

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



**PROJECT:** 6240

**SUBJECT PROPERTY:** 18 Main Street (#7A-034.000)

**PROPERTY OWNER & APPLICANT:**

Ampersand Properties LLC  
Ken Biedermann  
PO Box 1139  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Ampersand Properties LLC (herein referred to as the "Applicant"), requests design review and conditional use approval to replace the existing window to provide carry-out service, add mullions on the larger picture windows, and install two (2) roll-out awnings on either side of the door on the historic Depot Building located at 18 Main Street. With the exception of a small counter and installation of retractable awnings, no changes to the building footprint are proposed. The parcel is located within the VIL-PUD zoning district, Stowe Historic Overlay District (SHOD), and is served by Main Street (TH-1), a Class 1 Town Highway. 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 purposes of design review and 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 and design review was filed by Applicant Ken Biederman on May 6, 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 June 16, 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 May 28, 2020 and posted in three (3) public places (library, town office, and police station). The Applicant provided a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on June 16, 2020 utilizing the remote meeting platform Zoom with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Ken Biedermann, PO Box 1139, Stowe, VT 05672
- Lorrie & Alan Handwerker, 162 S. Main Street, Stowe, VT 05672

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

- Town of Stowe Development Application, dated 4/30/2020;
- Architectural drawings 'Proposed Main St. Elevations- Depot Building' prepared by Sam Scofield, Sheet A-1, dated 5/1/2020;
- HPC Recommendation form, dated 05/15/2020;

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 design review/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 10- Stowe Historic Overlay District and Historic Buildings
- Section 13.8- Stowe Village PUD

**SECTION 10-STOWE HISTORIC OVERLAY DISTRICT AND HISTORIC BUILDINGS:**

Within the Stowe Historic Overlay District and for Historic Buildings outside the district, no structure may be erected, reconstructed, substantially altered as indicated in Section 10.5, moved, or demolished without review of the plans by the Stowe Historic Preservation Commission (SHPC) and approval of the application by the DRB (or the Zoning Administrator in accordance with Section 10.6).

*10.12 General Guidelines for Alterations, Additions and New Construction*

*(1) Alterations to Buildings. The emphasis of the guidelines for alterations is on façades. The most significant views of a building are those immediately visible from a public street or road (primary façade). Therefore, primary façades are most important and shall be carefully reviewed for adherence to the guidelines. Façades that are not in the public view (secondary façades) may not have to conform as closely to the guidelines. It is recognized that some alterations may be required in order to meet applicable building codes. These guidelines are not meant to prevent code renovations. The restoration of buildings should coordinate the goal of retaining original elements of the structure with the necessity of bringing the structure into compliance with current building code requirements. When feasible, non-historic code renovations should be located on secondary façades.*

*A. Alterations of primary façades shall and alterations of secondary façades should:*

- 1. Preserve the proportion of a building and its original elements, massing and roofline.*
- 2. Retain and repair historic features, when possible.*
- 3. Remove non-historic materials, when possible.*
- 4. Locate changes (such as a new window, handicap ramp, etc.) on the secondary façades, as much as possible.*
- 5. In the case of storefronts, upper floors should have progressively smaller and/or fewer windows than the first floor.*

1. The Applicant proposes to replace an existing window to provide carry-out service, add mullions on the larger picture windows, and install two (2) roll-out awnings on either side of the door on the Depot Building located at 18 Main Street. The property is located within the Stowe Historic Overlay District, as regulated under Section 10 of the Stowe Zoning Regulations, as adopted October 9, 2018.

2. The Stowe Historic Preservation Commission (HPC) reviewed the application on May 13, 2020 and unanimously voted to recommend approval of the project as presented and drawn. The Zoning Administrator provided a copy of the HPC recommendation.

**Conclusion:** The Board concludes the proposed alterations meets the requirements as outlined in Section 10.12 and is compatible with the historic character of the village.

**Section 3.7(2)(A) – Standards of review (Conditional Use Applications):** The Development Review Board must determine that the use will conform to the conditional use standards as outlined in Section 3.7(2)(A) and will not result in an undue adverse effect on the following:

3. **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.

4. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to replace an existing window to provide carry-out service, add mullions on the larger picture windows, and install two (2) roll-out awnings on either side of the door on the historic Depot Building. The proposal is not expected to generate any 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.

5. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject parcel is in the VILPUD zoning district. As noted under Section 13.8(1) the purpose of this district reads as follows:

*The purpose of the Stowe Village PUD is to enable and encourage flexibility of development of this land. Also:*

*A. To promote the sound economic development of Stowe and to carry out the objectives of the Stowe Town Plan.*

*B. To maintain Stowe Village as the center of community activity.*

*C. To encourage the best use of land in central sections for general business.*

*D. To maintain a more dense pattern of development in the immediate center of the Village.*

*E. To allow more uncongested development in the outlying or undeveloped areas of the Village.*

*F. To provide for compact residential development in suitable areas which are served by municipal water supply and municipal sanitary sewer system.*

*G. To integrate housing of various types into a harmonious grouping.*

*H. To facilitate adequate and economical provisions for streets and utilities.*

*I. To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.*

*J. To promote the preservation of adequate open space through carefully planned cluster types of development.*

*K. To encourage agricultural productivity of good farmlands and of forest resources.*

*L. To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.*

*M. To provide an area for industrial development which will promote sound economic development and opportunity for employment while protecting adjacent residential areas.*

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

6. **Section 3.7(2)(A)(4) – Regulations and ordinances in effect:** The application was reviewed under applicable design review and conditional use criteria. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018. 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.

7. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant proposes alterations to a historic building. The proposed alterations are not expected to impact 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:**

8. **Section 3.7(2)(B)(1) – Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.** The Applicant proposes to replace an existing window to provide carry-out service, add mullions on the larger picture windows, and install two (2) roll-out awnings on either side of the door on the Depot Building located at 18 Main Street. The site is previously developed and contains an existing commercial building and related improvements. The Historic Preservation Commission (HPC) reviewed the proposed alterations and provided positive recommendations.

**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.

9. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant proposes exterior alterations to an existing building.

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

10. **Section 3.7(2)(B)(3) –Access Management:** The parcel is served by Main Street. No expansions or improvements to the existing access are proposed under this application.

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

11. **Section 3.7(2)(B)(4) – Shared Access:** The parcel is served by Main Street. No changes to access are proposed.

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

12. **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. No changes in existing parking areas are proposed. The proposed alterations do not require additional parking under Section 15.

**Conclusion:** The Board concludes no changes to the existing parking are proposed under this application or required under the regulations.

13. **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.

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

14. **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 or screening are proposed under this application.

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

15. **Section 3.7(2)(B)(8) – Stormwater Management:** No increases in impervious surfaces or changes to existing storm drainage patterns are proposed.

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

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

16. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the Section 4.8(A-C). No changes are proposed to the existing outdoor lighting.

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

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

#### **DECISION**

On a motion by C.Walton, seconded by F.Aumand III, the Development Review Board hereby approves (6-0) Project 6240 based upon the foregoing Findings of Fact and concludes the proposal as presented in application dated 4/30/2020 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 relevant prior conditions of approval, unless amended herein, remain in full force and effect.
3. A Certificate of Occupancy must be obtained from the Zoning Administrator prior to occupancy and use to ensure that the project has been completed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
4. 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, F.Aumand III, M.Diender, L. Wasserman, T.Hand, C.Walton

Voting to deny: None

By:  \_\_\_\_\_  
Drew Clymer, Chair

  
date

**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.