

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



**PROJECT:** 6177

**SUBJECT PROPERTY:** 57 Depot Street; #7A-144.30

**PROPERTY OWNER & APPLICANT:**

57 Depot Street LLC/John Steel  
PO Box 331  
Stowe, VT 05672

**APPLICATION:**

The Applicant, 57 Depot Street LLC/John Steel (herein referred to as the "Applicant"), requests conditional use and design review approval to demolish the existing historic building formerly containing the Depot Street Malt Shop, construct a new three-story mixed-use building (3,423 sf) containing commercial and residential uses, and dissolve the interior property lines separating 49 Depot Street, 21 Pond Street, and 57 Depot Street forming a common-interest ownership community. A twenty (20') foot wide storm drain easement is proposed between the proposed replacement building and the existing building located at 21 Pond Street.

The subject parcel is located at 57 Depot Street (#7A-144.30) on the corner of Depot and Pond Streets and contain lands within the Village Commercial 10 (VC10) zoning district and Stowe Historic Overlay District (SHOD). The subject parcel(s) are bound to the north by a ±0.26-acre parcel currently owned by Ampersand Properties LLC; to the east by a ±0.23-acre parcel currently owned by Lawrence & Margaret Lackey; to the south by Pond Street; and to the west by Depot Street. 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, design review, and demolition 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 57 Depot Street LLC/John Steel on January 6, 2020. 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 Stowe Development Review Board for a public hearing. A public hearing of the DRB was scheduled for March 17, 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 27, 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 17, 2020 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. Members who participated in the review included: Drew Clymer, Leigh Wasserman, Andrew Volansky, Tom Hand, Peter Roberts, and Mary Black.

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

- John Steel, PO Box 331, Stowe, VT 05672
- Milford Cushman, Cushman Design, PO Box 655, Stowe, VT 05672
- John Grenier, Grenier Engineering- PO Box 445, Waterbury, VT 05676
- Palmer Peet, 3350 D Street, Hayward, CA 94541
- Doug Viehmann, 284 South Union Street, Burlington, VT 05401

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

1. 57 Depot Street Presentation to the DRB (cover sheet), no date;
2. Table of Contents, no date;
3. Project narrative, no date;
4. Town of Stowe Zoning Application, dated 1/6/2020;
5. Existing conditions report prepared by Douglas Viehmann, AIA of Guillot-Vivian-Viehmann Architects Inc., dated 12/31/2019- includes multiple photographs of the interior and exterior of the building.
6. National Register nomination form, no date;
7. Manufacturer cut sheets including:
  - Anderson 100 Series Casement Windows
  - Anderson Single Hung Window
  - Thermal Sash (SDL) door;
  - Transom detail;
  - Photograph of outdoor light fixture;
8. John & Anne Steele- South, East, and North Elevations prepared by Cushman Design Group, Sheet A.1.3, dated 2/10/2020;
9. Architectural Design North Elevation, 57 Depot Street, 'Existing Building Overlay of Proposed Building' Sheet SKI, dated 2/18/2020;
10. Site Plan 'John H. Steel' prepared by Grenier Engineering, Sheet 1 of 2, dated 2/14/20;
11. Existing Encroachment 'John H. Steel' prepared by Grenier Engineering, Sheet 1 of 1, dated 2/18/20;
12. Proposed Encroachment 'John H. Steel' prepared by Grenier Engineering, Sheet 1 of 1, dated 2/18/20;
13. 57 Depot Street- Existing Site Plan 'John H. Steel' prepared by Grenier Engineering, Sheet 1 of 1, dated 1/9/19;
14. Floor plans (Main Level & 2<sup>nd</sup> Level) prepared by Cushman Design Group, Sheet A.1.1, dated 2/10/2020;
15. Floor plans (2<sup>rd</sup> Level) (also shows West A & West B Elevations) prepared by Cushman Design Group, Sheet A.1.2, dated 2/10/2020;
16. 57 Depot Street- Design Review Board [Process required to rebuild], dated 3/17/2020.

