



**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

**APPLICATION INFORMATION**

**Project Number** 6215  
**Application Date** 3/18/2020  
**Physical Location** 3430 MOUNTAIN RD  
**Map ID** 11-148.000 **Tax ID** 25037  
**Project Description** ADD APPROXIMATELY 500 SF ADDITION- ENTRANCE VESTIBULE, DELIVERY RAMP, ELEVATOR AND EGRESS STAIR FROM THIRD FLOOR  
**Owner** 3430 MOUNTAIN ROAD LLC 145 PINE HAVEN SHORES ROAD SUITE 1150  
**Applicant** 3430 MOUNTAIN ROAD LLC DOUG MOSES  
**Applicant Address** 145 PINE HAVEN SHORES ROAD SUITE 1150  
SHELBURNE VT 05482

**APPROVALS ON RECORD**

Action Taken	Date	End of Appeal Period	Expiration Date
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:** 6215

**SUBJECT PROPERTY:** 3430 Mountain Road; #11-148.000

**PROPERTY OWNER:**

3430 Mountain Road LLC  
145 Pine Haven Shores Road, Suite 1150  
Shelburne, VT 05482

**APPLICANT:**

Doug Moses- Bullrock Corporation  
145 Pine Haven Shores Road, Suite 1150  
Shelburne, VT 05482

**APPLICATION:**

The Applicant, Doug Moses of Bullrock Corporation, on behalf of 3430 Mountain Road LLC (herein referred to as the "Applicant"), requests conditional use approval for approximately 500 sf of changes to the building footprint. The Applicant proposes to construct an entrance vestibule, delivery ramp, and add an elevator and egress stair from the third floor.

The subject parcel, consisting of  $\pm 4.25$  acres and located at 3430 Mountain Road (#11-148.000), is in the Upper Mountain Road (UMR) Zoning District. The property is served by Mountain Road, a state highway maintained by the Vermont Agency of Transportation (VTrans). The parcel is bound to the north by a  $\pm 18.56$ -acre parcel owned by Mountain House LLC, to the east by a  $\pm 5.34$ -acre parcel owned by Thomas & Rita Buchanan Estate, to the south by Mountain Road, and to the west by a  $\pm 1.10$  acre parcel and dwelling owned by Eduardo Rovetto. 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 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 conditional use review was filed by Applicant Doug Moses on March 17, 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 May 5, 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 April 16, 2020 and posted at the Town Office, Library, and Police Station. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The virtual public hearing to consider the application convened on May 5, 2020 using 'Go To Meeting' with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported.

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

- Doug Moses- Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150  
Shelburne, VT 05482

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

Project 6215; 3430 Mountain Road  
Conditional Use Review- 500 sf Building Footprint

1. Town of Stowe Development Application, dated 3/17/2020;
2. Elevation drawings prepared by Freeman, French, Freeman, Project A1946, dated March 2020;
3. Proposed Site Plan 'Silver Pines' 3340 Mountain Road prepared by Grenier Engineering, Sheet 1 of 1, last revised 2/28/2020;
4. 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 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 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 ±4.25 acres and is located within the Upper Mountain Road (UMR) Zoning 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 UMR are front (50'), side (50') and rear (50'). The Applicant seeks approval to construct an entrance vestibule, delivery ramp, and add an elevator and egress stair from the third floor. The district setbacks are shown on the plan. The proposed improvements will not encroach on any setback.
4. **Maximum Building Coverage.** The maximum building coverage in the UMR district is 8%. Building coverage is defined as "*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 proposed site plan indicates the proposed building coverage to be 4.0%.
5. **Use.** The parcel previously received approval for a change of use from school to long-term care facility. No change of use is proposed.
6. **Height.** The maximum building height in UMR is 28' feet. The elevator-overrun roof appears on the plans to be approximately 24' 6". During the hearing the Applicant testified that the height of the elevator shaft is mislabeled but will not be higher than the 28' allowed in the UMR district.

**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:

- 7. 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 property is served by onsite septic and potable water. The Applicant proposes to connect to the municipal system water system.

Dave Kresock of Stowe Electrical Department provided the following comments dated 4/15/2020:

*Project #6215 – Property owner will need to submit a completed Stowe Electric Line Extension Application, Electrical Design and load study. Note: The addition of an elevator may require a service upgrade.*

No Municipal Department review forms returned indicated that the requested modifications 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.

- 8. Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant requests approval for approximately 500 sf of changes to the building footprint. The Applicant proposes to construct an entrance vestibule, delivery ramp, and add an elevator and egress stair from the third floor. No changes to traffic are proposed under this application.

