



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

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Please note that there are conditions of approval required to be met before your Zoning Permit can be issued. Once you fulfill these conditions your zoning permit will be sent to you

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

APPLICATION INFORMATION

Project Number 6489
Application Date 3/4/2021
Physical Location 3430 MOUNTAIN RD
Map ID 11-148.000 **Tax ID** 25037
Project Description INSTALL SITE LANDSCAPING AND OUTDOOR LIGHTING
Owner 3430 MOUNTAIN ROAD LLC
Applicant 3430 MOUNTAIN ROAD LLC DOUG MOSES
Applicant Address 145 PINE HAVEN SHORE RD SUITE 1150
SHELBURNE VT 05482

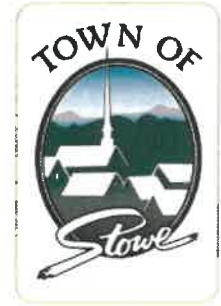
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	5/7/2021	6/6/2021	6/6/2023

Sarah McShane

Zoning Office

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



PROJECT: 6489

SUBJECT PROPERTY: 3430 Mountain Road; #11-148.000

PROPERTY OWNER/APPLICANT:

3430 Mountain Road LLC
Doug Moses- Bullrock Corporation
145 Pine Haven Shores Road, Suite 1150
Shelburne, VT 05482

APPLICATION:

The Applicant, Doug Moses of Bullrock Corporation, on behalf of 3430 Mountain Road LLC (herein referred to as the "Applicant"), requests conditional use review for the proposed installation of outdoor lighting and landscaping. The subject parcel, consisting of ±4.25 acres and located at 3430 Mountain Road (#11-148.000), is in the Upper Mountain Road (UMR) Zoning District. The property is served by Mountain Road, a state highway maintained by the Vermont Agency of Transportation (VTrans). The parcel is bounded to the north by a ±18.56-acre parcel owned by Mountain House LLC, to the east by a ±5.34-acre parcel owned by Thomas & Rita Buchanan Estate, to the south by Mountain Road, and to the west by a ±1.10-acre parcel and dwelling owned by Eduardo Rovetto. 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 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 Doug Moses on March 2, 2021. 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 April 20, 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 April 1, 2021 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 public hearing to consider the application convened on April 20, 2021 using a virtual meeting platform 'Zoom', with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. Members who participated include: D. Clymer, F. Aumand III, T. Hand, P.Roberts, L. Wasserman, M.Diender, A.Volansky.

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

- Doug Moses- Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150
Shelburne, VT 05482
- Gregg Beldock- Bullrock Corporation, 145 Pine Haven Shores Road, Suite 1150
Shelburne, VT 05482

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

1. Town of Stowe Development Application, dated 2/24/2021;
2. Planting Plan, Sheet L200, prepared by Wagner Hodgson Landscape Architects, dated 02/17/2021;
3. Layout and Material Plan, Sheet L100, prepared by Wagner Hodgson Landscape Architects, dated 03/03/2021;
4. Lighting Manufacturer Cut-Sheets (30 pages), no date.

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- *During its review of the application, the Board made the following Findings of Fact and 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

Dimensional Requirements:

1. **Zoning District.** The subject parcel contains ±4.25 acres and is located within the Upper Mountain Road (UMR) Zoning District 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 UMR are front (50'), side (50') and rear (50'). The Applicant seeks approval for landscaping and outdoor lighting improvements. The district setbacks are shown on the plan.
4. **Maximum Building Coverage.** The maximum building coverage in the UMR district is 8%. Building coverage is defined as "That *portion of a site, expressed as a percentage, occupied by all buildings or structures, (not including public utility structures), that are roofed or otherwise covered and that extend more than three (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.*" No changes to building coverage are proposed under this application.
5. **Use.** The parcel previously received approval for a change of use from school to long-term care facility. No change of use is proposed under this application.
6. **Height.** The maximum building height in UMR is 28' feet. No change in building height is 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:

7. The Board reviewed the application and found the following conditional use standards not to be applicable 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)(3) – The character of the area affected
 - 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)(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)(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
8. **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.

Under the prior approval (Project 6421), the Board reviewed the non-planting screening including the wood slated fence to screen the service area, a wood slated fence to screen the dumpster, and the screening for the two (2) mechanical equipment areas. As a condition of approval, the Board required that the remainder of the planting and/or screening be reviewed by the Board under a separate application.

The Applicant provided a professional landscape plan and layout and materials plan prepared by Wagner Hodgson Landscape Architects. The landscape plan shows extensive landscaping on the parcel including existing treeline along the outer perimeter of the parcel, deciduous shade trees lining the access drive, evergreen screening along the western property line, and extensive landscaping along the building and parking area. The submitted plan includes a plant schedule of deciduous trees, evergreen trees, shrubs, ornamental grasses, and perennials. The quantity, scientific name, common name, size, and spacing are all noted. During the hearing, the Applicant testified that recent changes had been made to the location of the mechanical equipment pad which is proposed to be screened by a six-foot-tall wood fence and plantings. The Applicant testified that the location of the mechanical pad will not be visible from Mountain Road as the existing building provides screening. The Applicant also testified that the proposed fence running parallel with Mountain Road will be installed behind the proposed dogwood trees with 6' tall spruce trees proposed to be planted on the opposite side to provide privacy and screening.

