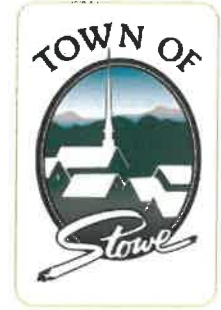


TOWN OF STOWE
DEVELOPMENT REVIEW BOARD
Findings of Fact & Conclusions of Law



PROJECT: 6353

PROPERTY: 56 Turner Mill Lane; # 12-048.000

APPLICANT:

Adam Hostetter, Complete Home Group
89 South Main Street
Centerville, MA 02632

PROPERTY OWNER:

56 Turner Mill LLC
56 Turner Mill Lane
Stowe, VT 05672

APPLICATION:

The Applicant, Adam Hostetter on behalf of property owner 56 Turner Mill LLC (herein referred to as the "Applicant"), requests approval for exterior alterations to the historic building and to reconfigure the existing uses resulting in a total of five (5) dwelling units. Exterior alterations include replacing the wood frame windows, enlarging a second story eastern façade window, constructing a covered inset porch on the second story eastern façade, removing the existing siding from the top story and replacing it with a natural cedar shingle, installing French doors on northern façade and stair to provide a second means of egress, adding a door on northern façade to provide secondary means of egress from third floor unit; and replacing the existing garage doors. The historic building was constructed in ~1936, prior to the adoption of the town's zoning regulations. As decided by the State of VT Superior Court Environmental Court [142-11-16 Vtec] in 2018, the pre-existing building contains five (5) rental dwelling units, two (2) lodging rooms, and an owner's quarters, of which have historically been used for both short and long-term rentals. Under Project 4511, the Board granted approval to operate a commercial guide service. As noted above, under this current application, the Applicant proposes both interior and exterior renovations and to reconfigure the existing uses. The Applicant proposes to eliminate the commercial guide service use and to reconfigure the units within the historic building resulting in a multi-family dwelling consisting of a total of five (5) dwelling units. One of the five dwelling units will serve as the owner's unit to be located on the 1st and 2nd floors. No changes to the site improvements, parking, or landscaping are proposed.

The parcel, consisting of ±9 acres, is a split lot, as defined under the regulations, containing lands within both the Upper Mountain Road (UMR) and the Rural Residential 5 (RR5) zoning districts. The property is served by a shared private right-of-way connecting to Mountain Road (VT-108), a state-maintained highway. The application has been reviewed by the Development Review Board (DRB) for the purposes of conditional use and design review under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018). 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 was filed by Applicant Adam Hostetter on August 25, 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. Upon receiving recommendations from the Historic Preservation Commission, a public hearing of the DRB was scheduled for November 3, 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 October 15, 2020 and posted at the Library, Town Office, and Police Station. The Applicant submitted a completed certificate of service in accordance with Section 2.14(1)(B), providing notice of the hearing to the property abutters.

The virtual public hearing to consider the application convened on November 3rd at 5:00 PM with a quorum of the DRB present. The remote hearing was held utilizing 'Zoom' with no physical meeting space provided. No ex parte communications or conflicts of interests were reported. Board members in attendance and participating in the review included Francis Aumand III, Drew Clymer, Chris Walton, Andrew Volansky, Leigh Wasserman, and Tom Hand.

