



**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

APPLICATION INFORMATION

Project Number 6354
Application Date 9/2/2020
Physical Location 151 MAIN ST
Map ID 7A-052.000 **Tax ID** 01052
Project Description INSTALL A KITCHEN HOOD VENT SYSTEM
Owner GRANDVIEW FARMS INC
Applicant GRANDVIEW FARMS INC BRIAN LEVEN
Applicant Address 212 MOULTON LANE
STOWE VT 05672

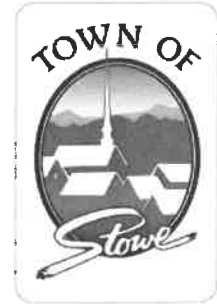
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
SHPC RECOMMENDATION	11/18/2020		
DRB DECISION	2/2/2021	3/4/2021	3/4/2023

Sarah McShane

Zoning Office

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



PROJECT: 6354

SUBJECT PROPERTY: 151 Main Street; #7A-052.000

PROPERTY OWNER & APPLICANT:

Grandview Farms Inc./Brian Leven
186 College Street
Burlington, VT 05401

APPLICATION:

The Applicant, Brian Leven on behalf of property owner Grandview Farms Inc. (herein referred to as the "Applicant"), requests conditional use and design review approval for the after-the-fact installation of a screened exterior vent for a kitchen hood to serve the Umami carry-out restaurant. The subject parcel is located at 151 Main Street (#7A-052.000) within the Village Commercial 10 (VC10) zoning district and Stowe Historic Overlay District (SHOD). The subject parcel is bounded to the north by a parcel owned by the Town of Stowe; to the east by a parcel owned by the Brendan Bradley Trust; to the south by Main Street (Rt. 100); and to the west by a parcel owned the Stowe Community Church. 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 Brian Leven on September 1, 2020. The application was accepted as administratively complete by Town of Stowe Zoning Director Sarah McShane and, upon receiving recommendations from the Historic Preservation Commission, was referred to the Development Review Board for a public hearing. A public hearing of the DRB was scheduled for January 19, 2021 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 December 31, 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 January 19, 2021 using a virtual meeting platform 'Zoom', with a quorum of the DRB present. At the outset of the hearing Alternate M.Black recused herself from participation. No additional conflicts of interests or ex parte communications were reported. Members who participated include: D. Clymer, F. Aumand III, T. Hand, P.Roberts, C.Walton, A.Volansky.

The following persons attended and participated in the hearing process:

- Brian Leven, 212 Moulton Lane, Stowe, VT 05672
- Jay Caroli, 1288 Barton Orleans Road, Barton, VT 05822
- Walter Towslee, 7136 Victoria Circle, University Park, FL 34201

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

1. Town of Stowe Zoning Application, dated 9/1/2020;
2. Photographs of roofline and existing vicinity, no date;
3. Manufacturer information for the hood system, dated 6/11/2020;

4. Architectural drawings prepared by Great Blue Heron, Sheet A2.1E, dated 11/1/2020;
5. Written comments from Brian H. Leven, dates 1/5/2021;
6. Architectural drawings prepared by Great Blue Heron, Sheet A2.1E, dated 11/1/2020/last revised 12/02/2020;

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

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

1. **Zoning District.** The parcel located at 151 Main Street 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.”* No changes to setbacks are proposed under this application; the screened hood system is located on the eastern side of the rear roofline and will not encroach beyond the existing building footprint.
4. **Maximum Building Coverage.** No changes to building footprint or maximum building coverage are proposed under this application.
5. **Use.** The subject parcel contains a mixed-use building containing retail and restaurant uses and related improvements. The proposed kitchen vent will serve the Unami restaurant. Under the town’s adopted zoning regulations, carry-out restaurants are considered a retail use. 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.’* No change of use is proposed under this application.
6. **Density.** No change in density is proposed under this application.
7. **Height.** No change in building height is proposed under this application.

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. During the hearing, the Board agreed with staff’s determination that the following review standards are not applicable to this application:

- 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)(4) – Regulations and ordinances in effect
- Section 3.7(2)(A)(5) – Utilization of renewable energy sources
- Section 3.7(2)(B)(3) –Access management
- Section 3.7(2)(B)(4) – Shared access
- Section 3.7(2)(B)(5) – Circulation and parking
- Section 3.7(2)(B)(6) – Pedestrian circulation and access
- Section 3.7(2)(B)(8) – Stormwater management
- Section 3.7(2)(C)(1) – Additional VC standards
- Section 4.8– Outdoor Lighting

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

A. 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.

B. The Applicant requests after-the-fact approval for the installation of an exterior screened kitchen hood vent system.

C. As proposed, the vent system is located on the eastern rear side of the building and will be screened with materials which match the building siding and trim.

D. The existing mixed-use building contains a mix of restaurant and retail uses.

Conclusion: Based on the above findings, the Board concludes the proposal will not have an undue adverse affect on the character of the area as defined under the Stowe Zoning Regulations (as adopted October 9, 2018).

