



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 6258
Application Date 5/19/2020
Physical Location 161 MOUNTAIN RD
Map ID 7A-129.000 Tax ID 02129
Project Description EXTERIOR ALTERATIONS; CHANGE OF USE; ADD DWELLING UNIT; HARDSCAPE & LANDSCAPING
Owner THE FARM HOME LLC
Applicant THE FARM HOME LLC LISA MARA & TYSON BRY
Applicant Address PO BOX 215
STOWE VT 05672

APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	7/21/2020	8/20/2020	8/20/2022

Sarah McShane

Zoning Office

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



PROJECT: 6258

SUBJECT PROPERTY: 161 Mountain Road; #7A-129.000

PROPERTY OWNER & APPLICANT:

Lisa Mara & Tyson Bry
161 Mountain Road
Stowe, VT 05672

APPLICATION:

The Applicant, Lisa Mara & Tyson Bry (herein referred to as the "Applicant"), requests conditional use approval to convert the first floor space of the detached barn building into a commercial space for use as a tasting room, gift shop, and private events and design review approval for various exterior alterations to the existing detached barn building including the following: replacing windows and adding a door and installing two (2) gooseneck lights over a vintage sign board on the front façade; replacing three (3) windows on the south façade; adding a casement window in the existing hay loft door opening, replacing a window with a fixed window in the same opening, and replacing a window with a new casement window in existing opening on the north façade; and replacing the existing siding along back of barn with vertical shiplap, installing a new exterior light centered over door, and a new entry door package on the rear façade. Site improvements include installing three (3) row of grapes along a trellis system comprised of six (6) 8" cedar posts to be installed with wires connecting them; installing six (6) raised garden beds and a pergola adjacent to the barn and a 84 sf garden shed. Other aspects of the project include converting the second story of the barn into studio accessory dwelling unit. Accessory dwelling units are a permitted use and do not require review by the Board. The property contains a single-family dwelling and related improvements. 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 subject parcel is located at 161 Mountain Road (#7A-129.00) within the Village Commercial 10 (VC10) zoning district and Stowe Historic Overlay District (SHOD). 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 Lisa Mara & Tyson Bry on May 14, 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 July 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 June 18, 2020.

The virtual public hearing to consider the application convened on July 7, 2020 with a quorum of the Board present. The remote hearing was held utilizing 'Zoom' 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 Michael Diender.

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

- Lisa Mara & Tyson Bry, PO Box 215, 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 5/14/2020;
2. Packet entitled 'Overview of Proposed Changes' prepared by The Farm Home LLC- 161 Mountain Road, Stowe, VT, dated 5/12/20;
3. Site Plan 'Farm Home Co.' 161 Mountain Road, prepared by TTB, dated 5/14/2020;
4. HPC recommendation, dated 5/27/2020.

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 161 Mountain Road 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.*" The provided site plan shows the location of the setbacks. No changes to the barn footprint are proposed under this application. The proposed pergola and garden shed will be located outside of any required setback.
4. **Maximum Building Coverage.** The Applicant did not provide the existing and proposed building coverage. The regulations define building coverage 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 feet above the surface ground level.” Under the proposal, the Applicant proposes a 165 sf four post pergola and a 84 sf garden shed, adding a total of 249 sf to the existing building coverage. In the VC-10 district, the regulations the VC-10 district has a 50% maximum building coverage. Prior to issuance of a zoning permit, the Applicant must submit the existing and proposed building coverage.

5. **Use.** The subject parcel contains an existing single-family dwelling and related improvements. The Applicant proposes to convert the first-floor space of the detached barn building into a commercial space for use as a tasting room, gift shop, and private events. 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.*’ During the hearing, the Applicant testified that they envision a small-scale farm stand type of commercial retail use with wine, dried lavender, maple syrup, small tasting events and private dinner parties. The regulations do not contain a unique use classification or definition for private events space, but as allowed under Section 6.2, the Board has the authority to approve uses that are not defined under the regulations upon finding that it is similar to a use permitted in the district in its effect upon the character of the vicinity, traffic patterns and flows and in its effect on the value of neighboring properties. Based on the submitted materials and testimony, the Board finds that the proposed special events, as described by the Applicant, are similar to other allowed uses in the VC-10 district including the character of the district, traffic, and its impact on neighboring properties.

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.** The Applicant proposes an accessory dwelling unit on the second floor of the barn. Accessory dwelling units are permitted uses and do not require review by the Board. No change in density is proposed under this application.
7. **Height.** The only changes in height proposed under this application involve the pergola (8ft/height) and garden shed (10ft/height).

