

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



**PROJECT:** 6185

**SUBJECT PROPERTY:** 17 Town Farm Lane; #07-004.000

**PROPERTY OWNER:**

Marc Chretien  
3639 36<sup>th</sup> Road  
N. Arlington, VA 22207

**APPLICANT:**

Dan Snyder (Stowe Cider)  
17 Town Farm Lane  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Dan Snyder of Stowe Cider, on behalf of property owner Marc Chretien (herein referred to as the "Applicant"), requests approval to expand the existing approved cider production/retail/taproom into the adjacent vacant space formerly occupied by the West Branch Gallery (retail). The Applicant proposes to expand the offerings to include a private rental space for special events. The Applicant received approval from the Development Review Board in 2016 under Project 5468 for the existing cider production facility and related operations.

The subject parcel, consisting of ±3.1 acres and located at 17 Town Farm Lane (# 07-004.000), is in the Highway Tourist (HT) Zoning District, Source Protection Overlay District, Flood Hazard Overlay District (portions), and contains an existing commercial building currently occupied by the Applicant Stowe Cider with attached vacant space. The subject parcel is generally bound to the north by property currently owned by Stowe Country Club LLC, to the west by a parcel currently owned by Nail LLC containing the Rusty Nail, to the south by Town Farm Lane, and to the east by property currently owned by Ronald & Lisa Mashaal (99 Town Farm Lane). 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 amended 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 amended conditional use review was filed by Applicant Dan Snyder on January 20, 2020. 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 February 18, 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 January 30, 2020. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened February 18, 2020 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No other ex parte communications or conflicts of interests were reported. Members who participated in the review included: D. Clymer, A. Volansky, L. Wasserman, T. Hand, F. Aumand III, and M. Diender.

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

- Dan Snyder-Stowe Cider, 17 Town Farm Lane, Stowe, VT 05672
- Mark Ray- Stowe Cider, 17 Town Farm Lane, Stowe, VT 05672
- John Grenier, PO Box 445, Waterbury, VT 05676

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

1. Town of Stowe Development Application, received 1/20/2020;
2. Project narrative, no date;
3. VTrans jurisdictional opinion regarding §1111 permit, dated 2/5/2020;
4. Previously approved Site Plan prepared by North American Consulting Group Limited 'Stowe Cider Patio Project' [last dated 7/7/95];
5. Prior Stowe Cider DRB decision Project 5468 (staff);
6. Main Level Floor Plan 'Stowe Cider' Sheet A1, prepared by Tektonika, dated 11/26/2019;
7. Shared parking agreement as recorded in V. 886, Page 048 (staff);

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

**FINDINGS OF FACT & CONCLUSIONS OF LAW:** The Applicant's request for conditional use approval was reviewed by the 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 7- Flood Hazard Overlay District
- Section 12- Source Protection Overlay District
- Section 15- Parking Regulations

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

1. **Zoning District.** The subject parcel contains ±3.1 acres with direct access to the Town Farm Lane, a privately owned and maintained road. The parcel is located in the Highway Tourist (HT) Zoning District and Source Protection Overlay District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). Rear portions of the parcel are also within the Flood Hazard Overlay District (FHO); no development is proposed within the FHO.
2. **Lot Area, Lot Width.** The ±3.1-acre parcel is located in the HT district, requiring a minimum lot area of one (1) acre. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in the HT district are front (50'), side (50') and rear (50'). The existing building is entirely within the HT district. No changes to the building footprint are proposed.
4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. No changes in building coverage are proposed under this application.

5. **Use.** The subject building contains commercial uses including Stowe Cider and the former West Branch Gallery. Under Project 5468, the Board approved Stowe Cider as a light manufacturing facility with 800 sf of retail use. The Applicant proposes to expand the existing approved cider production/retail/taproom into the adjacent vacant space formerly occupied by the West Branch Gallery (retail). The Applicant proposes to expand the offerings to include a private rental space for special events. As noted in the project narrative, the additional space consists of 394 sf of office, 690 sf meeting space/staff break area, 272 sf of storage, and 2150 sf of event space/additional overflow area for the tasting/taproom.

