



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

Your DRB project listed below was recently denied by the Development Review Board. Attached is a copy of the DRB decision for your records.

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

APPLICATION INFORMATION

Project Number	6326		
Application Date	8/3/2020		
Physical Location	2043 STOWE HOLLOW RD	Tax ID	12065
Map ID	02-054.000	CHANGE OF USE- SINGLE FAMILY DWELLING TO SUMMER YOUTH TENNIS CAMP; CONSTRUCT 80' X 40' BARN AND SIX TENNIS COURTS AND RELATED IMPROVEMENTS	
Project Description	JEFFREY M DALY		
Owner	MUMLEY ENGINEERING INC		
Applicant	454 MOUNTAIN ROAD SUITE 4		
Applicant Address	STOWE VT 05672		

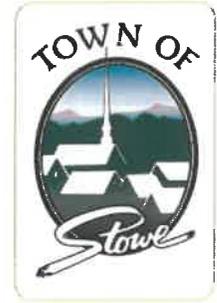
ACTIONS

Action Taken	Date	End of Appeal Period
DRB DECISION	10/2/2020	11/1/2020

Sarah McShane

Zoning Office

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



PROJECT: 6326

SUBJECT PROPERTY: 2043 Stowe Hollow Road; #02-054.000

PROPERTY OWNER/APPLICANT:

Jeff Daly
2043 Stowe Hollow Road
Stowe, VT 05672

APPLICATION:

Property owner, Jeff Daly (herein referred to as the "Applicant"), requests conditional use and design review approval to convert the existing single-family dwelling into a summer youth tennis camp. As proposed, the camp will accommodate twenty (20) overnight attendees and five (5) instructors. The camp will also have capacity for up to ten (10) additional day visit only campers. The camp is proposed to operate for eight (8) weeks during the summer season from mid-June to August. In connection with the tennis camp, the Applicant proposes to construct a 3,200-sf barn, six (6) tennis courts, and access/parking improvements. When the proposed tennis camp is not in session, the property will continue to be used as a single-family dwelling.

The subject parcel is located at 2043 Stowe Hollow Road, a Class 2 town highway. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted on October 9, 2018) for the purposes 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/design review approval was filed by Applicant Jeff Daly on July 29, 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 September 15, 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 August 27, 2020. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on September 15, 2020 via virtual meeting hosted by Zoom, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Members who participated in the review included: F.Aumand III, D.Clymer, T.Hand, P.Roberts, M.Diender, L.Wasserman.

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

- Applicant – Jeff Daly, 2043 Stowe Hollow Road
- Applicant Engineer- Tyler Mumley, 454 Mountain Road, Suite 4
- Donald & Margot Hall, 246 Ayers Farm Road
- Andrew and Karen Arnott, 58 Dewey Farm Road
- Barry Lyden, 100 Lang Farm Road

- Rob & Tricia Gianni, 1728 Stowe Hollow Road
- Mark and Christine Kolter, 33 Dewey Farm Road
- David Bradbury 2463 Stowe Hollow Road
- Julia & Tom Rogers, 2115 Stowe Hollow Road
- Bradford Moore, 334 Lang Farm Road
- Sandra and Donald Simonds, 3020 Stowe Hollow Road
- Frederick M. and Kristin T. Yardley, 353 Forestdale Farm Lane
- Pete Hall, 500 Forestdale Farm Lane
- Alan Thorndike on behalf of Mark & Kristin Yardley
- Evie Dworetzky, 835 Cross Road
- Lawrence Lackey 2359 Stowe Hollow Road
- Constantine & Reem Papageorgiou, 1899 Stowe Hollow Road
- Carla Wolters, 774 Upper Hollow Road
- John O'Donnell, 350 North Hill Road
- Harry and Carol Bonyun, 4437 Stowe Hollow Road
- Kristi Robertson, 2022 Stowe Hollow Road
- Susan Segal, 151 S Hollow Road
- Phil Schoepke, 81 Dewey Farm Road
- Sarah McLane, 3017 Stowe Hollow Road
- Bruce Nurgeon, 70 Dewey Farm Road
- Dawn Perry, 1181 South Hollow Road
- Margot Hall, 246 Ayers Farm Road
- Charles Geary, 619 Covered Bridge Road,
- Christine McGowan, 623 Covered Bridge Road
- Bruce Bonyun, 4437 Stowe Hollow Road
- Evan Lovell, 598 South Hollow Road
- Trish Geary, 619 Covered Bridge Road
- Mariah Brown, 1040 Ayers Farm Road,
- Kathleen Landwehrle, 500 Forestdale Farm
- Paul Wolters, 774 Upper Hollow Road
- Susan Cohen, 382 Lang Farm Road
- Stuart Lang, 714 Covered Bridge Road
- Sandy Simonds, 3020 Stowe Hollow Road
- Lisa Matchie, 94 South Hollow Road
- O'Donnell, 350 North Hill Road
- Nan & Brian Doyal, 471 Hollows End
- Janice Fetsch & Kent Goodwin, 380 Hollows End
- Barrylyden & Iphone (Whitney Hull) *[participated in online chat but did not provide addresses]*

