unit condominium in 1985 under the Board of Adjustment approval (BA-3-85).

The parcel is served by and bisected by Stowe Hollow Road/TH-3, a Class 2 town-maintained highway. The parcel is bound to the north by a ±1.76-acre parcel currently owned by Dean Mudgett & Bruce Butler; to the east by three (3) residential parcels accessed by Gilcrest Road; to the south by a ±1.44 acre parcel currently owned by Jeffrey & Megan Goss; and to the west by a ±3.8-acre parcel owned by Cathy Davis and two (2) residential lots fronting Waites Lane. The application has been reviewed by the 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 design review approval. 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 and design review was filed by Applicant Ross Mitchell on November 8, 2019. The application was initially referred to the Historic Preservation Commission for review and recommendations. 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 March 3, 2020 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 February 13, 2020. 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 March 3, 2020 at the Akeley Memorial Building Theatre, 67 Main Street, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Members who participated in the review included: Drew Clymer, Francis 'Paco' Aumand III, Chris Walton, Andrew Volansky, Tom Hand, and Leigh Wasserman.

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

- Applicant Ross Mitchell, 303 Cole Avenue, Providence, RI 02906

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

1. Town of Stowe Development Application, dated 11/18/2019;
2. Project narrative, dated 1/17/2019;
3. Manufacturer Cut-Sheets including:
  - Trim (3-sheets)
  - Residential Roofing (moire black)
  - Outdoor Light Fixture (Lamps Plus)
  - Therma Tru Door- Storage Door
  - Therma Tru Door- Studio Door
  - Marvin Elevate Window
4. Partial Site Plan, Sheet A-1 (SP-1) prepared by Kim Brown, dated 1/22/20;
5. Isometric Views- Exterior, Sheet A-2 (3D.1) prepared by Kim Brown, dated 1/22/20;
6. Color Elevations, Sheet A-3 (CE.1) prepared by Kim Brown, dated 1/22/20;
7. Foundation and Floor Plans, Sheet A-4 (A-1.1) prepared by Kim Brown, dated 1/22/20;
8. Left Elevation, Sheet A-7 (A-2.2) prepared by Kim Brown, dated 1/22/20;
9. Right and Rear Elevations, Sheet A-8 (A-2.3) prepared by Kim Brown, dated 1/22/20;
10. Planting and Lighting, Sheet A-9 (P-1.1) prepared by Kim Brown, dated 1/22/20;
11. Photos of Existing Unit 1, Sheet A-10 (PH.1) prepared by Kim Brown, dated 1/22/20;
12. Comments from Dave Kresock of Stowe Electrical Department, dated 2/21/2020.

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 and design review 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
- Section 10- Stowe Historic Overlay District

**DIMENSIONAL REQUIREMENTS:**

1. **Zoning District.** The parcel is located in the Rural Residential II (RR2) zoning district, as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The subject parcel contains ±5.6 acres inclusive of the Town Highway right-of-way. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in the RR2 are front (60'), side (50') and rear (50'). Section 3.4 defines how setbacks are measured as "*The distance from the street line to the closest portion of any structure, including rooflines, porches and sills, except steps.*" The required front and side setbacks

are labeled on the provided site plan to be +100 ft to the highway right-of-way and +70 ft from the side property line. Although not labeled, the structure clearly appears to meet the required rear setback of 50'.

4. **Maximum Building Coverage.** The regulations do not contain a maximum building coverage for the RR2 district.
5. **Use.** The subject parcel contains an existing multi-family dwelling with three (3) dwelling units, all of which are proposed to remain. No changes of use are proposed under this application.
6. **Density.** No changes or increases in density are proposed under this application.
7. **Height.** The maximum building height in RR2 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." The architectural drawings do not label the proposed height; the proposed building height is, however, labeled on the site plan and on the application. The proposed building height is 14' 6", satisfying the district height requirements.

**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.

Dave Kresock of Stowe Electrical Department provided the following comments dated 2/21/2020:

*Project #6167 – Owner will need to submit line extension application if a new service (separate from the existing house service) is wanted for the new building.*

No other Municipal Department review forms were received.

**Conclusion:** The Board concludes the proposal, if constructed as approved, 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 the Applicant to submit a line extension application to the Stowe Electrical Department if the proposed building will have new electrical service separate from the existing house service.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to construct a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. No increases in traffic are proposed or expected.

**Conclusion:** The Board concludes the proposal will not increase in traffic on roads and 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 RR2 zoning district. The general purpose of the rural districts is as follows:

*(1) General Purposes:*

- A. To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.*
- B. To promote the preservation of adequate open space through carefully planned cluster types of development.*
- C. To encourage agricultural productivity of good farmlands and of forest resources.*
- D. To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.*

*(2) Specific Purposes in RR 1 and RR 2:*

- A. To allow a higher density closer to available municipal services while maintaining the quality of the neighborhoods.*

**Conclusion:** The Board concludes the proposal will not adversely affect the character of the area as defined under the Stowe Zoning Regulations (as adopted October 9, 2018).

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under the conditional use and design review provisions. 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 Stowe Zoning Regulations, as adopted October 9, 2018. No other known or identified municipal bylaws or ordinances apply to this project.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant proposes to construct a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. The proposed building is not expected to restrict 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 parcel is previously developed and contains a three (3) unit multi-family dwelling and related improvements. The parcel contains identified historic site (0808-82)- the historic Sunny Davis House. The project received positive recommendations from the Stowe Historic Preservation Commission on January 22, 2020. According to the ANR Natural Resources Atlas, the parcel does not contain mapped deer wintering areas, rare or endangered species, significant natural communities, or habitat blocks, it does however contain mapped prime agricultural soils.

**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 a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. The proposed accessory structure is not expected to generate any significant water or air pollution compared to other uses in the vicinity.