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

- Jocelyn Gambone, 777 East Broadway, South Boston, MA 02127

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

- Town of Stowe Development Application (2 pages); dated 8/25/2020;
- Project narrative from Kyle Gambone, dated 8/17/2020;
- Photos of existing dwelling, no date;
- Building Details & Cut-Sheets including:
 - Marvin Window Specifications & details (14 pages)
 - Lighting Cut-Sheet- Wall Sconce
 - Railing Details
- Property Line Setbacks Summary, dated September 2, 2020;
- Architectural Drawings- 56 Turner Mill LLC prepared by Platt Development Group LLC [Issued for Revision 9/17/2020]
 - Sheet A-01 Analysis Drawing List
 - Sheet A-10 Proposed Plans [Level 1 & 2 Floorplan]
 - Sheet A-11 Proposed Plans [Level 3 & 4 Floorplan]
 - Sheet A-30 Proposed Elevations [Side & Driveway Elevations]
 - Sheet A-31 Proposed Elevations [Side & Rear Elevations]
 - Sheet XA-1 Existing Plans [Level 1 & 2 Floorplan]
 - Sheet XA-2 Existing Plans [Level 3 & 4 Floorplan]
 - Sheet XA-3 Existing Plans [Existing Elevations [Side & Driveway Elevations]]
 - Sheet XA-4 Existing Plans [Existing Side & Rear Elevations]
- Sewer & Water Existing Conditions Site Plan prepared by Donald Hamline
- SHPC Meeting Minutes/Recommendations;
- Parking Exhibit- 56 Turner Mill Lane, dated 10/23/2020.

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/design review approval was reviewed by the Stowe Development Review Board (DRB) for conformance with applicable requirements of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) including the following:

- Section 2- Administration and Enforcement

- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 10- Stowe Historic Overlay District
- Section 15- Parking Regulations

Dimensional Requirements:

1. **Zoning District.** The parcel is a split lot, as defined under the regulations, containing lands within both the Upper Mountain Road (UMR) and the Rural Residential 5 (RR5) zoning districts, as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). The historic inn building is located within the UMR district.
2. **Lot Area, Lot Width.** No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in UMR are front (50'), side (50') and rear (50'). The Applicant provided a property line setback summary showing the changes in building footprint. The proposed expansions in footprint involve a 4' deck and stairway and a roof overhang over an entrance. Both are located on the rear elevation and are sited to meet the required setbacks.
4. **Maximum Building Coverage.** The maximum building coverage in UMR is 8%. *"16.22 Building Coverage: That portion of a site, expressed as a percentage, occupied by all buildings or structures, (not including public utility structures), that are roofed or otherwise covered and that extend more than three (3') feet above the surface ground level. The building roof overhang up to 6 feet in length is not included as part of the building coverage area."* The Applicant proposes two expansions to the building footprint; an open uncovered deck and a roof overhang extending roughly 4 ft over the rear entrance. Neither contributes to building coverage. No changes in building coverage are proposed.
5. **Use.** The pre-existing building contains five (5) rental dwelling units, two (2) lodging rooms, and an owner's quarters. Under Project 4511, the Board granted approval to operate a commercial guide service. The Applicant proposes to eliminate the commercial guide service use and to reconfigure the units within the historic building resulting in a multi-family dwelling consisting of a total of five (5) dwelling units.

The regulations define Multi-Family Dwelling Unit as follows: *"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."*

6. **Height.** The maximum building height in UMR is 28' feet. No changes in building height are proposed.
7. **Density.** In the UMR district multi-family dwellings are allowed at a density of three (3) units per acre. Approximately four (4) acres of the split lot are located in the UMR district allowing for approximately twelve (12) dwelling units. This calculation does not include the remaining lands within the RR5 district. The Applicant proposes five (5) multi-family dwelling units, a reduction in overall density.

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:

1. **Capacity of existing or planned community facilities and services:**

a. 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.

b. David Kresock of Stowe Electrical Department provided the following comments:

Project #6353 – No SED Impact

c. The Applicant submitted a request for municipal water and sewer allocation to support the additional bedrooms. The Water & Sewer Commissioners granted preliminary approval of the additional water and sewer allocation at their 9/28/2020 meeting.

d. No other Municipal Department review forms returned indicated that the proposal would have any undue adverse impact on existing or planned community facilities and services.

Conclusion: Based on 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.

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

a. The Applicant proposes to eliminate the commercial guide service use and to reconfigure the units within the historic building resulting in a multi-family dwelling consisting of a total of five (5) dwelling units.

b. The Applicant did not provide a statement regarding expected impacts on traffic on roads and highways in the vicinity.

c. The proposal eliminates a former commercial use and reduces the number of dwelling units and lodging units.

d. The parcel is located within the UMR District with indirect access to Mountain Road (VT-108). This portion of Mountain Road is maintained by the State of Vermont Agency of Transportation.

e. Adjacent and nearby uses are primarily lodging and residential uses.