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
- Section 15- Parking Regulations

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

**1. Section 10.8 Demolition and Partial Demolition of Structures**

The Applicant requests design review approval to demolish the historic building located at 57 Depot Street. The parcel is located in the VC-10 Zoning District and the Stowe Historic Overlay District. As such, the building is protected under Section 10 of the town’s zoning regulations, as amended October 30, 2018. The proposed project requires review under the following sections of Section 10.5(10):

*“The demolition or relocation of a building or structure.”*

The Applicant requests demolition review under Section 10.8(1)(b) which states the following:

- b. The condition of the structure has deteriorated to such a degree that rehabilitation and use of the building is not feasible due to structural or building code issues. The structural or building code issues shall be significant enough to make rehabilitation not possible. For example, a building foundation cannot be repaired because it is not possible to jack up the building or interior ceiling heights are too low to meet code requirements and cannot be modified. It is the responsibility of the property owner to demonstrate to the SHPC and DRB’s satisfaction that rehabilitation is not feasible; or*

On January 8, 2020, the Stowe Historic Preservation Commission reviewed this application under Section 10 - Stowe Historic Overlay District and Historic Buildings. Members present for the final recommendation included Cindy McKechnie, Barbara Baraw, Sam Scofield, McKee MacDonald, and George Bambara.

The Commission based its findings on review of the following submitted information:

Existing conditions report prepared by Douglas Viehmann, AIA of Guillot-Vivian-Viehmann Architects Inc., dated 12/31/2019- includes multiple photographs of the interior and exterior of the building.

The Applicant provided a detailed existing conditions report prepared by Douglas Viehmann, AIA of Guillot-Vivian-Viehmann Architects Inc. The report outlines the existing condition of the building including floors, structural timber beams, foundations, framing, floor structure, roof structure, ADA, exterior conditions, etc. In the report Mr. Viehmann concludes that *“the cost of repairs required by code and deterioration are prohibitive and pose a financial hardship to the owner.”*

**Conclusion:** The Board accepts the recommendation of the Historic Preservation Commission and concludes the condition of the structure has deteriorated to such a degree that rehabilitation and use of the building is not feasible due to structural and building code issues. The Applicant provided sufficient and compelling enough documentation for the Board to satisfactorily find that rehabilitation is not possible given the existing condition of the building.

### **Dimensional Requirements:**

1. **Zoning District.** The parcel located at 57 Depot Street is within the Village Commercial 10 (VC10) zoning district and the Stowe Historic Overlay District (SHOD), as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The Applicant proposes to dissolve internal property lines resulting in a single parcel with a combined area of ±13,200. The proposed development will be located within the Village Commercial 10 (VC10) which requires a minimum lot area of 10,000 sf and 60 ft minimum lot width. With the exception of dissolving property lot lines, no other changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in the VC10 are front (10'), side (10') and rear (10'). 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 parcel contains frontage on Depot and Pond Streets, as such is considered a corner lot under the regulations. The required district setbacks are shown on the provided site plan prepared by Grenier Engineering (dated 2/14/20). The Applicant proposes to demolish the existing building and reconstruct a new mixed-use building within the general vicinity. Portions of the proposed building are located within the front 10' setback, as measured from Depot Street and Pond Street rights-of-way.

Section 3.9(2) addresses the expansion of lawful nonconforming structures and allows nonconforming structures to be enlarged up to 50% of the length of the existing nonconforming structure so long as the degree of nonconformance is not increased [*"A nonconforming structure that does not comply with established setback requirements may be altered, enlarged, relocated and/or replaced with a new structure or structures in a manner which does not achieve full compliance with the setback requirements of these regulations providing the degree of non-compliance is not increased except as provided below and no other setback requirements are infringed upon. In no case shall the length of cumulative total of all proposed and future expansions or alterations exceed 50% of the length of the existing nonconforming portion of the structure at the time the structure became nonconforming."*] The Applicant provided two (2) plans showing the existing versus proposed encroachment within the front setback. The existing encroachment includes approximately 521 sf within the setback and right-of-way. The proposed plan shows 208 sf within the front setbacks as measured from Depot Street and Pond Street rights-of-way. Under the proposed conditions, no portion of the proposed building will be located within the right-of-way. The existing building footprint is shown on each plan.