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

1. Town of Stowe Development Application, dated 7/29/2020;
2. Cover letter from Mumley Engineering Inc., dated 7/31/2020;
3. Site Plan- Jeff Daly- 2043 Stowe Hollow Road- Sheet C-1, prepared by Mumley Engineering Inc., last revised 9/8/2020;

4. Details Jeff Daly- 2043 Stowe Hollow Road- Sheet C-2, prepared by Mumley Engineering Inc., last revised 9/8/2020;
5. Barn Elevations & Floor Plan- Jeff Daly-2043 Stowe Hollow Road- Sheet C-3, prepared by Mumley Engineering Inc., last revised 9/8/2020;
6. Tennis court details and photographs, dated 09/03/20;
7. Comments from Kyle Walker (Fire Chief), dated 8/20/20;
8. Written Public comments from Donald & Margot Hall, 246 Ayers Farm Road, dated 9/8/20;
9. Written Public comments from Andrew and Karen Arnott, 58 Dewey Farm Road, dated 9/8/20;
10. Written Public comments Barry Lyden, 100 Lang Farm Road, dated 9/8/20;
11. Written Public comments Rob & Tricia Gianni, 1728 Stowe Hollow Rd., dated 9/8/20;
12. Written Public comments Mark and Christine Kolter, 33 Dewey Farm Rd., dated 9/8/20;
13. Written Public comments David Bradbury 2463 Stowe Hollow Road, dated 9/9/2020
14. Written Public comments Julia & Tom Rogers, 2115 Stowe Hollow Road, dated 9/8/20;
15. Written Public comments Bradford Moore, 334 Lang Farm Rd, dated 9/8/20;
16. Written Public comments Sandra and Donald Simonds, 3020 Stowe Hollow Road, no date;
17. Written Public comments Frederick M. and Kristin T. Yardley, 353 Forestdale Farm Lane,
18. Written Public comments Pete Hall & Kathleen Landwehrle, 500 Forestdale Farm Lane, dated 9/9/20;
19. Entry of Appearance Alan Thorndike on behalf of Mark & Kristin Yardley, dated 9/14/20;
20. Written Public comments from Evie Dworetzky, 835 Cross Rd., Stowe, VT, received 9/13/20;
21. Written Public comments Lawrence Lackey 2359 Stowe Hollow Road, dated 9/14/20;
22. Written Public comments Constantine & Reem Papageorgiou, 1899 Stowe Hollow Road, dated 9/14/20;
23. Written Public comments from Janice Fetsch & Kent Goodwin, 380 Hollows End, dated 9/14/20;
24. Written Public comments Carla Wolters, 774 Upper Hollow Road, dated 9/14/20;
25. Written Public comments John O'Donnell, 350 North Hill, dated 9/14/20;
26. Written Public comments Harry and Carol Bonyun, 4437 Stowe Hollow Road, dated 9/15/20;
27. Written Public comments Kristi Robertson 2022 Stowe Hollow Road, dated 9/15/20;
28. Written comments from DPW Director Harry Shepard, dated 9/15/20;
29. SHPC Recommendation/Minutes, dated 9/9/20;

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/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 on 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

1. **Zoning District.** The subject parcel is in the Rural Residential 5 (RR5) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted on October 9, 2018). The provided site plan, sheet C-1, mislabeled the zoning district as RR2.
2. **Lot Area, Lot Width.** The subject parcel consists of ±7.4 acres, as noted on Sheet C-1. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Setbacks in the RR5 district are 70 ft (front- as measured from the right-of-way), and 75 ft sides and rear, as measured from the property lines. The provided site plan mislabeled the setbacks as 60 ft (front), 50 ft (sides/rear), incorrectly applying the setbacks of the RR2 district.

