



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

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Any conditions of approval required to issue a zoning permit have been met and your zoning permit will be issued without any further action required from you.

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

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**APPLICATION INFORMATION**

**Project Number** 6203  
**Application Date** 2/28/2020  
**Physical Location** 34 PARK ST  
**Map ID** 7A-150.000 **Tax ID** 02150  
**Project Description** CHANGE OF USE; ADD SEASONAL RETAIL ITALIAN ICE SHOP IN FIRST FLOOR OF REAR OUTBUILDING  
**Owner** CASSANDRA & JON ANNELLO  
**Applicant** CASSANDRA & JON ANNELLO  
**Applicant Address** PO BOX 1115  
STOWE VT 05672

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**APPROVALS ON RECORD**

<b>Action Taken</b>	<b>Date</b>	<b>End of Appeal Period</b>	<b>Expiration Date</b>
DRB DECISION	5/19/2020	6/18/2020	6/18/2022

*Sarah McShane*

Zoning Office



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



**PROJECT:** 6203

**SUBJECT PROPERTY:** 34 Park Street; #7A-150.00

**PROPERTY OWNER & APPLICANT:**

Cassandra & Jon Anello  
PO Box 1115  
Stowe, VT 05672

**APPLICATION:**

The Applicant Cassandra & Jon Anello (herein referred to as the “Applicant”), requests conditional use approval to change the use of the first floor space of the rear outbuilding to retail (seasonal carry-out Italian ice shop) and design review approval for exterior alterations to the first floor windows to support the proposed use. The Applicant estimates the Italian Ice Shop will employ two (2) to four (4) employees total. The property currently contains a single-family dwelling and related improvements but has historically been used for commercial purposes. Staff referred the application to the Board upon determining that the proposal did not qualify as a ‘Home Occupation’ as regulated under Section 4.4. The Applicant is also requesting a parking modification under Section 15.3, given the proximity of the intended use to public parking areas and on-street parking.

The subject parcel is located at 34 Park Street (#7A-150.00) within the Village Commercial 10 (VC10) zoning district and Stowe Historic Overlay District (SHOD). The subject parcel is bound to the north by a ±0.27-acre parcel currently owned by 86 Main Street Partnership [86 Main Street]; to the east by Park Street; to the south by ±0.23-acre parcel currently owned Lawrence F & Margaret A. Lackey [56 Park Street] and by a ±0.21-acre parcel currently owned John H. Steel Revocable Trust [49 Depot Street]; and to the west by a ±0.26-acre parcel currently owned Ampersand Properties LLC [37 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 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 Cassandra & Jon Anello on February 20, 2020. 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 April 7, 2020 and warned by the Zoning Director in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The original hearing notice was published in the Stowe Reporter on March 19, 2020.

The April 7<sup>th</sup> meeting was subsequently canceled due to the COVID-19 Declared State of Emergency and the ‘Stay Home, Stay Safe’ order of the Governor. The application was subsequently rescheduled for a hearing on May 5, 2020 and re-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 April 16, 2020. The Applicant submitted a new completed certificate of service in accordance with Section 2.14(1)(B), providing notice of the rescheduled hearing to the property abutters.

The virtual public hearing to consider the application convened on May 5, 2020 with a quorum of the Board present. The remote hearing was held utilizing 'Go To Meeting' with no physical meeting space to attend. 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, Leigh Wasserman, Peter Roberts, and Tom Hand.

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

- Cassie Anello, PO Box 1115, Stowe, VT 05672

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

1. Town of Stowe Zoning Application, dated 2/20/2020;
2. Basic sketch of proposed floor plan, no date;
3. Hours of operation, employee description, no date;
4. Photos (two pages) of proposed window insert, no date;
5. Hand sketch of proposed window alterations, etc.; no date;
6. Photos (3 pages) of existing dwelling and yard, no date;
7. HPC recommendation, dated 4/13/2020;
8. Comments from Dave Kresock of Stowe Electrical Department, dated 4/15/2020.

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. **Zoning District.** The parcel located at 34 Park 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.** No 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."* No changes to setbacks are proposed under this application.
4. **Maximum Building Coverage.** No changes to building footprint or maximum building coverage are proposed under this application.
5. **Use.** The subject parcel contains an existing single-family dwelling and related improvements. The Applicant proposes to convert the first floor of the rear outbuilding into a carry-out retail Italian ice shop. Retail sales is a conditional use in the VC-10 district. Retail sales is defined as *'16.130 Retail Sales: 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.'*

Section 4.4 allows for home occupations in association with single-family dwellings. Under the regulations 'Home Occupation' means *"A use or occupation that is customary in residential areas and is carried on in a minor portion of a dwelling or a building accessory thereto, provided that such use is clearly incidental and subordinate to the use of the premises as a residence and does not change the residential character of the area."* (See Section 4.4. for Home Occupation standards.) The Zoning Administrator referred the application to the Board upon determining the proposal was not eligible for administrative review as a home occupation.

6. **Density.** No change in density is proposed under this application.
7. **Height.** No change in density is 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. The existing dwelling is connected to municipal sewer and water services. Additional water and sewer allocation will likely be needed to support the requested use.

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

*"Project #6203 - No SED Impact"*

No other Municipal Department review forms were received.

**Conclusion:** The Board concludes the proposal, if completed 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 secure any necessary additional municipal water and sewer allocation.