Conclusion: Based on the above findings, the Board concludes the proposed landscaping provides adequate screening in accordance with Section 4.6. As a condition of approval, the Applicant will be

required to submit a revised landscaping plan depicting the recent incorporated changes discussed during the hearing.

9. **Section 4.8 Outdoor Lighting.** The regulations require that all outdoor lighting shall be installed in accordance with the Section 4.8(A-C). When reviewing lighting plans pursuant to Section 4.8, including proposed gas station canopy or apron lighting, proposed illumination of building façades or parking area lighting, the DRB shall consider appropriate levels and distribution of illumination.

In determining appropriate levels of illumination, the Board should consider the guidelines outlined in Section 4.8(2)(A-F).

(1) All outdoor lighting shall be installed in accordance with the following standards:

- A. Sodium vapor lights are prohibited.*
- B. All lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cast direct illumination or cause glare beyond the boundary lines of a property.*
- C. The mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation directly below the fixture to the bottom of the lighting fixture. The height shall be the minimum necessary to illuminate the project area, and in no case shall exceed sixteen (16') feet for parking lot lighting.*

(2) When reviewing lighting plans pursuant to this section, including proposed gas station canopy or apron lighting, proposed illumination of building façades or parking area lighting, the DRB shall consider appropriate levels and distribution of illumination. In determining appropriate levels of illumination, the Board will consider the following guidelines.

- A. Parking lot and security lighting should be designed and installed with a minimum illumination level of not less than 0.2-foot candles and not greater than 1.0-foot candles, and with a uniformity ratio of not more than 4:1.*
- B. Light fixtures mounted under canopies shall be recessed so that the lens cover does not extend beyond the bottom surface (ceiling) of the canopy; lights should not be mounted on the top or sides of the canopy, and the sides (fascias) of the canopy should not be illuminated.*
- C. Areas around the pump island(s) and under canopies should be illuminated so that the maximum horizontal luminance is no greater than 2.0-foot candles and the uniformity ratio is no greater than 4:1. Areas used for parking or vehicle storage should be illuminated in conformance with standards for parking areas.*
- D. The maximum illumination on any vertical surface of a building, or angular roof surface, should not exceed 2.5-foot candles and lighting should be carefully located, aimed and shielded so that light is directed only on the building façade.*
- E. Lighting installations should include timers, dimmers, and/or sensors to reduce the overall energy consumption and eliminate unneeded lighting.*
- F. Exterior lighting shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA). Exceptions to this standard to accommodate a particular "period" or*

architectural style, providing the maximum initial lumens generated by each fixture not exceed 2,000 (equivalent to a 150 watt incandescent bulb) may be permitted.

The Layout & Material Plan (Sheet L100) shows the location of proposed outdoor lighting. The Applicant proposes six (6) Type A (Post Top Light Fixture (Selux 100 Ouray with Motion Sensor). These fixtures are located along the edge of the parking area. Four (4) bollard light fixtures (Type B) are proposed and located near the walkway connecting to the rear parking area. Proposed downlights in the tree [2 BK Nite Star Fixtures] are shown located on the tree adjacent to the front service area and in the tree on the stonedust terrace [Type C]. Building mounted lighting is shown towards the front of the building (Type G & F) and on the rear garage (Type E). Type D is shown to be a recessed wall mounted light fixture.

The Applicant confirmed the pole height of the Type A light fixture to be 14' in height positioned on a 2' concrete base. All poles are less than 16' as described on the Selux cut-sheets. Under the regulations, *"the mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation directly below the fixture to the bottom of the lighting fixture."*

The provided plan includes a light fixture legend for both landscape and building lighting, with codes which correspond to the manufacturer cut sheets. During the hearing, the Board inquired about the footcandle measurement of the pole mounted lights. The manufacturer cut sheets provide the lighting details but a complete photometrics plan was not provided. The Applicant did, however, confirm through testimony that all of the light fixtures are proposed to be down cast, shielded, and no more than 16' in height. It was also testified that the outdoor lighting will be time clock controlled by the tenant at their discretion for safety and security.

Conclusion: Based on the above findings, the Board concludes the proposed outdoor lighting is in conformance with Section 4.8.

DECISION

On a motion by F.Aumand III, seconded by M.Diender, the Development Review Board hereby approves the Applicant's request for outdoor lighting and landscaping as indicated on the application dated 2/24/2021 and related submittals, subject to the following conditions of approval:

1. The project shall be completed and maintained 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 prior conditions of approval, unless amended herein, remain in full force and effect.
3. Prior to the issuance of a zoning permit, the Applicant shall provide an updated landscaping plan depicting the recent changes discussed during the hearing including the landscaping on both side of the fence parallel with Mountain Road.
4. All outdoor lighting fixtures shall be shielded and aimed so that illumination is directed only to the designated area and does not cause direct illumination or cause glare beyond the boundary lines of the property.

5. Landscaping shall be installed as shown in the provided plans (amended herein) prepared by Wagner Hodgson Landscape Architects. Any dead and dying plants and trees as shown on said plans shall be replaced within one (1) year of death.
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. Prior to the issuance of a Certificate of Occupancy, a registered landscape architect must provide written confirmation the landscaping has been installed per 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 purpose of ascertaining compliance with the conditions of approval.

Voting in favor: D. Clymer, F. Aumand III, T. Hand, P.Roberts, L. Wasserman, M.Diender, A.Volansky.
Voting to deny: None

Motion PASSED 7-0

Dated at Stowe, Vermont this the 7 day of ~~April~~ ^{May} 2021

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.