Section 3.7(2)(B) – Other Standards of Review:

10. **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 Applicant requests after-the-fact approval for the installation of an exterior screened kitchen hood vent system. The ventilation system is located on the north facing side of the building.
- B. The subject building is historically known as the Stowe Hardware Store c. 1840. The Applicant reported that the building is commonly referred to as the Stowe Landing.
- C. The parcel is previously developed and is located in a historic village setting with nearby historic commercial and residential buildings. The project was reviewed on September 9th, September 23rd, October 28th, and November 18th by the Stowe Historic Preservation Commission. After reviewing numerous design options, the Historic Preservation Commission recommend approval of the design as shown in the black and white drawing on Sheet A3.1(E) (with a metal shroud around the mushroom).

Conclusion: Based on the above findings, the Board concludes the proposal, if maintained as approved, will not adversely affect the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

11. 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 provided the manufacturer information for the hood system, dated 6/11/2020.
- C. The architectural drawings include a notation "*provide 4" roxul "safe and sound" non-combustible sound batt insulation at all interior surfaces.*"
- D. During the review by the Historic Preservation Commission, property adjoiners and those owning property in the vicinity raised concerns regarding the noise level of the vent system.
- E. During the public public hearing, nearby property owner Walter Towslee raised concerns regarding the noise of the vent system.
- F. Architect Jay Caroli testified that the system will be rotated 90-degrees and insulated to reduce noise.
- G. The Applicant, Brian Leven, testified that the existing unscreened vent omits approximately 70 decibels when operating. This level of noise was reported to be similar to a vacuum cleaner. The Applicant testified that the proposed screening and insulation will reduce the noise.

Conclusion: Based on the above findings, the Board concludes the project, if completed and maintained as conditioned, will not result in undue water, noise, or air pollution.

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.

during some seasons but is less visible than other locations on the building which are clearly visible from public buildings and public rights-of-way.

Conclusion: Based on the above findings, the Board accepts the recommendations of the Stowe Historic Preservation Commission and concludes the proposal has been designed in accordance with Section 10.14(7).

DECISION

On a motion by C.Walton, seconded by F.Aumand III, the Development Review Board hereby approves (5-1-1) the proposal as outlined in the application dated 9/1/2020 and supplemental materials, subject to the following conditions of approval:

1. The project shall be completed and maintained according to the project 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 such change being made, for a determination whether 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 it had been included in the plans as approved.
2. Prior to the issuance of a zoning permit, the Applicant must provide an updated architectural drawing depicting the 6" rise of the hood vent system.
3. Pursuant to Section 10.5(12), the Board accepts the recommendations of the Stowe Historic Preservation Commission as voted on during their November 18, 2020 meeting. The project shall be completed as shown in the black and white drawing on Sheet A3.1(E) (with a metal shroud around the mushroom), dated 11/1/2020 and amended herein.
4. The vent system must not be audible in the adjacent buildings when the adjacent building windows are closed.
5. The Applicant must install a grease trap in accordance with DPW standards.
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. Prior to the issuance of a Certificate of Occupancy, a registered architect licensed in the State of Vermont shall provide written confirmation that the project has been completed in accordance with the approved plans.
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 purposes of ascertaining compliance with the conditions of approval.

Voting favor: D.Clymer, P.Aumand, C.Walton, A. Volansky, P. Roberts

Voting to deny: T.Hand

Recused: M.Black

The motion PASSES, 5-1-1.

Dated at Stowe, Vermont this the 2 day of Feb 2021

- B. Per Section 4.6(5)(A & B), 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.

2. Adjacent to garbage collection and utility areas, satellite antennas, commercial ventilation systems over 2 square feet, outdoor storage, and loading and unloading areas and other outdoor utilities and facilities.

3. When the project adversely impacts adjacent properties (i.e. lighting, outdoor storage, etc.) and when contiguous land uses and activities will adversely impact on the development (i.e. roads or incompatible uses).

B. Screening should provide a year-round visual screen, particularly from roads. A diversity of materials should be used to create an interesting, naturalized screen rather than a large expanse of uninterrupted, uniform material. Materials may include fencing, shade trees, evergreen and flowering shrubs, rocks, mounds or combinations thereof to achieve the same objectives.

- C. The Applicant requests after-the-fact approval for the installation of an exterior screened kitchen hood vent system. As proposed, the vent system is located on the eastern roof of the rear building and will be screened with materials which match the building siding and trim. The intake vent will be located 90-degrees facing south on the eastern side of the rear building addition.

Conclusion: Based on the above findings, the Board concludes the proposed screening is appropriate for the intended use and site location.

13. Design Review (Section 10).

- A. Pursuant to Section 10.5(12), the Stowe Historic Preservation Commission reviewed the application during their September 9th, September 23rd, October 28th, and November 18th meetings and voted to recommend approval as follows:

Mr. Dixon motioned to recommend approval of the design shown in the black and white drawing on Sheet A3.1(E) (with a metal shroud around the mushroom). The motion was seconded by MacDonald and passed unanimously.

- B. Section 10.14(7) provides the following applicable standards:

(7) Exterior HVAC

Exterior heating, ventilation, and air conditioning (HVAC) equipment (not including window-mounted air conditioning units) should be placed to the rear, side or top of the building and screened from public view.

- C. The proposed hood and vent system is located on the rear of the building and is screened with materials to match the existing building. This location is partially visible from Maple Street

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.