Section 3.4(1) provides setback requirements for all structures. Section 16.164 defines structure to mean: *“An assembly of materials for occupancy or use, including but not limited to, a building, mobile home or trailer, swimming pools greater than 100 sq. ft. and their inflatable covers and related decks and appurtenances, tennis courts, etc., and microwave dish antenna.”*

Since the setbacks were mislabeled the Board was unable to determine whether the proposed improvements met the required setbacks of the RR5 district. Portions of the tennis courts appear to encroach within the required 75 ft rear and side setbacks.

4. **Maximum Building Coverage.** Does not apply to the RR5 district.
5. **Use.** The Applicant seeks approval to convert the existing single-family dwelling to a summer youth tennis camp. Summer Camp and Outdoor Recreation Facility are defined under the regulations as:

16.168 Summer Camp: A location away from home, often in a rural or country setting, where campers spend all or part of the summer living in tents, barracks or dormitories, participating in organized activities, sports or arts and crafts, and usually eating together in a central dining facility.

16.121 Recreation Facility, Outdoor: Fields, trails, bodies of water or other land used for recreational purposes including, but not limited to a golf course, golf driving range, miniature golf, shooting/archery range, swimming pool, skating rink, tennis court, riding stable, park, trails, etc.

‘Summer Camps’ and ‘Outdoor Recreation Facility’ are allowed as conditional uses in the RR5 district. When the tennis camp is not in session, the property will continue to be used as a single-family dwelling.

6. **Density.** No changes in density are proposed under this application.
7. **Height.** The maximum building height in RR5 is 28’ feet. The regulations define building height as the *“Vertical distance measured from the average elevation of the proposed finished grade at the front or rear of the building to the highest point of the roof for flat and mansard roofs, and to the average height between the highest ridge and its contiguous eave for other types of roofs. On sloping sites the height will be measured on the uphill side.”* Sheet C-3 provides elevation drawings and floor plans of the proposed barn. The barn height is labeled to be 27’ 6” to the mid-point roof height. During the hearing, the Applicant confirmed the height of the tennis court fencing to be 10 ft.

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:

- a. The parcel is served by Stowe Hollow Road, a Class 2 town-maintained highway and on-site septic and potable water.
- b. 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.
- c. On 8/20, Fire Chief Kyle Walker provided the following comments:

Do we know if there is a plan to sprinkler or protect the “dorm” as it will now house overnight guests?

When this pond is constructed, If the grade allows, a gravity fed “dry” hydrant should be installed, greater details can be discussed later.

I also recommend a year-round maintained turnaround area in the parking lot be included in this plan. The turnaround should meet the requirements of the fire department guidelines. This will allow fire apparatus, EMS and even utility trucks, such as fuel delivery or garbage removal to turn around.

- d. Dave Krescok of Stowe Electrical Department provided the following comments:

Project #6326: Property owner will need to complete and submit Stowe Electric's line extension application if a new service is needed for the complex

- e. DPW Director/Town Engineer Harry Shepard provided written comments dated 9/15/20 recommending provisions for stormwater management be required.
- f. No other Municipal Department review forms were received.
- g. During the hearing, the Applicant testified that if the 3rd floor of the dwelling were to be used a sprinkler system would be required by the VT Division of Fire Safety.

9. Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:

- a. The Applicant seeks approval to convert a single-family dwelling to a summer youth tennis camp. The parcel is served by Stowe Hollow Road, a Class 2 town-maintained highway.
- b. As stated in the project narrative, the camp will include three (3) sessions between mid-June and mid-August. The Applicant testified that the camp would consist of up to twenty (20) overnight attendees and ten (10) day attendees, with five (5) full-time instructors who will stay on premises.
- c. The existing 6-bedroom dwelling will be converted to provide housing for the overnight campers and teachers/staff.

