



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. Any conditions of approval required to issue a zoning permit have been met and your zoning permit will be issued without any further action required from you.

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

APPLICATION INFORMATION

Project Number 6552
Application Date 4/19/2021
Physical Location 1189 CAPE COD RD
Map ID 06-088.100 **Tax ID** 27068
Project Description TEMPORARY 40 X 60 FRAME TENT FOR SPECIAL EVENTS FROM MAY-NOVEMBER
Owner JEWISH COMMUNITY OF GREATER STOWE
Applicant JEWISH COMMUNITY OF GREATER STOWE
Applicant Address 1189 CAPE COD ROAD
STOWE VT 05672

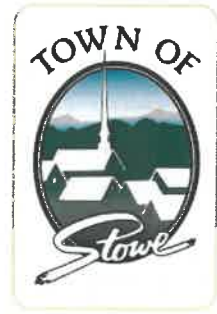
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	7/14/2021	8/13/2021	8/13/2023
ZONING	7/29/2021	8/13/2021	8/13/2026

Sarah McShane

Zoning Office

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



PROJECT: 6552

SUBJECT PROPERTY: 1189 Cape Cod Road; # 06-088.100

PROPERTY OWNER & APPLICANT:

Jewish Community of Greater Stowe [JCOGS]
1189 Cape Cod Rd.
Stowe, VT 05672

APPLICATION:

The property owner, the Jewish Community of Greater Stowe [JCOGS] (herein referred to as the "Applicant"), requests conditional use review to install a seasonal tent measuring approximately 40' x 60' on the existing patio to the rear of the building. The temporary tent will be used to hold various celebratory events from April 1st to November 30th. The Applicant seeks permanent approval or for at least ten (10) years.

The subject parcel is located at 1189 Cape Cod Road (#06-088.100) and is in the Mountain Road Village (MRV) Zoning District. 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 purpose of conditional use review. The proposed seasonal tent will be used as an accessory to a place of worship and therefore may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended functional use [24 VSA 4413]. 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 approval was filed by Applicant JCOGS on April 19, 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 June 15, 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 May 27, 2021. 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 June 15, 2021, using remote meeting service Zoom, with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. DRB members in attendance and participating in the review included: Francis 'Paco' Aumand III, Thomas Hand, Andrew Volansky, Peter Roberts, Leigh Wasserman, Mary Black.

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

- Steven Levine, Jewish Community of Greater Stowe [JCOGS], 1189 Cape Cod Rd., Stowe, VT 05672

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

1. Application Cover letter/narrative, dated 4/15/2021;
2. Town of Stowe Development Application, dated 04/06/2021;
3. Aerial image & Site Plan showing location of tent, no date;
4. DRB Decision Project 5244, dated 10/27/2015; (staff)

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.

PROCEDURAL HISTORY

In May 2003, the Town of Stowe Board of Adjustment approved the construction of a 6,900 square foot Jewish Community Center with a 59-space parking area [see BA 6-088-4]. On May 24, 2007, the Development Review Board approved the installation of a temporary event tent through November 1, 2007 with conditions regarding time of use and amplified music. On February 11, 2008, the Board re-approved the tent use through November 30, 2010, with the same operational conditions as the previous approval. On December 14, 2010, the Board re-approved the tent use through November 30, 2015, with the same operational conditions as the previous approval except with a five-year expiration. In 2015, under Project 5244, the Applicant sought re-approval to install the temporary event tent as an accessory use to the existing functions in the community center in accordance with the prior approval conditions except allowing use on Fridays and without an expiration date or at least for 10 years. The Board approved the application with the following conditions:

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.*
2. *Amplified music will end by 10 pm Sunday through Thursday and by 11 pm Friday and Saturday.*
3. *The tent can be used from April 1st through November 30th of each year.*
4. *The permit for the tent shall expire November 30, 2020.*

The Applicant now seeks approval for the installation of a temporary tent permanently, or for a period of ten (10) years.