Special event space is not listed in Section 6- Table of Uses. Per Section 6.2 *"In addition to the permitted and conditional uses listed on Table 6.1, the DRB may approve any use which it finds to be similar to a use permitted in the district in its effect upon the character of the vicinity, traffic patterns and flows and in its effect on the value of neighboring properties."* During the hearing the Board discussed the proposed use. The Applicant testified that they are not proposing any changes in production capacity and that the additional space will primarily be used for taproom overflow but will also be available for private party/event rental. The Applicant's Engineer testified that the former West Branch Gallery used the space for similar purposes and uses. The Board finds the Applicant proposes to expand an existing use and add a special event area. The proposal is similar to other uses in the district in its effect upon the character of the vicinity, traffic patterns and flows and the value of neighboring properties.

6. **Density.** No changes or increases in density are proposed.
7. **Height.** The maximum building height in HT 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."* 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:

8. **Section 3.7(2)(A)(1) – 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. No Municipal Department review forms returned indicated that the proposed development 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.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to expand the existing approved cider production/retail/taproom into the adjacent vacant space formerly occupied by the West Branch Gallery (retail). The Applicant proposes to expand the offerings to include a private rental space for special events. During the hearing the Applicant testified that they are not expecting an increase in the number vehicle trips.

**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 HT zoning district. The purpose of the HT district is *“To control development along the portion of the “lower” Mountain Road between designated growths centers in a manner that encourages continued moderate-density commercial and residential land uses while maintaining high quality development and site design.”*

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

11. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under applicable Conditional Use criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The proposal will require additional water and sewer allocation. No other known municipal bylaws or ordinances apply to this project.

**Conclusion:** The Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018. As a condition of approval, the Applicant will be required to obtain and secure proper municipal water and sewer for the proposal.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant proposes a change of use/expansion of use. No changes to the approved site plan or building are proposed under this application. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

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

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

13. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The Applicant proposes a change of use/expansion of use. No changes to the approved site plan or building are proposed under this application. The site is previously developed and contains existing commercial buildings and related improvements.

**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 proposes a change of use/expansion of use. No changes to the approved site plan or building are proposed under this application. During the hearing the Applicant testified that the outdoor sculpture gallery will be available for special event guests and that any outdoor use of the grounds and/or outdoor music will end no later than 10:00 pm.

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

15. **Section 3.7(2)(B)(3) –Access Management:** The parcel is served by Town Farm Lane with indirect access to Mountain Road (VT-108), a state-maintained highway. No expansions or

improvements to the existing curb cut are proposed under this application. 24 VSA §4416 requires proposals involving access to a state highway provide a letter of intent from the Agency of Transportation confirming that the Agency has reviewed the proposed site plan and is prepared to issue an access permit under 19 VSA §1111. Staff referred the application to VT Agency of Transportation (VTrans) on January 24, 2020 to inquire whether an §1111 permit is required. Ed Pierce, Permit Coordinator with the Vermont Agency of Transportation responded on January 30, 2020 that the project would not require a §1111 permit but would be reviewed under Act 250. A copy of the VTrans jurisdictional opinion was submitted for the record.

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

16. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Town Farm Lane. The parcel contains a commercial building currently occupied by Stowe Cider and formerly by the West Branch Gallery. No changes are proposed to the existing shared access.

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

17. **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 proposes an expansion of use utilizing the existing parking area. The parking area is shared by other nearby users including the Rusty Nail. No changes to the number or location of parking spaces or circulation patterns are proposed under this application. The previously approved site plan allocates thirty-one (31) parking spaces for the “Curtis and Post” space (i.e. West Branch Gallery building.)

Under Table 15.2 ‘Assembly Halls’/‘Nightclubs’ require one (1) parking space for every three (3) seats or participants plus one (1) space for each person employed at peak times. In the Applicant’s project narrative, the Applicant requests approval of no more than one hundred (100) persons.

