

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



**PROJECT:** 6351

**SUBJECT PROPERTY:** 823 South Main Street; #07-258.010

**PROPERTY OWNER:**

Bruce Nourjian  
PO Box 970  
Stowe, VT 05672

**APPLICANT:**

Christian C. Carey, Architect PC  
PO Box 516  
Stowe, VT 05672

**APPLICATION:**

The Applicant, Christian C. Carey on behalf of property owner Bruce Nourjian, (herein referred to as the "Applicant"), requests conditional use review for a change of use from a lodging facility to a multi-family dwelling containing forty-two (42) dwelling units. No exterior alterations to the building or site improvements are proposed. The project will be phased by converting individual lodging rooms into dwelling units. The subject parcel, consisting of ±14.43 acres and located at 823 South Main Street (#07-258.010), is in the Lower Village Commercial (LVC) and Rural Residential I (RRI) Zoning Districts. The property is served by Route 100, a state highway maintained by the Vermont Agency of Transportation (VTTrans). The application has been reviewed by the Stowe Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purpose of conditional use review. The Development Review Board's procedural history and relevant findings are attached.

**REVIEW PROCESS:**

*(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)*

An application for conditional use review was filed by Applicant Christian Carey on August 26, 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 October 6, 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 September 17, 2020 and posted at the Town Office, Library, and Police Station. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B).

The virtual public hearing to consider the application convened on October 6, 2020 using Zoom with a quorum of the DRB present. Board member Diender disclosed he had a brief discussion with Applicant regarding the big picture business plan, but nothing related to details of project. No additional ex parte communications or conflicts of interests were reported.

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

- Christian C. Carey, Architect PC, PO Box 516, Stowe, VT 05672
- Bruce Nourjian, PO Box 970, Stowe, VT 05672

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

1. Town of Stowe Development Application, dated 8/24/2020;
2. Aerial image showing existing conditions, no date;

3. Survey prepared by Little River Survey Company showing parcel boundaries, dated June 2004;
4. Site plan showing existing parking spaces, no date;
5. Floor plans showing existing/proposed unit configuration, no date;
6. Standard Unit Floor Plan, no date;
7. Existing elevations (2 pages), no date;
8. Jurisdictional opinion from VTrans, dated 9/8/2020.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

**FINDINGS OF FACT & CONCLUSIONS OF LAW:** The Applicant's request was reviewed by the Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) including the following:

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 15- Parking Regulations

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

**Dimensional Requirements:**

1. **Zoning District.** The subject parcel contains ±14.43 acres and is located within the Lower Village Commercial (LVC) and Rural Residential I (RRI) Zoning Districts 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.** No change to the building footprint is proposed.
4. **Maximum Building Coverage.** No change to building coverage is proposed.
5. **Use.** The parcel contains a lodging facility and related improvements. The Applicant seeks approval for a change of use from lodging to multi-family dwelling, as defined below. The regulations provide the following use definitions:

*Multi-Family Dwelling: A building on a single lot containing more than two (2) dwelling units, each of which is totally separated from the other by an un-pierced wall extending from ground to roof or an un-pierced ceiling and floor extending from exterior wall, except for a common stairwell exterior to both dwelling units.*

The project will be phased by converting individual lodging rooms into dwelling units. During the phased implementation of the project, the building will serve, at times, as both a lodging facility and a multi-family dwelling. Prior to the zoning permit expiration, the building must be entirely converted to a multi-family dwelling or a permit amendment will be required.

6. **Height.** No change to building height is proposed under this application.

7. **Density.** The Applicant proposes a change of use; multi-family dwelling containing forty-two (42) dwelling units. The subject parcel contains ±14.43 acres or 628,570 sf. According to staff calculations, approximately ±10.43 acres are within the RR1 district and approximately four (4) acres are within the LVC District. The Applicant confirmed staff calculations during the hearing, as calculated the parcel can support a density of fifty-five (55) units; forty-two (42) units are proposed.

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

8. **Capacity of existing or planned community facilities and services:** Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, Police Department, EMS, and Parks and Recreation. The property is served by the municipal water and sewer system. In addition to zoning requirements, the Applicant will need to assess the current municipal water/sewer allocation and seek additional allocation if the changes of use increase flow. No Municipal Department review forms returned indicated that the requested modifications would have any adverse impact on existing or planned community facilities and services.