FINDINGS OF FACT & CONCLUSIONS OF LAW- During its review of the application, the Board made the following Findings of Fact:

The Applicant’s request for conditional use 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 (including Section 3.9 Nonconforming Uses)
- 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 is located in the Mountain Road Village (MRV) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted on 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 MRV are front (20'), side (10') and rear (20'). The Applicant seeks approval to extend previously approved seasonal tent. The tent/event site is located to the rear of the building and outside of the required setbacks.
4. **Maximum Building Coverage.** The maximum building coverage in MRV is 20%. The Applicant seeks approval to extend previously approved seasonal event tent. No permanent structures are proposed under this application. Does not apply.
5. **Use.** The subject parcel contains a place of worship. No changes of use are proposed under this application.
6. **Density.** Table 6.3 outlines the density for the MRV district. No changes of density are proposed under this application.
7. **Height.** The maximum building height in MRV district 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.*" The Applicant seeks re-approval to install a seasonal event tent. No permanent structures are 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. **Section 3.7(2)(A)(1)- Capacity of existing or planned community facilities and services:**

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

9. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant seeks approval to extend previously approved seasonal event tent. No permanent structures are proposed under this application. The estimated number of vehicle trips generated by the events was not provided. Under prior approvals, the Board's decision states: "*The use of the tent will be accessory to the community center use. The number of users is limited by available parking. The applicant testified that the tent use typically would involve less than 200 people.*" The Applicant testified the expected use of the tent is similar to past applications and that the amount of people in the tent will likely be between 150-200.

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

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

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

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

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

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

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

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.

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

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

The Applicant seeks reapproval for the installation of a seasonal events tent. The event tent is not anticipated to result in additional water or air pollution. A prior decision of the Board states the following: *"No water or air pollution is anticipated with this use. Noise from amplified music will be audible at adjacent properties. Adjacent properties include both residential and commercial uses. The Zoning Administrator testified that his office received no complaints regarding the tent use. The Board previously require, as a condition of approval, that the amplified music shall end by 10 pm Sunday through Thursday and by 11 pm Saturday and that the tent shall not be used on Fridays after sundown. The applicant is now requesting to use the tent on Fridays."*

During the hearing, the Applicant described the estimated number of events, hours of events, number of participants, and expected noise levels. The Applicant testified that the Rabbi uses a microphone with a standard amplifier and plays guitar. Bar mitzvah events may have a DJ with music. He testified that the level of noise or music is generally not audible in the parking area and that most services end by 7:30 P.M.; events typically end by 7 P.M., and occasionally events could run later but not past 9 P.M.

Conclusion: Nothing presented in the application or public hearing leads the board to conclude that the application will result in undue water or air pollution. When considering the undue impact of noise, the Board considers 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. Based on the above findings, the Board concludes the project, if operated as conditioned, will not result in undue noise pollution.

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

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

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

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

17. Section 3.7(2)(B)(5) – Circulation and Parking: 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. As noted above, the Applicant seeks reapproval to extend a previously approved seasonal event tent. The tent area is served by an existing parking area. A prior Board decision notes *"a 59-space parking lot exists*

behind the community center and nine additional spaces are located along the shared access road. The tent will be used in conjunction with use of the community center. Parking was reviewed as part of BA 6-088-4.” Other parking plans on record in the zoning office show a total of seventy (70) parking spaces. There are no known parking or circulation issues with the previously approved event tent area.

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

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

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

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. Mature landscaping and trees exist in the site. No additional landscaping is proposed under this application.

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

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

This requirement cannot be reviewed under the limitations established by V.S.A. 24 §4413.

21. Section 4.8 Outdoor Lighting. The regulations require that all outdoor lighting shall be installed in accordance with the standards in Section 4.8. No changes to the existing outdoor lighting or additional outdoor lighting is proposed. During the hearing, the Applicant testified that the State Fire Marshall requires exit signs and string lighting is installed in accordance with the State Fire Marshall’s approval.

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

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

DECISION

On a motion by T.Hand, seconded by A.Volansky the Development Review Board hereby approves the Applicant’s request for conditional use approval to extend the seasonal event tent located at 1189 Cape Cod Rd as indicated in the application dated 4/6/21 and related submittals, subject to the following conditions of approval:

1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Zoning Office and other material representations. 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 previous conditions of approvals, except as amended herein, remain in full force and effect.
3. Amplified music must end no later than 10 pm Sunday through Thursday and no later than 11 pm Friday and Saturday.
4. The tent can be used from April 1st through November 30th of each year.
5. This approval shall expire five (5) years from the date of this decision. After such date, the Applicant must reapply to erect the temporary tent.
6. 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.

Motion PASSED 6-0

Voting favor: Francis 'Paco' Aumand III, Thomas Hand, Andrew Volansky, Peter Roberts, Leigh Wasserman, Mary Black.

Voting to deny: None

Dated at Stowe, Vermont this the 14 day of July 2021

By: 
Francis Paco Aumand III, Acting 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.