4. **Maximum Building Coverage.** The maximum building coverage in VC10 is 50%. The regulations define Building Coverage as follows: "*That portion of a site, expressed as a percentage, occupied by all buildings or structures, (not including public utility structures), that are roofed or otherwise covered and that extend more than three (3') feet above the surface ground level. The building roof overhang up to 6 feet in length is not included as part of the building coverage area.*" The Applicant provided the proposed building coverage equally 29%, satisfying the maximum building coverage for the VC10 district.
5. **Use.** The subject parcels contain an existing mixed-use building comprised of a former restaurant with residential use above. The Applicant requests approval to construct a mixed-use building containing three (3) dwelling units and first floor office/retail space. Multi-family dwellings, retail, and offices are conditional uses in the VC10 district.

As defined under the regulations office means "Office of any bank or financial institution, real estate, insurance, architectural, engineering, legal, medical or other recognized professions."

As defined under the regulations multi-family dwelling means "A building on a single lot containing more than two (2) dwelling units, each of which is totally separated from the other by an un-pierced wall extending from ground to roof or an un-pierced ceiling and floor extending from exterior wall, except for a common stairwell exterior to both dwelling units."

As defined under the regulations retail sales means "The delivery of goods and services by any business concerned with the sale, lease or rental of produce, products, equipment to the general public for personal or household consumption and the rendering of services incidental to the sale, lease or rental of such goods."

6. **Density.** Table 6.3 outlines the density for multi-family dwellings in the VC10 district as one (1) multi-family unit per 2,500 sf. As noted above, the Applicant proposes to dissolve internal property lines resulting in a combined area of ±13,200 sf. The building at 49 Depot Street contains office and one (1) dwelling unit. The building at 21 Pond Street contains existing office and storage uses. The proposed building is designed to contain first floor office/retail and three (3) residential dwelling units. A total of four (4) dwelling units are proposed on the ±13,200 sf modified parcel. The provided drawings indicate a total of 10,000 sf is required for four (4) units. The proposal is in conformance with the density requirements outlined in Table 6.3.
7. **Height.** The maximum building height in VC10 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 and application indicate a proposed building height of 27'. The Applicant confirmed the height of the building during the hearing.

**Conclusion:** The Board concludes the proposal meets all relevant use and dimensional standards for the VC-10 district and that the proposed building has been designed to decrease the degree of overall nonconformance.

**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 proposes to connect to municipal sewer and water services.

Dave Kresock of the Stowe Electrical Department provided the following comments:

*Project #6177 - Property owner's electrician should review load data with SED to determine if transformer upgrade is required.*

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.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to construct a mixed-use building containing office/retail on the first floor and three (3) dwelling units above. The estimated number of vehicle trips generated by the increased density was not provided.

**Conclusion:** The Board concludes the proposal 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 VC10 zoning district. As noted in the regulations, the purpose of the Village Commercial districts is as follows:

*(1) General Purpose:*

*The purpose of Village Commercial Districts is to promote the sound economic development of Stowe, to carry out the objectives of the Municipal Plan, to maintain Stowe Village as the center of community activity and to encourage the best use of land in central sections for general business.*

*(2) Specific Purposes"*

*VC 10: to maintain a denser pattern of development in the immediate center of the Village.*

**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 criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant proposes connecting to municipal sewer and water services under the Town's Sanitary Sewer Ordinance. 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. The Applicant will be required to obtain all necessary municipal water and sewer allocations, approvals, and connections. 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 mixed-use building containing three (3) dwelling units and related improvements. 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 Applicant proposes to demolish the existing building and construct a new mixed-use building in the general vicinity/prior footprint. The parcel is previously developed and is located in a historic village setting with nearby historic commercial and residential buildings. The project was reviewed on January 8,

2020, and January 22, 2020 by the Stowe Historic Preservation Commission who provided recommendations on the demolition and proposed building architectural design and materials. 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.