Conclusion: Based on the above findings, the Board concludes the proposal will not impact traffic on the roads and highways in the vicinity.

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

a. The subject parcel is in the UMR zoning district. The purpose of the UMR district is *“To control development along the “upper” Mountain Road in a manner that allows for residential, recreation and low-density commercial uses of property while preserving the rural character of the landscape, discouraging strip development and promoting the ongoing viability of existing land uses.”*

b. The Applicant requests approval to reconfigure the uses resulting in five (5) dwelling units.

c. Adjacent and nearby uses are primarily lodging and residential uses.

- d. No changes to site improvements, landscaping, or parking are proposed.

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

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

- a. The application was reviewed under the Conditional Use standards. Applicable bylaws include the Stowe Zoning Regulations, as adopted October 9, 2018.
- b. The Applicant proposes additional bedrooms under the Town’s Sanitary Sewer Ordinance. The Water & Sewer Commissioners granted preliminary approval of the additional water and sewer allocation at their 9/28/2020 meeting.
- c. No other known or identified municipal bylaws or ordinances apply to this project.

Conclusion: Based on the above findings, the Board concludes the proposal is in conformance with municipal regulations and ordinances in effect.

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

- a. No changes to the site improvements, landscaping, or parking are proposed. No changes in building height are proposed.
- b. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources.

Conclusion: Based on the above findings, the Board concludes the proposal is not expected to interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources.

6. 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 project is located in the UMR district.
- b. The parcel contains the historic Turner Mill Inn, an inventoried historic building regulated under Section 10 of the zoning regulations. The Applicant proposes exterior alterations which required review by the Historic Preservation Commission.
- c. The Historic Preservation Commission reviewed the application during their 9/9 and 9/23 meetings and provided positive comments recommending approval of the exterior alterations.
- d. No changes to the previously approved site plan, landscaping, or parking are proposed.

Conclusion: Based on the above findings, 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.

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

- a. The Applicant proposes to eliminate the commercial guide service use and to reconfigure the units within the historic building resulting in a multi-family dwelling consisting of a total of five (5) dwelling units.
- b. No changes to site improvements, landscaping, or parking are proposed.
- c. The Applicant did not provide hours of construction.
- d. The proposed project is not expected to result in undue water, noise, or air pollution.

Conclusion: Based on the above findings, the Board concludes the proposal, as conditioned, will not result in undue water, noise, or air pollution. As a condition of approval, the Board will limit construction hours to Monday-Friday from 7:00 am – 5:00 pm.

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

- a. The project is currently served by an existing curb cut and the private Turner Mill Lane.
- b. No changes in access are proposed under this application.

Conclusion: Based on the above findings, the Board concludes no changes to the existing access are proposed.

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

- a. The parcel is served by a right-of-way over the adjacent parcel.
- b. No changes to existing shared access are proposed under this application.

Conclusion: Based on the above findings, the Board concludes no changes to the existing shared access are proposed.

10. 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 off-site visibility of parking areas through the location, landscaping and screening of such areas.
- b. The Applicant proposes to eliminate the commercial guide service use and to reconfigure the units within the historic building resulting in a multi-family dwelling consisting of a total of five (5) dwelling units.
- c. The parcel is previously developed. No changes to site improvements, landscaping, or parking are proposed.
- d. The Applicant provided an existing parking plan showing a total of thirteen (13) parking spaces.
- e. Table 15.2 outlines parking requirements for allowed uses. The parking requirements for multi-family dwellings units larger than 400 sf are two (2) spaces per unit. Each unit is proposed to be larger than 400 sf.

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

11. 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. The parcel is previously developed. No changes to site improvements, landscaping, or parking are proposed.

Conclusion: Based on the above findings, the Board concludes the existing pedestrian improvements represents adequate access and circulation for the proposed use.

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

- a. 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.
- b. No changes to the existing landscaping are proposed.
- c. The site contains existing mature landscaping and forested cover.

Conclusion: Based on the above findings, the Board concludes the existing landscaping improvements are appropriate for the intended use and site location.