9. **Section 3.7(2)(A)(2) - Traffic on roads and highways in the vicinity:** The Applicant seeks approval to change the use of the first floor space of the rear outbuilding to retail (seasonal carry-out Italian ice

shop) and design review approval for exterior alterations to the first floor windows to support the proposed use. The estimated number of vehicle trips generated by the proposal was not provided, however the project is not expected to create an adverse impact on traffic on roads and highways in the vicinity. The parcel is located in the village center amongst a dense area of mixed residential and commercial uses. The Applicant expects the Italian ice shop will primarily draw foot traffic and noted that the street is closed to vehicular traffic during Art on Park.

**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 as a Conditional Use. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. The Applicant proposes utilizing 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 any 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 seeks approval to change the use of the first floor space of the rear outbuilding to retail (seasonal carry-out Italian ice shop) and design review approval for exterior alterations to the first floor windows to support the proposed use. No changes to building footprint or height are proposed under this application. The project 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 seeks approval to change the use of the first-floor space of the rear outbuilding to retail (seasonal carry-out Italian ice shop) and design review approval for exterior alterations to the first-floor windows to

support the proposed use. 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 April 8, 2020, by the Stowe Historic Preservation Commission who provided positive recommendations on the proposed window alteration.

**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 change the use of the first-floor space of the rear outbuilding to retail (seasonal carry-out Italian ice shop) and design review approval for exterior alterations to the first-floor windows to support the proposed use. The proposal is 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. Proposed hours of operation and days of operation are Wed-Sunday 11:30 AM-7:00 PM with extended Thursday hours in July and August from 11:30 AM-8:00 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 Park Street with an existing curb cut and driveway. No changes to the existing access improvements are proposed under this application. Does not apply.

**Conclusion:** Does not apply.

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 access improvements are proposed under this application. The existing access is not shared with other users. Does not apply.

**Conclusion:** Does not apply.

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 parcel is previously developed and contains a single-family dwelling, related improvements, and existing parking to the rear of the dwelling. The Applicant is not proposing to utilize the existing parking for customers rather reserve the existing parking solely for the primary use of the lot, the single-family dwelling. The Applicant is requesting a parking modification under Section 15.3, given the proximity of the intended use to public parking areas and on-street parking. During the hearing the Applicant noted that her three children are expected to be on the only employees needed.

Table 15.2 outlines the minimum parking requirements. Retail Stores are noted as requiring one (1) parking space per 300 sf of gross floor area. The approximate gross floor area is 175 sf.

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.” Under the regulations, the proposed use requires ±0.5 parking spaces. Although not explicitly set forth in the regulations, it is assumed any required parking spaces should be rounded to the next whole number.*

Section 15.3(2) provides the DRB authority to reduce the parking requirements when unique usage or special conditions exists including proximity of the intended use to public parking areas and/or on-street parking. The subject property contains frontage on Park Street. Park Street allows for on-street parking on the east side of the road. Public parking areas are located near the elementary school, to the rear of the Green Mountain Inn, and at the Rec Path/municipal parking area behind the Town Office.

**Conclusion:** As allowed under Section 15.3(2), the Board concludes that unique usages and special conditions exists and agrees to reduce the parking requirement given the parcel’s proximity to public parking areas and available on-street parking.

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. Park Street contains an existing sidewalk. The area in front of the rear outbuilding is a grassed yard. During the hearing the Board inquired whether the Applicant is considering a path or other ADA improvements to accommodate pedestrian circulation within the site connecting to the public sidewalk. The Board acknowledged that ADA compliance is not under their jurisdiction but noted that it may be required under other state permits. The Applicant testified that the grassy area in front of the building is flat and in the future she may consider additional improvements.

**Conclusion:** The Board finds there is 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 site contains existing mature landscaping, no changes are proposed under this application.

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

20. **Section 3.7(2)(B)(8) – Stormwater Management:** No construction, earth disturbing activities, or increases in impervious surfaces are proposed under this application.

**Conclusion:** Does not apply.

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 parcel is previously developed. Does not apply.

22. **Section 4.8 Outdoor Lighting.** No changes to outdoor lighting are proposed under this application. During the hearing the Applicant testified that she expects the shop will be closed by dark therefore not requiring any additional outdoor lighting.

**Conclusion:** Does not apply.

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 window alteration during their April 8, 2020 meeting and voted to approve the alterations with the following condition: “*The temporary window insert shall not be installed before May 15th and must be removed no later than October 1st.*” A copy of the SHPC recommendation was provided and entered into the record.

**DECISION**

On a motion by F. Aumand III, seconded by A. Volansky, the Stowe Development Review Board hereby approves (7-0) the proposal as outlined in the application dated 2/20/20 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 April 8, 2020 meeting. The project shall be completed according to the plans submitted and hereby approved.
3. The temporary window insert shall not be installed before May 15th and must be removed no later than October 1st.
4. The Applicant shall obtain all necessary municipal water and sewer allocations, approvals, and connections from the Department of Public Works.
5. Hours of operation shall be limited to Wednesday-Sunday 11:30 AM-7:00 PM with extended Thursday hours in July and August from 11:30 AM-8:00 PM.
6. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that is has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
7. 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: D.Clymer, T. Hand, P.Aumand, C.Walton, A. Volansky, L.Wasserman, P. Roberts

Voting to deny: None

The motion PASSES, 7-0.

Dated at Stowe, Vermont this the 19 day of May 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.

