



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

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

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

APPLICATION INFORMATION

Project Number 6204
Application Date 2/28/2020
Physical Location 876 MOUNTAIN RD
Map ID 07-021.000 Tax ID 25007
Project Description CONSTRUCT 5,400 SF SINGLE STORY RECREATION AND STORAGE BUILDING
Owner HOTEL SPORTIVA STOWE LLC C/O EDWIN BITTER
Applicant HOTEL SPORTIVA STOWE LLC
Applicant Address 876 MOUNTAIN ROAD
STOWE VT 05672

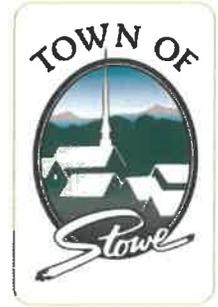
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date	
OTHER	4/7/2020			ORIGINALLY WARNED FOR 4/7
DRB DECISION	6/16/2020	7/16/2020	7/16/2022	

Sarah McShane

Zoning Office

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



PROJECT: 6204

PROPERTY: 876 Mountain Road; #07-021.000

APPLICANT/PROPERTY OWNER:

Hotel Sportiva Stowe dba Town & Country
876 Mountain Road
Stowe, VT 05672

APPLICATION:

The Applicant, Edwin Bitter on behalf of Hotel Sportiva Stowe [d/b/a Town & Country] (herein referred to as the "Applicant"), requests approval to construct a 5,400 sf [45' x 120'] single-story timber frame barn for recreation and storage use on the site of the existing tennis court. The subject parcel [#07-021.000] is located at 876 Mountain Road and commonly known as the Town & Country Inn. The parcel is located within the Highway Tourist (HT) zoning district with rear portions of the lot also within the Flood Hazard Overlay District (FHOD) and the Fluvial Erosion Hazard Overlay District. No development is proposed within the FHOD or the Fluvial Erosion Hazard Overlay District. The parcel contains approximately ±9.5 acres and includes a lodging facility and related accessory uses and structures. The property is served by Mountain Road (VT-108), a state-maintained highway. The application has been reviewed by the Stowe Development Review Board (DRB) for the purposes of conditional use review under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018). 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 review was filed by Applicant E.W. Bitter on February 13, 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 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 hearing notice was published in the Stowe Reporter on March 19, 2020 and posted at the Library, Town Office, and Police Station.

The April 7th meeting was canceled due to the COVID-19 Declared State of Emergency and the 'Stay Home, Stay Safe' order. The application was subsequently rescheduled for a hearing on May 19th 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 30, 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 19th at 5:00 PM with a quorum of the DRB present. The remote hearing was held utilizing 'Go To Meeting' with no physical meeting space provided. No ex parte communications or conflicts of interests were reported. Board members in attendance and participating in the review included Francis Aumand, Drew Clymer, Peter Roberts, Chris Walton, Andrew Volansky, Leigh Wasserman, 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:

- Applicant, Edwin Bitter, 876 Mountain Road, Stowe, VT 05672

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

- Town of Stowe Development Application (2 pages); dated 1/28/2020;
- Town and Country Indoor Recreation Facility-Overall First Floorplan, Sheet A-5, prepared by Josephs Architects, dated 02/07/2020;
- Town and Country Indoor Recreation Facility-Roof Plan & Details, Sheet A-6, prepared by Josephs Architects, dated 02/07/2020;
- Town and Country Indoor Recreation Facility-Exterior Building Elevations, Sheet A-8, prepared by Josephs Architects, dated 02/07/2020;
- Town and Country Indoor Recreation Facility-Existing Site Improvements Plan, Sheet C-1, prepared by Josephs Architects, dated 02/12/2020;
- Town and Country Indoor Recreation Facility-Proposed Site Conditions Plan, Sheet C-2, prepared by Josephs Architects, dated 02/12/2020;
- David Kresock of Stowe Electrical Department Re: Municipal Impact of DRB Projects.
- Jurisdictional Opinion from VTrans, dated 3/5/2020;
- Comments from Fire Chief, Kyle Walker, (email), dated 5/1/2020 (9:39 pm);
- Comments from DPW Director Harry Shepard (email), dated 5/4/2020 (7:03 pm);

During the 5/19 hearing the Board requested additional information and continued the hearing to a time and date certain, June 2nd at 5:00 pm. The Applicant provided the following additional submittals:

- Town and Country Indoor Recreation Facility-Existing Site Conditions Plan, Sheet C-1, prepared by Josephs Architects, dated 04/13/2020;
- Town and Country Indoor Recreation Facility-Proposed Site Conditions Plan, Sheet C-2, prepared by Josephs Architects, dated 05/22/2020;
- Town and Country Indoor Recreation Facility-Overall First Floorplan, Sheet A-5, prepared by Josephs Architects, dated 05/05/2020;
- Town and Country Indoor Recreation Facility-North & West Building Elevations, Sheet A-8, prepared by Josephs Architects, dated 5/26/2020;
- Town and Country Indoor Recreation Facility-South & East Building Elevations, Sheet A-8, prepared by Josephs Architects, dated 5/26/2020;