**Conclusion:** Based upon the above findings, the Board concludes the proposal will not result in an undue adverse effect on the Town’s existing or planned facilities or services.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant seeks approval for a change of use from lodging to multi-family dwelling containing forty-two (42) dwelling units. During the hearing, the Applicant testified that the change of use is not expected to result in increased traffic and that the reduction in the number of bedrooms may reduce traffic.

**Conclusion:** Based upon the above findings, the Board concludes the proposal will not result in an undue adverse effect on traffic on roads and highways in the vicinity.

10. **Section 3.7(2)(A)(3) – The character of the area affected:** The subject building is in the LVC zoning district. The purpose of the LVC district is *“The purpose of Lower Village Commercial District is to promote the sound economic development of Stowe, to carry out the objective of the Stowe Town Plan, to maintain some of the areas adjacent to Stowe Village as centers of community activity and to encourage the best use of land.”* The Applicant requests approval for a change of use to multi-family dwelling. In the vicinity are other nearby residential, commercial, and lodging uses.

**Conclusion:** Based upon the above findings, the Board concludes the proposal will not result in an undue adverse effect of the character of the area affected.

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

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

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

**Conclusion:** Based upon the above findings, the Board concludes the project will not 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 site is previously developed. The Applicant seeks approval for a change of use. No changes to the site or exterior building changes are proposed. The requested change of use is not expected to impact the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

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

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

**Conclusion:** Based upon the above findings, the Board concludes the proposal will not result in undue water, noise, or air pollution.

15. **Section 3.7(2)(B)(3) –Access Management:** The parcel is served by Route 100- a state-maintained highway. No changes to the existing access are proposed under this application. Staff referred the application to VT Agency of Transportation (VTTrans) to inquire whether an §1111 permit is required. Ed Pierce, Permit Coordinator with the Vermont Agency of Transportation responded with a jurisdictional opinion that no §1111 permit is required.

**Conclusion:** Based upon the above findings, the Board concludes no changes to the location or number of access points is proposed under this application.

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

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

17. **Section 3.7(2)(B)(5) – Circulation and Parking:** The regulations require parking be provided per the requirements of Section 15 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas. The Applicant seeks approval for changes of use; no changes to existing parking arrangement, circulation, or number of parking spaces are proposed under this application.

The Applicant provided a parking plan showing the existing parking layout and number of parking spaces. Multi-family dwellings require two (2) parking spaces for each unit larger than 400 sf; and one (1) parking space for each unit less than 400 sf. As proposed, seventy-one (71) parking spaces are required under the regulations. The provided parking plan indicates seventy-eight (78) parking spaces exist.

**Conclusion:** Based upon the above findings, the Board concludes the existing circulation and parking improvements represents safe and adequate access and circulation for the proposed use.

18. **Section 3.7(2)(B)(6) – Pedestrian Circulation and Access:** The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads be provided. No changes to the existing circulation or access improvements are proposed under this application. The parcel is located in the lower village with direct access to public sidewalks and nearby connection with the Stowe Rec Path.

**Conclusion:** Based upon the above findings, the Board concludes the existing site layout, including pedestrian circulation and access, represents safe and adequate pedestrian access and circulation for the proposed 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. No changes to the existing landscaping are proposed under this application.

**Conclusion:** Based upon the above findings, the Board concludes the existing landscaping and site layout provides adequate screening in accordance with Section 4.6.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction. No changes to existing stormwater drainage patterns are proposed.

**Conclusion:** This provision is not applicable.

21. **Section 4.8 Outdoor Lighting.** No changes proposed.

**Conclusion:** This provision is not applicable.

## **DECISION**

On a motion by F.Aumand III, seconded by A.Volansky, the Development Review Board hereby approves the Applicant's request for a change of use as indicated on the application dated 8/24/2020 and related submittals, subject to the following conditions of approval:

1. The project shall be completed according to the plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if an amendment is required. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if had been included in the plans as approved.
2. All relevant prior conditions of approval, unless amended herein, remain in full force and effect.
3. The Applicant must obtain a zoning permit for the installation of any new signage.
4. The Applicant must obtain additional municipal water allocation if the changes of use increase previously allocated flow.
5. Prior to the zoning permit expiration, the building must be entirely converted to a multi-family dwelling or a permit amendment is required.

6. 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. A Certificate of Occupancy is required upon completion but prior to occupancy of each dwelling unit.
7. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Voting in favor: D. Clymer, T. Hand, M. Diender, C. Walton, A. Volansky, L. Wasserman, F. Aumand III.

Voting to deny: None

Motion PASSED 7-0

Dated at Stowe, Vermont this the 23 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.