The parking area serving the subject building is shared with the Rusty Nail and operates under a previously approved shared parking agreement presented during the reconstruction of the Rusty Nail. The Board’s decision approving Stowe Cider’s original application (Project 5468) acknowledges the shared parking arrangement and unique usage with the Rusty Nail’s peak parking need in the evening and the West Branch Gallery’s peak parking need during the day. During the hearing the Board noted that the proposed special events would likely take place in the evening hours opposite of traditional cider production time, allowing for shared use of the parking area. The Applicant testified that during special events only several employees will be at the facility and the maximum capacity for special events will be no more than one hundred (100) persons. The Applicant testified that the facility is located on the Stowe Rec Path, public transit route, and near existing lodging facilities.

Section 15.3(2) provides the DRB authority to reduce the parking requirements when unique usage or special conditions exists including proximity to lodging facilities and for buildings with multiple uses. In the Applicant’s project narrative, it requests any needed parking relief under Section 15.3(2) given the property’s proximity to the Stowe Rec Path, public bus routes, and existing lodging facilities. During the hearing the Board reviewed the existing parking improvements and agreed sufficient parking exists to serve the proposed expanded use but requested that the

Applicant provide a revised site plan with updated property ownership information and list the individual parking requirements for each of the existing and proposed uses.

**Conclusion:** The Board finds that the subject building is located on the Stowe Rec Path which provides pedestrian and bicycle connectivity from nearby lodging facilities to the subject building. The building is also on a public transit route and shares a parking area with the adjacent parcel. As allowed under Section 15.3(2), the Board finds that unique usages and special conditions exists and agrees to reduce the parking requirement given the buildings location to existing lodging facilities, connection by pedestrians and bicyclists, and proximity to public transit routes. The Board concludes sufficient parking exists to support the proposed expanded use.

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. No changes to existing pedestrian circulation or access improvements are proposed under this application. The Applicant proposes a change of use/expansion of use. No changes to the approved site plan or building are proposed under this application.

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

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. No changes to the existing landscaping are proposed under this application.

**Conclusion:** The Board concludes that no changes to the existing landscaping and screening are proposed under this application.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant proposes a change of use/expansion of use. No changes to the approved site plan or building are proposed under this application. No increases in additional impervious surfaces or changes to existing drainage patterns are proposed.

**Conclusion:** The Board concludes no increases in additional impervious surfaces or changes to existing drainage patterns are proposed.

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the Board 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 Board 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 these 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.
- d. Additional HT Standards: In addition to the conditional use criteria of these regulations, the DRB shall find that proposed development is designed in a manner that promotes an overall high quality of design and construction and, where appropriate, incorporates traditional building materials.

**Conclusion:** The Board concludes no site plan improvements or exterior building alterations are proposed under this application. Does not apply.

#### **Section 4: Specific Use Standards**

22. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the Section 4.8(A-C). When reviewing lighting plans pursuant to Section 4.8, 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 will consider the guidelines outlined in Section 4.8(2)(A-F). No changes are proposed to the existing outdoor lighting.

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

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

#### **DECISION**

On a motion by F.Aumand III, seconded by M. Diender, the Stowe Development Review Board hereby approves (6-0) Project 6185 based upon the foregoing Findings of Fact and concludes the proposal as presented in application dated 1/20/2020 and supporting materials meets the Stowe Zoning Regulations, as adopted on October 9, 2018, 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 conditions of previous approvals, except as amended herein, remain in full force and effect.
3. Prior to the issuance of the zoning permit, the Applicant must submit a revised site plan with updated property ownership and a table listing each of the existing and proposed uses and relative parking requirements.
4. The special events space shall be limited to no more than one hundred (100) persons.
5. The Applicant must obtain any necessary additional municipal water and sewer for the project.
6. No amplified music shall be audible at the property line beyond 10:00 PM.
7. 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.
8. 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.

Voting favor: D. Clymer, A. Volansky, L. Wasserman, T. Hand, F.Aumand III, M.Diender

Voting to deny: None

Recused: None

Dated at Stowe, Vermont this the 3 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.