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 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 15- Parking Regulations

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

Dimensional Requirements:

1. **Zoning District.** The subject parcel contains ±9.5 acres with direct access to the Mountain Road. The parcel is located within the Highway Tourist (HT) zoning district with rear portions within the Flood Hazard Overlay District (FHOD) and the Fluvial Erosion Hazard Overlay District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in HT are front (50'), side (50') and rear (50'). The Applicant seeks approval to construct a 5,400 sf [45' x 120'] single-story timber frame barn for recreation and storage use. The 50' side setback line is shown on the proposed site improvements plan, sheet C-2.
4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. The Applicant seeks approval to construct a 5,400 sf [45' x 120'] single-story timber frame barn. The existing site conditions plan indicates a lot coverage maximum of 41,382 sf/10%. The existing improvements are estimated to equal 24,129 sf allowing for an additional 17,253 sf. The Applicant proposes an additional 5,400 sf equaling a total building coverage of ±7.13%.
5. **Use.** The parcel contains an existing lodging facility with related accessory uses (restaurant/banquet room). The primary use of the parcel will remain as a lodging facility. The proposed recreation barn will be accessory to the primary use of the property, i.e. lodging facility. The Applicant indicates that the barn will be used for recreation activities.

The regulations define indoor recreation facility as follows "16.120 Recreation Facility, Indoor: A building or portion thereof used for recreational purposes, including, but not limited to a bowling alley, theater, skating rink, billiards, video games, gymnasium, swimming pool, etc."

6. **Height.** The maximum building height in HT is 28' feet. The proposed building height is 18' 10.5" (Sheet A-8).
7. **Density.** No changes in density 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. **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.

David Kresock of Stowe Electrical Department provided the following comments:

Project #6204 – Property owner will need to complete line extension application and provide a load study if a new electric service is required.

Fire Chief Kyle Walker provided the following comments:

Here are my thoughts regarding Project # 6204 at 876 Mountain Road. I am concerned about limiting Fire Department access to "The House" by adding the additional parking spaces next to it. Can Mr. Bitter provide the occupancy and use of "The House". What is the use of the new rec building? Is this just a wide-open space, single level? Locations of restrooms and mechanical spaces? I am also concerned about the access to this building and the rear of the pool building, as the parking lot is very confined in this area.

DPW Director Harry Shepard provided the following comments:

I note that there is limited information shown from an engineering perspective shown of the site plans. No grading or erosion controls and very limited utilities Given that the nature of the proposed building (no facilities or mechanical/electrical?), with the building footprint effectively replacing the existing tennis court and, the addition parking is relatively small increase in impervious area, this maybe OK to the DRB. If acceptable to the DRB, I recommend at a minimum that a condition include that erosion and sedimentation controls in accordance with the VTDEC Small Site Standards be required. I also note the following for the record and consideration by the DRB;

- 1. The existing water service to the existing buildings are for domestic use only and not adequate for fire protection systems. If building sprinklers become required, upgrade of the water service into the property, and a small thermally protected water room for the building will be required.*

Fire Chief Kyle Walker provided supplemental information (5/19) stating:

I did conduct a site visit with E.W. this morning. He was able to walk me through the plans for the property and assured me that access would be maintained to the new structure, and "The House" based on the proposed parking plans. This must also be the case, even at capacity. I do not have any other concerns regarding this project.

No other Municipal Department review forms returned indicated that the proposal would have any undue 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 requests approval to construct a 5,400 sf [45' x 120'] single-story timber frame barn. During the hearing, the Board discussed occupancy limit of the building (299 persons). The Applicant testified that under regular circumstances the occupancy will be much less but may reach capacity during a special event. It was noted that the building will accommodate special events but it will not be the primary purpose of the building.

Conclusion: The Board concludes the proposal will not impact traffic on the 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." The Applicant request approval to construct a 5,400 sf [45' x 120'] single-story timber frame

barn. Adjacent to the subject parcel are other nearby commercial and lodging uses. The proposed building is not expected to impact the character of the area affected.

Conclusion: The Board concludes the proposal will not result in an undue adverse effect of the character of the area affected.

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

Conclusion: The Board concludes the proposal is in conformance with municipal regulations and ordinances in effect.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant requests approval to construct a 5,400 sf [45' x 120'] single-story timber frame barn. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

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

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 project is located in the HT district. The Applicant requests approval to construct a 5,400 sf [45' x 120'] single-story timber frame barn. The parcel is previously developed and contains an existing lodging facility and related accessory uses. The proposed building will be constructed on the approximate location of the former tennis courts.

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

14. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant requests approval to construct a 5,400 sf [45' x 120'] single-story timber frame barn for recreational and storage use. The proposed project is not expected to result in undue water, noise, or air pollution.