- d. The Applicant's project narrative states: "*Traffic for the camp will primarily on drop-off and pick-up days. On those six days during our eight-week program, campers will primarily be dropped off by their parents. Some campers may arrive by plane or train and STA will pick them up. The overnight campers will arrive and depart over a four hour period on the arrival days (1-5pm) and over a 2.5 hour period on departure days (1:30-4pm). These are not busy times on Stowe Hollow Road and should not impact the traffic or our neighbors. Day campers will arrive at 8:30am and leave at 6pm daily. Both are not busy times on Stowe Hollow Road and should have minimal impact on traffic in the area.*"
- e. During the hearing, the Board heard considerable public testimony related to traffic and how the proposed use would impact traffic in the vicinity.
- f. The Applicant's Engineer testified during the hearing that the camp is expected to generate ten (10) vehicle trips during the morning drop-off and ten (10) vehicle trips during the afternoon pick-up. All others would be dropped off at the beginning of the session and picked up at the end of the session.
- g. During the hearing, the Applicant testified that a shuttle bus would provide campers daily trips to and from the village center.

10. Section 3.7(2)(A)(3) – The character of the area affected:

- a. The subject parcel is in the RR5 zoning district with direct access to Stowe Hollow Road, a Class 2 Town Highway.
- b. The general purpose of the Rural Residential district is as follows:
 - A. *To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.*
 - B. *To promote the preservation of adequate open space through carefully planned cluster types of development.*
 - C. *To encourage agricultural productivity of good farmlands and of forest resources.*
 - D. *To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.*

The specific purposes in RR 3 and RR 5:

- A. *To eliminate undue demand for new or extended municipal services in outlying areas which would cause a burden on the town.*
- B. *To maintain the rural character and beauty of the existing neighborhoods.*
- C. *To discourage intensive development in areas where slopes or soil conditions dictate otherwise.*
- c. The subject parcel is in a rural area of town. The adjacent parcels all contain single-family residential uses.

- d. The 2018 Stowe Town Plan (page 130) contains the following policy:

11. The rural character of Stowe's residential countryside, designated as RR-3 and RR-5, will be maintained by:

- a. Ensuring that land subdivision is carefully designed to avoid, to the extent practical, adverse impacts to natural resources, productive farmland and other features which help define the town's rural character and working landscape;*
- b. The careful siting and landscaping of development on steep slopes, hillsides and ridgelines; and*
- c. Limiting land uses to moderate to low density residential development, farming and forestry, outdoor recreation and home occupations.*

Policies are statements of the town's intent, or position, with regard to specific issues or topics. In certain settings, such as Act 250 proceedings, policy statements will serve as the basis for determining a project's conformance with the Stowe Town Plan.

- e. During the hearing, the Board heard public testimony related to the rural character of the surrounding residential area and concerns of adverse visual, noise, traffic, etc. impacts.

11. Section 3.7(2)(A)(4) – Regulations and ordinances in effect:

- a. Applicable bylaws include the Stowe Zoning Regulations as adopted on October 9, 2018.
- b. The Applicant proposes a secondary curb cut on Stowe Hollow Road- curb cuts on town highways require a Driveway Entrance Permit from the Department of Public Works (see access and circulation discussion below). During the hearing, the Applicant testified that although the secondary curb cut is grassed over and not clearly visible it is an existing curb cut.
- c. No other identified municipal bylaws or ordinances apply to this project.

12. Section 3.7(2)(A)(5) – Utilization of renewable energy sources:

- a. The Applicant requests conditional use/design review approval to convert a single-family dwelling to a summer youth tennis camp. In connection with the project, the Applicant proposes to construct a 3,200-sf barn and six (6) tennis courts.
- b. The barn is proposed to be 27' 6" in height and positioned in the rear of the parcel.
- c. Six (6) fenced tennis courts are proposed in the rear of the parcel. The fencing height is proposed to be 10 ft in height.
- d. The parcel contains an open grassed area with mature forested cover to the rear.

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.**

- a. The parcel contains ± 7.4 -acres and a single-family dwelling. It is characterized by open grassy areas with mature forested cover in the rear and scenic views of the surrounding forested hillsides.
- b. The parcel is located in the RR5 district with frontage on Stowe Hollow Road.
- c. The single-family dwelling was constructed in circa 1887 and contains historic site 08-85, the Kirchner House- a well preserved example of a vernacular style house from the last decades of the nineteenth century in Stowe.
- d. The Historic Preservation Commission reviewed the proposed tennis courts for conformance with Section 10 (see additional discussion below).
- e. During the hearing, the Board heard testimony regarding the location of the proposed barn and how it relates to the existing dwelling and Stowe Hollow Road. The Applicant's Engineer testified that the existing dwelling is located at 893'; Stowe Hollow Road 885'; tennis court 903.5'; tennis court 907.5'; and barn 907.5'.
- f. The Applicant did not provide a visual assessment of the proposed improvements or evidence illustrating how the proposed improvements would impact the viewscape from Stowe Hollow Road.
- g. According to public testimony and common knowledge, the proposed project is near the historic Emily's Covered Bridge at the intersection of Gold Brook Road, Covered Bridge Road, and Stowe Hollow Roads.

14. Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.

- a. When considering the undue impact of noise, the Board shall consider the existing noise levels in the area of the development, the impact on other (or off-site) properties, and the level of noise customarily generated from uses permitted within the zoning district.
- b. The Applicant requests approval to convert a single-family dwelling into a summer youth tennis camp. As proposed, the camp will accommodate twenty (20) overnight attendees and five (5) instructors. There will be up to ten (10) additional day visit only camp attendees. The camp is proposed to operate for eight (8) weeks during each summer session.
- c. The Applicant did not provide any technical information related to the estimated noise levels or duration and did not propose any noise mitigation measures.
- d. In connection with the summer camp, the Applicant proposes to construct a barn, six (6) tennis courts, and related site improvements. A total of ± 0.12 acres of impervious surfaces are proposed (see additional discussion below).
- e. During the hearing, the Board heard considerable testimony related to noise and the potential adverse noise impacts from the tennis courts, camp attendees, and general camp activities.
- f. The Applicant testified the tennis courts will have a grassed surface and are unlikely to generate significant noise.

- g. During the hearing, the Board received testimony with concerns regarding the noise impacts of mowing the grassed tennis courts. The Applicant testified that it would be no different or frequent than mowing a residential yard.
- h. During the hearing, the Applicant testified that they too are concerned about noise but rather the noise generated by traffic on Stowe Hollow Road and that they are willing to consider mitigation measures in order keep the daily noise of Stowe Hollow Road away from the camp. No noise mitigation measures were proposed.

15. Section 3.7(2)(B)(3) – Access Management:

- a. The property is served by Stowe Hollow Road, a Class 2 Town Highway.
- b. The Applicant proposes to utilize the existing driveway and construct a second access and curb cut on Stowe Hollow Road. The proposed secondary curb cut is approximately 200 ft from the existing access.
- c. Per Section 3.1(2) *“Access onto public highways is subject to the approval of the Director of Public Works, and for state highways, the Vermont Agency of Transportation.”*
- d. During the hearing, the Applicant testified that although the secondary curb cut is grassed over and not clearly visible it is an existing curb cut which connects to the town highway. The Applicant was unsure whether a Driveway Entrance Permit from the Department of Public Works would be required to restore the access.
- e. Per Section 3.1(3) Adequacy of Driveway Access, *“Vehicular access and intersections with public roads shall meet all applicable Town and State design standards to ensure traffic safety and efficiency. Generally, no property should be served by more than one (1) driveway access to State or Town highways except where multiple accesses will serve to enhance traffic safety; promote efficient transit service and/or serve multiple uses on single parcels with extensive road frontage.”*
- f. The Applicant proposes an additional driveway access on a town highway. The Applicant did not provide a justification on how the secondary access will *“serve to enhance traffic safety; promote efficient transit service and/or serve multiple uses on single parcels with extensive road frontage.”*

16. Section 3.7(2)(B)(4) – Shared Access:

- a. The proposed project is served by Stowe Hollow Road, a Class 2 Town Highway. The access is not shared with other users.

17. Section 3.7(2)(B)(5) – Circulation and Parking:

- a. The regulations require that parking be provided per the requirements of Section 14 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas.
- b. The Applicant proposes to convert the single-family dwelling to a summer tennis camp.