**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 demolish the existing building and construct a mixed-use building containing three (3) dwelling units and related improvements. The proposed building and related improvements are not expected to generate any significant water or air pollution compared to other uses in the vicinity. According to the ANR Natural Resources Atlas, the parcel does not contain mapped wetlands, surface waters, or hydric soils. The abutting property owner, Palmer Peet, provided written comments requesting construction related activity be limited to Monday-Friday 8:00 AM-6:00 PM.

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

15. **Section 3.7(2)(B)(3) - Access Management:** The parcel contains frontage on Depot Street and Pond Street. Pond and Depot Streets are Class 3 town highways. The Applicant proposes to utilize and expand an existing curb cut off Depot Street to develop a shared drive and parking area. Per Section 3.01(2) "*Access onto public highways is subject to the approval of the Director of Public Works, and for state highways, the Vermont Agency of Transportation.*" Any work within the town right-of-way, including the expanded curb cut, will require review and permit from the Department of Public Works.

**Conclusion:** The Board finds that the proposal provides adequate access management in accordance with Section 3.1. As a condition of approval, the Applicant is required to obtain approval from the Department of Public Works for any work within the town right-of-way.

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. As noted above, the Applicant proposes to utilize and expand an existing curb cut to develop a shared driveway and parking area.

**Conclusion:** The Board finds the proposed access improvements are appropriate for the existing and intended use.

17. **Section 3.7(2)(B)(5) - Circulation and Parking:** The regulations require that 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 proposes an improved shared access containing six (6) parking spaces and a dumpster area. The improved parking area will provide parking for 49 Depot Street and the proposed building at 57 Depot Street. The surface parking spaces are designed to be 9' x 18'. The travel aisle are designed to be 20' in width.

Section 15.3(3) creates the Village Parking District and establishes the VC-10 district as the Village Parking District. Section 15.3 states the following: "*In recognition of the historic character and*

relatively high density of the area, access to public transit and its “walking village” nature served by multiple use parking and public parking areas, the number of parking spaces required shall be fifty (50%) percent of the number required in Table 14.”

Building	Uses	Parking Requirement	Total Number of Parking Spaces Required	Total Number of Parking Spaces Required with 50%
49 Depot Street	1131 sf Office	1 parking space per 300 sf	4	2
	One (1) Dwelling Unit [DU]	2 parking spaces per DU	2	1
57 Depot Street	806.5 sf Office	1 parking space per 300 sf	3	1.5
	Three (3) Dwelling Units [DU]	2 parking spaces per DU	6	3
21 Pond Street	896 sf Office	1 parking space per 300 sf	3	1.5
			<b>9 Parking Spaces Required</b>	
			<b>12 Parking Spaces Proposed</b>	

During the hearing the Board discussed the parking spaces located partially on Pond Street and private property and determined that they are not required in order to meet the minimum parking requirements.

**Conclusion:** The Board finds the proposed circulation and parking improvements represents safe and adequate access and circulation for the intended use and have been designed to meet the required dimensional requirements for parking spaces and travel aisles, as well as the overall total required number of parking spaces under §15.2.

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 proposed Site Plan depicts three (3) new sidewalks along the northern side of the building connecting the proposed parking area to the building entrances. A new sidewalk is shown on the western side of the building connecting to an existing sidewalk on Depot Street.

**Conclusion:** The Board finds the proposed site layout, including pedestrian circulation and access, 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 provided site plan depicts the proposed landscaping. The provided planting schedule outlines the species type, common name, and size. The Applicant proposes three (3) trees [(1) thornless honey locust 2 ½” caliper; (2) autumn blaze maple 3” caliper], along with a planting bed of mixed perennials in mulched bed. The proposed landscaping is listed on the plan but not labeled. Section 4.6(3)(C)(1) provides the following general requirements: “Shade

*trees shall be of sufficient size to achieve the desired effect, but in no event shall they be smaller than 2.5" - 3.0" caliper (trunk diameter), measured at a height of five (5') feet, or, in the case of coniferous trees, a minimum of 8' - 10' in height. The DRB may require the planting of larger diameter trees upon consideration of the site conditions."*

The provided architectural drawings and site plan depict the location of exterior mechanical equipment to be on the western side of 21 Pond Street and two (2) AC units on the eastern end of the proposed building. The site plan notes a total of five (5) units with fencing. The proposed Site Plan shows the location of two (2) enclosed dumpsters on the eastern portion of the shared parking area. During the hearing the Applicant testified that the dumpsters will be enclosed with a painted wood fenced enclosure.