**Conclusion:** Does not apply.

- 9. Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the UMR zoning district. The purpose of the UMR district is *“To control development along the “upper” Mountain Road in a manner that allows for residential, recreation and low-density commercial uses of property while preserving the rural character of the landscape, discouraging strip development and promoting the ongoing viability of existing land uses.”* The Applicant requests approval for approximately 500 sf of changes to the building footprint. The Applicant proposes to construct an entrance vestibule, delivery ramp, and add an elevator and egress stair from the third floor. Adjacent to the subject parcel are other nearby residential, commercial, and lodging uses.

**Conclusion:** The Board concludes the increases to building footprint will not result in an undue adverse effect of the character of the area affected.

- 10. 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. No other municipal bylaws or ordinances apply to this project.

**Conclusion:** The Board concludes the proposal is in conformance with the applicable Stowe Zoning Regulations, as adopted October 9, 2018. No other identified municipal bylaws or ordinances apply to this project.

- 11. Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** 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:**

12. **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 site is previously developed. The Applicant seeks approval for approximately 500 sf of changes to the building footprint. The Applicant proposes to construct an entrance vestibule, delivery ramp, and add an elevator and egress stair from the third floor. The requested alterations are not expected to impact the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

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

13. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The parcel is previously developed. The requested alterations are not expected to result in undue water, noise or air pollution.

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

14. **Section 3.7(2)(B)(3) –Access Management:** The parcel is served by direct access to Mountain Road- a state-maintained highway. No changes to the existing access are proposed under this application.

**Conclusion:** The Board concludes no changes to the location or number of access points is proposed under this application.

15. **Section 3.7(2)(B)(4) – Shared Access:** The existing access is not shared with other users.

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

16. **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 seeks approval for approximately 500 sf of changes to the building footprint. The Applicant proposes to construct an entrance vestibule, delivery ramp, and add an elevator and egress stair from the third floor. The requested changes do not generate a need for additional parking.

**Conclusion:** The Board concludes the existing circulation and parking improvements represents safe and adequate access and circulation for the approved use.

17. **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 Applicant proposes to construct an entrance vestibule, delivery ramp, and add an elevator and egress stair from the third floor. The entrance vestibule will support staff entry and deliveries. No additional changes to previously approved pedestrian circulation or access improvements are proposed under this application.

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

18. **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 lot contains existing mature trees and landscaping as depicted on the provided site plan. During the hearing the Applicant testified that they are adding ten (10) northern white cedars 8'-10' in height along the western side of the property to provide privacy and screening. These plantings were required as a condition of approval under a prior approved application. During the hearing the Board discussed the landscaping standards of the UMR district and whether additional plantings along Route 108 were warranted. The Board agreed the existing landscaping, including that along the Route 108 frontage, was adequate.

**Conclusion:** The Board concludes the existing and proposed landscaping and site layout provides adequate screening in accordance with Section 4.6.

19. **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 seeks approval for approximately 500 sf of changes to the building footprint. The proposed changes are not expected to impact or alter existing stormwater drainage patterns. The Applicant testified that the only grading that will take place will be in direct association with the proposed improvements.

**Conclusion:** The Board concludes the proposed alterations will not impact existing storm drainage patterns.

20. **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 should consider the guidelines outlined in Section 4.8(2)(A-F). During the hearing the Applicant testified that there are no changes to outdoor lighting proposed under this application.

**Conclusion:** The Board concludes the existing outdoor light fixtures will provide safe and adequate lighting for the approved use.

## **DECISION**

On a motion by C.Walton, seconded by F.Aumand III, the Development Review Board hereby approves the Applicant's request to increase the building footprint by approximately 500 sf as indicated on the application dated 3/17/2020 and related submittals, 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.

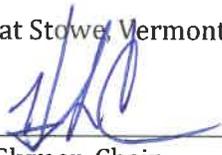
2. All relevant prior conditions of approval, unless amended herein, remain in full force and effect.
3. Prior to the issuance of the zoning permit, the Applicant shall submit documentation verifying that the proposed elevator shaft meets the district height requirements, as defined under the regulations.
4. The Applicant shall submit a completed Stowe Electric Line Extension Application, Electrical Design and load study to the Stowe Electrical Department. The addition of an elevator *may* require a service upgrade.
5. Final plans, details, and technical specifications for the proposed municipal water connection shall be approved by the Department of Public Works.
6. Site construction shall be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.
7. Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, shall be stabilized.
8. Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
9. Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided to ensure compliance with the provisions of Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
10. An adequate stormwater drainage system must be maintained 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.
11. 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.
12. 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 in favor: D. Clymer, T. Hand, P.Roberts, C.Walton, A.Volansky, L. Wasserman, F.Aumand III.

Voting to deny: None

Motion PASSED 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.