- c. The Applicant proposes to utilize the existing access and add a secondary drive and curb cut. During the hearing, the Applicant testified that the secondary access is existing.
- d. The Applicant proposes to expand an existing parking area to accommodate a total of seven (7) parking spaces.
- e. Per Section 15.1(4) *“Parking facilities shall be designed to minimize the visibility of parked vehicles from off-site through location, landscaping and screening. Parking shall generally be located to the rear of interior side (side not fronting on public road) of buildings and large, uninterrupted expanses of parking should be avoided.”*
- f. The proposed expanded parking area is located to the side/rear of the existing dwelling. Four (4) emerald arborvitae 5-6’ in height are proposed in the front of the parking area. Three (3) eastern white pines are proposed on the side of the parking area.
- g. Per Section 15.2, *“Exceptions to full compliance may be granted in instances where an alteration and/or a change in use is proposed that does not increase the required number of parking spaces. The minimum size of one parking space, to be maintained year-round, is nine (9’) x eighteen (18’) feet. Spaces designated for handicapped parking shall be a minimum of twelve (12’) x eighteen (18’) feet. Driveways leading to parking areas (except for single-family residential) shall be a minimum of 20 feet for two-way circulation and 10 feet for one-way circulation.”*
- h. Table 15.2 does not contain a required number of minimum parking spaces for summer camps. Seven (7) parking spaces are proposed and shown on the plan. During the hearing, the Applicant testified that campers would be dropped off at camp and not require any parking spaces. On-site parking is provided for camp counselors and support staff.
- i. Per Section 15.4 *“Required parking facilities shall have adequate all-weather surfacing, capable of allowing free and safe movement of all vehicles. Consideration should be given to permeable surfaces, such as grid pavers or porous pavement, to mitigate site surface run-off. Where an off-street parking facility is adjacent to a street line, there shall be a landscaped strip between such street line, and the balance of the lot, as required in the district. Landscaping should be sufficient to provide filtered screening of parking facilities from the public view. Parking facilities should provide filtered screening from all property lines and shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to improve the environment of the site and surrounding area.”* Sheet C-1 includes the following notation *“proposed gravel parking area”* and provides construction materials.
- j. Per 15.5(4) *“All parking surfaces shall be constructed so as to eliminate standing water and the discharge of storm water onto adjacent property, sidewalks or streets.”*
- k. Per Section 15.5(5), Handicapped provisions. *“Parking lots for all uses other than one and two-family dwellings, shall provide hard-surfaced handicapped spaces which are clearly designated, marked, and signed for handicapped use only. All handicapped spaces shall conform to the American with Disabilities Act.”* Table on page 170 requires one (1) ADA space for parking lots containing 1-25 parking spaces. ADA parking is not shown on the provided site plan.

18. Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:

- a. The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided.
- b. No pedestrian improvements are shown on the plan.
- c. During the hearing, the Applicant testified that the proposal includes a path between the tennis courts leading to the barn and the tennis courts will be accessible from the sides. The path is not shown on the provided plans.

19. Section 3.7(2)(B)(7) – Landscaping and Screening:

- a. The purpose of the landscaping standards read: *“These standards are intended to guide the DRB and applicants in developing and reviewing site development plans to ensure that landscaping is designed to enhance the overall appearance of individual properties; integrate new development into its natural and historic surroundings; preserve and enhance the particular identity of individual sites; and to maintain compatibility among neighboring properties and consistency within the community.”*
- b. 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.
- c. Four (4) emerald arborvitae 5-6’ in height are proposed in the front of the parking area. Three (3) eastern white pines are proposed on the side of the parking area. Per Section 4.6(3)(C)(1) requires *“or, in the case of coniferous trees, a minimum of 8’ - 10’ in height.”*
- d. Per Section 4.6(5) Screening *“A. Sufficient screening shall be provided if the DRB determines that topographical or other barriers do not provide adequate screening. Screening may be required in the following cases: 1. Where more intensive land uses are proposed to abut less intensive uses.”*
- e. No landscaping or screening is proposed to screen the tennis courts or barn building.
- f. During the hearing, the Applicant testified that there will be screened portalets to provide campers an outside bathroom. The portalets are not shown on the provided plans. Screening details were not provided.
- g. The main dwelling is a historic building as defined and regulated under Section 10 of the town’s zoning regulations.
- h. The proposed change of use and installation of a commercial kitchen will likely require exterior alterations including a possible external kitchen venting system. The Applicant was unaware whether exterior alterations would be required to meet the requirements of the VT Division of Fire Safety.

20. Section 3.7(2)(B)(8) – Stormwater Management:

- a. The Applicant requests approval to convert a single-family dwelling to a summer youth tennis camp and construct a 3200-sf barn, six (6) tennis courts, and an improved access drive and parking area.