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

- a. Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction.
- b. The site is previously developed. The Applicant proposes two minor changes to building footprint on the rear façade. Depending on the construction of the open deck, no (or minimal) increases in impervious surfaces are proposed.

Conclusion: Based on the above findings, the Board concludes the Applicant proposes minimal increases in impervious surfaces which will not alter existing drainage patterns. The Applicant will be required to meet the general standards listed in Section 3.12 as conditions of approval.

14. Section 3.7(2)(C). In addition to other provisions of Section 3.7, the Board 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 Board 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 HT, RR, MOD, **UMR** Standards: Within the Highway Tourist (HT), (Rural Residential (RR), Meadowland Overlay (MOD)) and **Upper Mountain Road (UMR)** Districts, site plans shall re-enforce efficient traffic circulation, preserve such important

landscape features as open fields, scenic vistas, natural and cultural focal points and a well landscaped highway corridor.

To help achieve these objectives, the following standards shall apply:

- a. **Front Yard Treatment:** A continuous strip not less than twenty (20') feet deep, measured from the edge of the highway right of- way, shall be maintained between the street line and the balance of the lot, which strip shall be suitably landscaped. Only driveways and pedestrian walks may traverse the required strip. In addition, no portion of the front yard may be used for storage or for any purpose except as provided herein.
 - b. **Parking:** Parking shall be located in the rear and/or side of all commercial and multi-family residential properties, except as provided under Section 14.3 of the regulations. 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. **Driveway Access:** Driveways shall be the minimum width necessary to provide safe vehicular access and promote pedestrian circulation.
 - d. **Additional UMR Standards:** In addition to the conditional use criteria of these regulations, the DRB shall find that the proposed development is designed in a manner compatible with the area's rural character. At a minimum, the Board will consider:
 - i. Adequacy and appropriateness architectural design and visual context of the project. Generally, architectural designs shall reinforce the rural landscape of the district through contextual scale and orientation of the buildings within the site and should reflect vernacular Vermont residential and agricultural building styles and incorporate, where appropriate, traditional materials.
 - ii. Buildings should generally be designed with a pitched roof and be of a mass and scale compatible with neighboring properties and the site.
- a. The parcel is previously developed. No changes to the site plan, landscaping, or parking are proposed. The building was constructed in 1936 and predates the adoption of town zoning regulations.

Conclusion: Based on the above findings, the Board concludes the proposed alterations are designed in a manner compatible with the area's rural character.

Section 4: Specific Use Standards

15. **Section 4.6 Landscaping Standards.** No changes proposed.

16. **Section 4.8 Outdoor Lighting.**

- a. One outdoor wall mounted sconce is proposed near the doorway on the rear elevation.

Conclusion: Based on the above finding, the Board concludes the proposal meets the standards outlined in Section 4.8.

17. Section 10- Stowe Historic Overlay District.

- a. The parcel contains a historic building, #167, as defined under the regulations and regulated under Section 10. The Historic Preservation Commission reviewed the proposed plans during their September 9th and September 23rd meetings and voted to recommend approval of proposed alterations (see HPC meeting minutes).

Conclusion: Based upon the above findings, the Board accepts the recommendations of the Historic Preservation Commission and concludes the project has been designed in accordance with Section 10.

DECISION

On a motion by C.Walton, seconded by F.Aumand III, the Development Review Board hereby approves (6-0) the Applicant's request for exterior alterations and to reconfigure the uses as outlined in the application dated 8/25/2020 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. Unless amended herein, all previous conditions of approval remain in full force and effect.
3. The Board accepts the recommendation of the Historic Preservation Commission. Exterior alterations shall be completed as shown on the approved plans.
4. The Applicant shall obtain all necessary municipal water and sewer allocations and approvals.
5. Construction hours and related noise activities shall be limited to Monday-Friday from 7:00 am - 5:00 pm.
6. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that is has been constructed as approved by the Development Review Board, as required under Section 2.10 of the zoning regulations.
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 permittee agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

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

Voting to deny: None

Dated at Stowe, Vermont this the 23 day of November 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.