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

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant proposes to demolish the existing building and construct a new mixed-use building of office/retail and residential uses and related improvements. The existing condition includes ±7,189 sf of impervious surfaces. The proposed total impervious surfaces are ±8,221 sf- less than 0.5 acres. Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction.

The proposal involves a total of 1,032 sf of additional impervious surfaces which, unless requested by the Board under Section 3.7(2)(B)(8), does not trigger the requirement that a stormwater management plan prepared and sealed by a registered engineer prior to the issuance of a zoning permit. During the hearing, the Applicant discussed the proposed relocation of the existing stormdrain.

**Conclusion:** The Board concludes, if constructed and maintained as approved, the proposed improvements will not 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 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 MRV, MRC, VC, VR, MC and LVC Standards: Within the MRV, MRC, VC, VR, MC and LVC Districts, site plans shall re-enforce a compact development pattern defined by a pedestrian orientation, the functional and visual integration of neighboring properties, well defined streetscapes and a mix of uses. To help achieve these objectives, the following standards shall apply:
  - a. Driveways and Road Edge Treatment: The Board shall require curbing or other appropriate treatment along all road frontage(s) and to define driveway entrances. Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
  - b. Front Yard Treatment: Required front yards shall be limited to landscaping and yard area, sidewalks and public spaces and shall not be used for parking or outdoor storage. 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. Parking: Parking shall be designed to re-enforce an internal street network by maximizing the use of parallel or diagonal parking on internal driveways and streets.
- d. Pedestrian Circulation and Sidewalks: Adequate provision for pedestrian circulation within the site, and for pedestrian access to adjacent properties, shall be required. In addition to internal pedestrian circulation, all site plans shall be designed in a manner, which allows a minimum five feet (5') wide sidewalk along all frontage roads.
- e. Internal Road Network and Traffic Mitigation: Site plans shall be designed in a manner that facilitates the development of an interconnected network of village streets. In instances where a connector ("side") street is deemed appropriate, internal driveways shall be designed as side streets, shall be separated from parking areas with curbing, sidewalks, landscaping, buildings or other physical features, and shall be configured to provide access to adjacent properties. In instances where driveways will not touch upon adjacent properties, a condition of site plan approval may be the establishment of a right-of-way to provide access to and through adjacent properties; in instances where such access has been provided on adjacent properties as part of a prior permit condition, the DRB may require the applicant to connect to the existing driveway (side street).
- f. Orientation of buildings within the site: Buildings shall define a streetscape through a consistent building line and setbacks. Buildings shall front towards and relate to public streets, both functionally and visually, and shall not be oriented toward a parking lot. The Board may impose a maximum setback to achieve a consistent streetscape. The front elevation shall include a main entryway, pedestrian access and appropriate front-yard landscaping. Drive-thru lanes and drive-up windows, where allowed, shall be located in the rear of buildings. Buildings may be clustered around a common focal point, such as a green or public courtyard, providing that an appropriate visual and functional relationship with public roads is maintained.

**Conclusion:** The Board finds the proposed site plan and architectural drawings satisfy the requirements of Section 3.7(2)(C)(1) and have been designed re-enforce a compact development pattern defined by a pedestrian orientation, and the functional and visual integration of neighboring properties and public roads. 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 VC district.

22. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting be installed in accordance with the standards outlined in Section 4.8. The Applicant physically brought the proposed light fixture to the hearing and testified that a frosted candle bulb would be installed within the fixture. A total of six (6) outdoor light fixtures are proposed to be mounted on the building. Two (2) fixtures are proposed on either side of the western façade entrance and a single fixture is proposed near each of the four (4) entrances on the northern building elevation. The placement of the outdoor lighting is shown on the architectural drawings.

**Conclusion:** The Board concludes the proposed outdoor lighting is appropriate for the intended use and site location. As a condition of approval, the Applicant will be required to follow the general outdoor lighting conditions.