- b. Section 3.7(2)(B)(8) *“The applicant shall, at the request of the DRB, submit a plan for the management of stormwater generated by the proposed development. All stormwater management plans shall meet the applicable State of Vermont Stormwater Discharge Regulations.”*
- c. No stormwater improvements are shown on the proposed plans.
- d. DPW Director Harry Shepard provided written comments dated 9/15/20 recommending provisions for stormwater management be required.
- e. According to Sheet C-1, a total of 0.12 acres (5,227 sf) of impervious surfaces are proposed. During the hearing, the Applicant’s Engineer testified that the tennis courts will be a grassed surface and are therefore not considered impervious.
- f. The Applicant testified that the tennis courts will be a rolled hardened surface with sod laid on top. Tennis court construction details were not provided.
- g. The Board heard testimony and concerns regarding herbicides, pesticides, and maintenance needs of grassed tennis courts.
- h. Staff calculated more than 46,000+ square feet of impervious surfaces proposed. The Department of Public Works estimated over 1+ acres of impervious surfaces.
- i. Sheet C-1 indicates that 2.4 acres are proposed to be disturbed (area of disturbance). Section 3.12(2) requires *“All development involving the disturbance of more than one-half acre shall submit an erosion and sediment control plan that incorporates the State of Vermont erosion prevention and sediment control practices before a zoning permit is issued.”*
- j. The site plan shows the location of proposed silt fencing surrounding the tennis courts. No additional erosion and sediment control measures are shown.
- k. Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction as follows:
 - A. *Site construction will be conducted in a manner that keeps the amount of soil exposed at any one time to a minimum.*
 - B. *Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, will be stabilized.*
 - C. *Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters. All development involving the disturbance of more than one-half acre shall submit an erosion and sediment control plan that incorporates the State of Vermont erosion prevention and sediment control practices before a zoning permit is issued.*
 - D. *Soil disturbance shall not be allowed between the period of October 15 to April 15 unless in application materials include erosion control measures that are adequate to ensure compliance with (A), (B) and (C) as noted above, taking into account winter and spring conditions.*

E. All development 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.

F. All development that creates more than 1/2 (one-half) acre of additional impervious surface must provide for an adequate stormwater drainage system to ensure that stormwater runoff is not increased beyond the boundaries of the project as determined by the standards used for the State of Vermont stormwater management permits. Such development shall submit a stormwater management plan prepared and sealed by a registered engineer before a zoning permit is issued.

- l. The application materials did not address Section 4.6(4) Site Protection and Restoration (page 55).

21. **Section 3.7(2)(C).** In addition to other provisions of Section 3.7, the DRB shall be guided by the standards outlined in Section 3.7(2)(C) including front yard treatment, parking, driveway access, and landscaping requirements for front yard and driveways (see landscaping and screening).

23. **Section 4.8 Outdoor Lighting.**

- a. The regulations require that all outdoor lighting be installed in accordance with the standards outlined in Section 4.8.
- b. Eight (8) decorative shielded outdoor wall sconces are proposed above and near the barn door entrances.
- c. During the hearing, the Applicant testified the existing dwelling contains building mounted lighting.
- d. No lighting is proposed to illuminate the parking area or tennis courts.

24. **Section 10- Stowe Historic Overlay District.**

- a. On August 26th and September 9th the Historic Preservation Commission reviewed the application.
- b. On August 26th the Commission requested that the architectural design of the barn be revised to provide further consideration related to the position of the barn, the view from Stowe Hollow Road, the visual relationship of the barn to the historic house, and incorporate design considerations for the barn to visually relate to the historic house and not the tennis courts. The Commission also requested additional detail on the cupola, trim, exterior lighting, and the fenestration and asked the Applicant to consider repositioning the barn to create a more traditional and historic dooryard area.
- c. On September 9th the Applicant met with the Commission and presented revised plans relocating the proposed barn to be more than 200 feet from the historic house eliminating the need for design review under the regulations; thus the Commission was only authorized to provide recommendations on the proposed tennis courts and associated netting.

- d. During the September 9th review, the Commission agreed that re-locating the barn to avoid design review did not address the prior recommendations of the Commission and raised architectural and design concerns. The Commission agreed the preferred design and architectural plan should create a traditional dooryard area and altering the plans to relocate the barn thus avoiding design review is in direct conflict with the Commission's recommended design considerations.
- e. The Commission provided a positive recommendation on the tennis courts and netting.