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 be needed to support the requested commercial use and accessory dwelling unit. No 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 all 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 convert the first floor space of the detached barn building into a commercial space for use as a tasting room, gift shop, and private events. The estimated number of vehicle trips generated by the proposal was not provided, however during the hearing the Applicant testified that prior private events held on the property generated approximately five-six vehicles and the proposed events would only involve 10-15 guests. The parcel is located in the village setting amongst a dense area of mixed residential and commercial uses.

Conclusion: Based upon the above findings, 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.

The parcel is previously developed and is located in a historic village setting with nearby historic commercial and residential buildings.

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 convert the first floor space of the detached barn building into a commercial space for use as a tasting room, gift shop, and private events, along with various alterations to the barn and yard and landscaping improvements.

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 convert the first-floor space of the detached barn building into a commercial space for use as a tasting room, gift shop, and private events. The parcel is previously developed and is located in a historic village setting with nearby historic commercial and residential buildings. The Stowe Historic Preservation Commission reviewed the project on May 27th and provided positive recommendations on the proposed building alterations and yard/landscaping improvements.

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

14. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant requests approval to convert the first-floor space of the detached barn building into a commercial space for use as a tasting room, gift shop, and private events. 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. During the hearing the Applicant testified that the proposed hours of operation would be 11:00 am-6:00 pm for the tasting room; 10:00 am-6:00 pm for the retail; with private events primarily in the early evening. The Applicant testified that the private events may, on occasion, include outdoor music and reported that the music in the past has ended by 10:00 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 Mountain Road 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 side of the dwelling. Table 15.2 outlines the minimum parking requirements. Single-family dwellings and accessory dwellings are required to have two (2) parking spaces each. Retail Stores are noted as requiring one (1) parking space per 300 sf of gross floor area. The proposed approximate gross floor area is 264 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 proposal requires ±2.5 parking spaces. According to the provided site plan, the parcel contains a total of six (6) parking spaces, each measuring approximately 9 ft x 18 ft.

Conclusion: The Board concludes adequate parking is provided in accordance with the regulations.

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. Mountain Road contains an existing sidewalk on the opposite side of the road. The Stowe Rec Path is in close proximity. Pedestrian access on the property appears to be open and accessible.

Conclusion: The Board concludes 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. The Applicant proposes to install three (3) row of grapes along a trellis system comprised of six 8” cedar posts to be installed with two (2) wires connecting them; installing six (6) raised garden beds and pergola adjacent to the barn and an 84 sf garden shed. During the hearing the Applicant testified that there will be no dumpster or air conditioning units installed.

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

20. **Section 3.7(2)(B)(8) – Stormwater Management:** With the exception of the landscaping and hardscaping and a small garden shed, no construction, earth disturbing activities, or increases in impervious surfaces are proposed under this application. The proposed improvements are not expected to alter existing drainage patterns.

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.** The Applicant proposes to install two gooseneck lights on the front façade of the barn and a new exterior light centered over the door on the rear façade of the barn. No additional outdoor lighting is proposed.

Conclusion: The Board concludes the proposed outdoor lighting is in conformance with Section 4.8.

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 alterations during their May 27, 2020 meeting and voted to approve the alterations as presented. A copy of the SHPC recommendation was provided and entered into the record.

DECISION

On a motion by C.Walton, seconded by L.Wasserman, the Development Review Board hereby approves the proposal as outlined in the application dated 5/14/20 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. Prior to issuance of a zoning permit, the Applicant must submit the existing and proposed building coverage.
3. Pursuant to Section 10.5(12), the Board accepts the recommendations of the Stowe Historic Preservation Commission as voted on during their May 27, 2020 meeting. The project shall be completed according to the plans submitted and hereby approved.
4. Approved hours of operation include 11:00 am-6:00 pm for the tasting room and 10:00 am-6:00 pm for the retail area. All outdoor music associated with a private event shall not be audible at the property line beyond 10:00 pm.
5. All outdoor lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.
6. Exterior lighting shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA). Exceptions to this standard to accommodate a particular "period" or architectural style are allowed, providing the maximum initial lumens generated by each fixture not exceed 2,000 (equivalent to a 150-watt incandescent bulb).
7. The Applicant shall obtain all necessary municipal water and sewer allocations, approvals, and connections from the Department of Public Works.
8. 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.
9. 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, M.Diender, F.Aumand, C.Walton, A. Volansky, L.Wasserman, P. Roberts

Voting to deny: None

The motion PASSES, 7-0.

Dated at Stowe, Vermont this the 21 day of July 2020

By: 
Drew Clymer, Chair

7/21/20

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.