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

24. **Design Review.** Pursuant to Section 10.5(12), the Stowe Historic Preservation Commission reviewed the proposed demolition and building elevations and associated improvements during their January 8, 2020, and January 22, 2020 meetings and voted to approve the building elevations and the demolition of the structure. A copy of the SHPC recommendation was provided by staff. [See also 2/26/2020 SHPC minutes regarding minor changes to architectural design].

### **DECISION**

On a motion by T.Hand, seconded by A.Volansky, the Development Review Board hereby approves (6-0) the proposal to demolish the existing historic building and to construct a mixed-use building and related improvements as outlined in the application dated 1/6/2020 and supplemental materials, subject to the following conditions of approval:

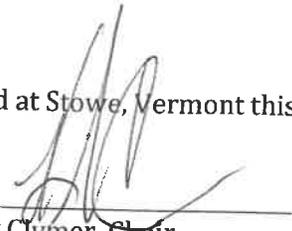
1. This project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted 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 8, 2020, and January 22, 2020 meetings. With the exception of the modified outdoor light fixture, the project shall be completed according to the plans submitted and hereby approved.
3. Prior to the issuance of a zoning permit, the Applicant shall submit with the following revised documents:
  - A revised site plan labeling the approximate location of the property line to be dissolved and the ADA parking space(s);
  - Provide a cut-sheet or material description of proposed dumpster enclosure;
  - A photograph of the proposed outdoor light fixture.
4. Prior to demolition, the Applicant shall submit to the Zoning Administrator current photographs showing all four (4) sides of the building.
5. All demolition shall be completed with 30 days of commencement and, at a minimum, completion shall include: (1) All structural materials and debris shall be removed from the site; (2) The site shall be restored to a natural grade; (3) Any remaining foundation opening(s) shall be fenced or otherwise secured.
6. The Applicant must obtain a Driveway Entrance and/or Road Opening/Right of Way Encroachment Permit from Stowe Department of Public Works prior to commencing any work within the town highway right-of-way.
7. The Applicant shall obtain all necessary municipal water and sewer allocations, approvals, and connections. Final plans, details, and technical specifications for proposed Water and Sewer Connections shall be approved by the Department of Public Works prior to issuance of Water/Sewer Connection permits.
8. The Applicant must review load data with Stowe Electrical Department to determine if transformer upgrade is required.

9. Noise related demolition and construction hours shall be limited to Monday-Friday from 8:00 am-6:00 pm.
10. No parking space shall be used for any purpose that interferes with its availability for required parking, including but not limited to the location of trash or recycling dumpsters.
11. All parking surfaces shall be constructed so as to eliminate standing water and the discharge of storm water onto adjacent property, sidewalks or streets.
12. The driveway access shall be properly maintained, including snow removal in winter, to provide emergency vehicle access at all times.
13. 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 the property.
14. Exterior lighting fixtures shall not exceed 2,000 lumens (equivalent to a 150-watt incandescent bulb).
15. Landscaping shall be installed as shown in provided plans prepared by Grenier Engineering, last revised 2/14/20 (amended herein). Any dead and dying plants and trees as shown on said plan shall be replaced within one (1) year of death.
16. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
17. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
18. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
19. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless erosion control measures are followed that are adequate to ensure compliance with (A), (B) and (C) as outlined in Section 3.12, taking into account winter and spring conditions.
20. The Applicant must 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.
21. 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. Prior to the issuance of Certificate of Occupancy, the Applicant shall submit the following:
  - Reasonable proof as required under Section 2.10(1) that the building has been constructed in the approved location;
  - Record in the town land records a merged deed or other legal mechanism combining the parcels;
  - Documentation that all necessary allocation and connection permits have been obtained from the Department of Public Works; and
  - A 20' easement centered on the relocated stormwater drain must be dedicated to the Town, approved by the Select Board, and recorded in the town land records.
22. 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 favor: Drew Clymer, Leigh Wasserman, Andrew Volansky, Tom Hand, Peter Roberts, and Mary Black.

Voting to deny: None

Dated at Stowe, Vermont this the 26 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.