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

15. **Section 3.7(2)(B)(3) –Access Management:** The project is currently served by two (2) curb cuts off Mountain Road. Under prior approvals the Applicant was required to remove one of the curb cuts to regular traffic and utilize it for emergency vehicles only. Staff referred the application to VT Agency of Transportation (VTTrans) to inquire whether an §1111 permit is required. Ed Pierce, Permit Coordinator with the Vermont Agency of Transportation, provided a jurisdictional opinion that the project does not require a §1111 permit. No changes to the previously approved access are proposed under this application.

Conclusion: The Board concludes no changes to the previously approved access are proposed.

16. **Section 3.7(2)(B)(4) – Shared Access:** As previously approved, the parcel will be served by a single curb cut solely for the uses on the parcel. This provision does not apply.

Conclusion: This provision 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 14 and be designed to minimize the off-site visibility of parking areas through the location, landscaping and screening of such areas. The Applicant proposes to construct a 5,400 sf [45' x 120'] single-story timber frame barn for recreational and storage use on and near the existing tennis courts. The previously approved site plan noted that the tennis court area could support an additional twenty-six (26) parking spaces during special events. The proposed site plan labels the barn as an events barn requiring fifty (50) parking spaces and shows the location of thirty-six (36) overflow spaces to the rear of the proposed building. The overflow parking appears to be accessed along the western property line. The Applicant indicated that these overflow spaces will be pervious and not be improved.

Table 15.2 outlines parking requirements for allowed uses. Table 15.2 does not include a parking requirement for recreational uses but does include a requirement for 'assembly halls'- one (1) parking space per three (3) seats or participants. The proposed occupancy of the building is 299. The proposed site improvements plan (Sheet C2) provides a parking chart analysis. The analysis indicates that there are 168 parking spaces on site and 163 parking spaces are required under Table 15.2.

Conclusion: The Board concludes the existing and proposed circulation and parking improvements represents adequate access and circulation for the intended 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. During the hearing the Applicant described the existing and proposed pedestrian improvements including providing for a new four (4) foot wide gravel walkway connecting the parking areas and the proposed building.

Conclusion: The Board concludes the existing and proposed pedestrian improvements represents adequate 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. During the hearing the Applicant described proposed landscaping changes including those depicted on Sheet C-2.

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

20. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction. The Applicant provided impervious surface calculations indicating the new impervious surfaces will be 4,583 sf. The revised Sheet C-2 indicates that silt fencing will be installed along boundary setback as on downhill side of property in accordance with State of VT Erosion Control Standards.

Conclusion: The Board concludes the Applicant has provided proposed erosion control measures and will be required to meet the general standards listed in Section 3.12 as conditions of approval.

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 the regulations. Projects involving the upgrade and expansion of motels and lodges built prior to January 1, 1997 and designed with outside access to individual rooms fronting on parking areas, may continue locating parking within front yards.
- c. **Driveway Access:** Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
- 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 the proposed building has been designed in a manner that promotes an overall high quality of design and construction.

Section 4: Specific Use Standards

22. **Section 4.6 Landscaping Standards.** See discussion above.

23. **Section 4.8 Outdoor Lighting.** The Applicant testified that the barn will only be utilized during daylight hours and as such was originally designed without any outdoor light fixtures. During the continued hearing the Applicant provided a cut-sheet for a building mounted barn light fixture to be installed on the exterior of the building.

Conclusion: The Board concludes the proposal meets the standards outlined in Section 4.8.

DECISION

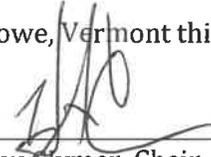
On a motion by C.Walton, seconded by F.Aumand III, the Development Review Board hereby approves (7-0) the Applicant's request to construct a recreation barn and related improvements as outlined in the application dated 1/28/2020 and supplemental materials, subject to the following conditions of approval:

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. All previous conditions of approval remain in full force and effect.
3. Prior to the issuance of the zoning permit, the Applicant shall provide the following:
 - A revised 'Proposed Site Conditions Plan, Sheet C-2' with the existing and proposed building coverages.
4. The Applicant shall complete a line extension application and provide a load study to the Stowe Electrical Department if a new electric service is required.
5. 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.
6. 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.
7. Emergency access must be maintained to the proposed recreational building and to the existing dwelling at all times.
8. The driveway access and parking areas shall be properly maintained, including snow removal in winter, to provide emergency vehicle access at all times.
9. All parking surfaces shall be constructed to eliminate standing water and the discharge of storm water onto adjacent property, sidewalks or streets.
10. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum and must practice erosion and sedimentation controls in accordance with the VTDEC Small Site Standards.
11. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
12. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
13. 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.
14. 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.
15. Any vehicle parked in the rear overflow area must be fully licensed and ready for highway use.
16. No development, as defined under Section 7.14, shall take place within the Flood Hazard Overlay District without additional review. [*Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*]

17. 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.
18. 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 permittee 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: F.Aumand, D.Clymer, P.Roberts, C. Walton, A.Volansky, L.Wasserman, T.Hand
Voting to deny: None

Dated at Stowe, Vermont this the 16 day of June 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.