25. Section 15 Parking Regulations. – See discussion above.

CONCLUSION: In reviewing the application, the Board must determine that the proposed use will conform to the conditional use criteria and will not result in an undue adverse effect on the criterion outlined in Section 3.7(2). During the hearing, the Board received considerable testimony from the Applicant and adjoining property owners; many of which raised concerns with the proposal's potential noise and traffic impacts as well as the overall impact to the adjoining property owners and the character of the area. During its review, the Board identified a number of technical issues within the application that do not conform to the regulations but focuses its decision on Section 3.7(2)(A)(3) – The character of the area affected.

As noted above, the subject parcel is located in the RR5 zoning district with direct access to Stowe Hollow Road. The area is characterized by a rural Vermont landscape with five acre (or more) single-family residential parcels and scenic views of forested hillsides. As outlined in the town's adopted zoning regulations, the general purposes of the Rural Residential district include:

- *To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.*
- *To promote the preservation of adequate open space through carefully planned cluster types of development.*
- *To encourage agricultural productivity of good farmlands and of forest resources.*
- *To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.*

These purpose statements are further defined for the RR3 and RR5 zoning districts to include:

- *To eliminate undue demand for new or extended municipal services in outlying areas which would cause a burden on the town.*
- *To maintain the rural character and beauty of the existing neighborhoods.*
- *To discourage intensive development in areas where slopes or soil conditions dictate otherwise.*

In reviewing the application and weighing public testimony, the Board relies on these purpose statements of the Rural Residential Zoning Districts, specifically the RR5 district in order to determine whether the proposal meets Section 3.7(2)(A)(3) – The character of the area affected. The Applicant proposes a summer tennis camp geared towards youth aged children and the construction of an associated barn and

six tennis courts. The existing historic dwelling is proposed to be renovated to serve as a dormitory for campers and staff and as a central eating space. The Applicant did not provide detailed plans on the renovation or identify possible needed exterior alterations to the existing historic dwelling, nor did he provide any technical noise or traffic studies, proposed stormwater improvements, erosion control methods, or adequate landscaping to visually screen the proposed improvements and mitigate noise concerns. In making its decision the Board finds that the Applicant did not present adequate mitigation measures to improve the harmony of the proposed project with the surrounding area and that the proposal, as presented, would offend the sensibilities of the average person. This portion of Stowe Hollow Road is characterized by a rural Vermont landscape with a scattering of single-family dwellings, open spaces, and scenic views of the forested hillsides. There is no similar use in terms of scale, noise, visual impacts, etc. within the nearby area and the proposal does not maintain the rural character and beauty of the existing neighborhood. In sum, the identified technical deficiencies taken together with the overall purpose of the RR5 district, as defined in the town's adopted Zoning Regulations, lead the Board to conclude that the proposal will have adverse impacts on the character of the area affected and that those adverse impacts will be undue.

DECISION

The Development Review Board hereby denies (6-0) the Applicant's request for conditional use/design review approval as presented in application dated 7/29/2020 and supporting materials pursuant to the following sections of the Stowe Zoning Regulations, as adopted on October 9, 2018:

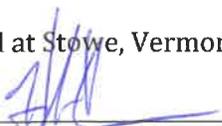
1. The Applicant failed to provide documentation and assurances that the application conforms to the following provisions of the Town of Stowe Zoning Regulations, as adopted on October 9, 2018:

Table 6.2 Dimensional requirements; Section 3.7(2)(A)(1) Capacity of existing or planned community facilities and services; Section 3.7(2)(A)(2) - Traffic on roads and highways in the vicinity; Section 3.7(2)(A)(3) - The character of the area affected; 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; Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution; Section 3.7(2)(B)(3) - Access Management; Section 3.7(2)(B)(5) - Circulation and Parking; Section 3.7(2)(B)(6) - Pedestrian Circulation and Access; Section 3.7(2)(B)(7) - Landscaping and Screening; Section 3.7(2)(B)(8) - Stormwater Management; and Section 3.7(2)(C) (1) & (1)(f)(i) [supplemental standards].

Voting to deny: F.Aumand III, D.Clymer, P.Roberts, M.Diender, L.Wasserman, T.Hand

Voting to approve: None

Dated at Stowe, Vermont this the 2nd day of October 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.