**Conclusion:** The Board concludes the project will not result in undue water, noise, or air pollution.

15. **Section 3.7(2)(B)(3) – Access Management:** The parcel contains frontage on Stowe Hollow Road- a town-maintained Class 2 highway. No changes to the existing driveway or curb cut are proposed under this application.

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

16. **Section 3.7(2)(B)(4) – Shared Access:** In appropriate instances, including the presence of compatible adjacent uses; areas characterized by congestion and frequent and/or unsafe turning movements; parcels having direct access to more than one public road; and within districts with specific access management standards, the Board may require provision for shared access between adjoining properties or may limit access to the property to a side street or secondary road. No changes to the existing driveway or curb cut are proposed under this application.

**Conclusion:** The Board concludes no changes to the existing 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 visibility of parking areas from off-site through the location, landscaping and screening of such areas. The Applicant proposes to construct a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. No additional parking is required under the regulations for this residential accessory structure. No changes to the existing number of parking spaces or parking configuration are proposed under this application.

**Conclusion:** The Board concludes the proposed structure does not require additional parking under the regulations. This provision does not apply.

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. Such access may take the form of sidewalks, walking and/or bicycle paths, or other facilities depending upon the property's location, site conditions and proximity to other facilities. The Applicant proposes to construct a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. The structure is proposed to be located directly north of the existing building.

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

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 Applicant proposes to construct a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. The parcel is previously developed and contains mature landscaping and trees. The Planting and Lighting Plan shows the location of new mulched planting beds and provides a planting schedule including white spruce and boxwood winter gem. No other plantings are proposed.

**Conclusion:** The Board concludes the proposed landscaping is appropriate for the intended use and site location.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant proposes to construct a 16' x 24' detached accessory structure to be used as a workshop/studio and storage. The accessory structure is not expected to change existing storm drainage patterns or significantly increase stormwater. Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction. The Applicant proposes an additional 384 sf of impervious surfaces.

**Conclusion:** The Board concludes, if constructed and maintained as approved, the proposed building will not cause an undue adverse impact on neighboring properties, town highways or surface waters. As a condition of approval, the Applicant will be required to follow the stormwater and erosion control standards as outlined in Section 3.12(2).

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the DRB 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 DRB 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.
- f. Additional RR Standards: Within the Rural Residential (RR) Districts the following is required:
  - i. Treatment of front yard and driveways for all conditional uses in the RR districts: A continuous strip not less than twenty (20') feet deep shall be maintained between the street line and the balance of the lot in all RR Districts, which strip shall be suitably landscaped. Only driveways and pedestrian walks

may traverse the required strip. Not more than fifty (50%) percent of the required front yard may be used for driveways and parking. No portion of the required front yard may be used for storage or for any purpose except as above provided. Exceptions to these standards may be granted by the DRB in cases involving pre-existing buildings and/or uses when undue hardship is likely to exist. Cases will be reviewed on an individual basis, taking into account the unique features/circumstances of a site while still providing proper landscaping.

**Conclusion:** The Board concludes the proposed site plan and architectural drawings satisfy the requirements of Section 3.7(2)(C)(1) and have been designed to reinforce the rural landscape of the district through contextual scale and orientation and reflects vernacular Vermont building styles. 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 RR2 district.

23. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the standards outlined in Section 4.8. The Applicant is proposing a residential accessory structure. Three (3) new light fixtures are proposed and are labeled as Fixture L1. The manufacturer cut-sheet for the light fixture was submitted. The bulb is noted as a 13 w LED design to emit 800 lumens.

**Conclusion:** The Board concludes the proposed outdoor lighting is in conformance with Section 4.8 and has been designed to minimize spill into the night sky and is appropriate for the intended use and site location. As a general condition of approval, the Applicant will be required to follow the outdoor lighting provisions.

24. **Design Review.** Pursuant to Section 10.5(12), the Stowe Historic Preservation Commission reviewed the proposed building elevations during their December 18, 2019 and January 22, 2020 meetings. The Commission voted to recommend approval of the building design and associated improvements as presented. A copy of the SHPC recommendation was provided by staff.

25. **Section 15 Parking Regulations.** – See discussion above.

#### **DECISION**

On a motion by C.Walton, seconded by A.Volansky, the Stowe Development Review Board hereby approves the proposal to construct an accessory structure and related improvements at 687 Stowe Hollow Road as outlined in the application dated 11/8/2019 and supplemental materials, subject to 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. Pursuant to Section 10.5(12), the Board accepts the recommendations of the Stowe Historic Preservation Commission as voted on during their January 22, 2020 meeting. The project shall be completed according to the plans submitted.
3. The Applicant must submit a line extension application to the Stowe Electrical Department if the proposed building will have new electrical service separate from the existing house service.

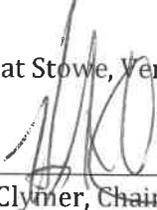
4. All outdoor lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.
5. Exterior lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150-watt incandescent bulb).
6. Landscaping shall be installed as shown in provided plans. Any dead and dying plants and trees shall be replaced within one (1) year of death.
7. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
8. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
9. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
10. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless in application materials include erosion control measures that are adequate to ensure compliance with (A), (B) and (C) as outlined in Section 3.12, taking into account winter and spring conditions.
11. All development shall provide for an adequate stormwater drainage system to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
12. 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.
13. 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 purposes of ascertaining compliance with the conditions of approval.

**Voting in favor:** Drew Clymer, Francis 'Paco' Aumand III, Chris Walton, Andrew Volansky, Tom Hand, Leigh Wasserman.

**Voting to deny:** None

Motion PASSED 6-0

Dated at Stowe, Vermont this the 14 day of March 2020

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.

