



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 6599
Application Date 6/11/2021
Physical Location 990 MOUNTAIN RD
Map ID 07-019.000 Tax ID 25009
Project Description CONSTRUCT DECK (350 SF); BUILD 'AIRLOCK' WALL; RENOVATE EXISTING LOUNGE TO RESTAURANT
Owner KOCISKO HOLDINGS LLC
Applicant MTB BUILDERS INC WILLIAM BRONNER
Applicant Address PO BOX 156
MOSCOW VT 05662

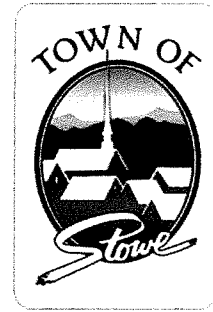
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	8/17/2021	9/16/2021	9/16/2023

Sarah McShane

Zoning Office

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



PROJECT: 6599

SUBJECT PROPERTY: 990 Mountain Road; #07-019.000

PROPERTY OWNER:

Kocisko Holdings Corporation Inc.
990 Mountain Road
Stowe, VT 05672

APPLICANT:

William Bronner- MTB Builders Inc.
PO Box 156
Moscow, VT 05662

APPLICATION:

The property owner, Kocisko Holdings Corporation Inc., (herein referred to as the "Applicant"), requests conditional use approval to construct a 350-sf deck to the easterly side of the building, construct a wall to create an "airlock" at existing entry on south wall, and renovate existing lounge and restaurant space in the basement of the Grey Fox Inn. The subject parcel, consisting of ±7.2 acres and located at 990 Mountain Road (#07-019.000), is primarily within the Highway Tourist (HT) Zoning District with rear portions within the Rural Residential II (RR2) district and Flood Hazard Overlay District [FHOD]. The parcel contains an existing lodging facility, associated improvements, and ancillary uses. The application has been reviewed by the Stowe Development Review Board (DRB) as conditional use 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 review was filed by William Bronner of MTB Builders Inc., on June 7, 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 July 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 July 1, 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 July 20, 2021 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Remote participation was available through Zoom. No ex parte communications or conflicts of interests were reported. Members participating included: D. Clymer, F. Aumand III, T. Hand, P.Roberts, L. Wasserman, C.Walton, and M.Diender.

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

- Terry Kocisko, 990 Mountain Road, Stowe, VT 05672
- Kim Brown, PO Box 92, Waterbury Center, VT 05677

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

1. Town of Stowe Development Application, received 6/8/2021;
2. Project narrative, dated 6/6/2021;
3. IVELOT Outdoor Lighting Cut-Sheet, no date;

4. Luna 1.2W Round Guide Light- Bell Lighting Cut-Sheet, no date;
5. Grey Fox Inn Mountain Road 'Footprint Front Buildings', Sheet A-1, prepared by Kim Brown Projects, dated 6/7/2021;
6. Grey Fox Inn Mountain Road 'Revised Floor Plans', Sheet A-2, prepared by Kim Brown Projects, dated 6/7/2021;
7. Grey Fox Inn Mountain Road 'Partial Site Plan Showing Parking', Sheet A-3, prepared by Kim Brown Projects, dated 6/7/2021;
8. Grey Fox Inn Mountain Road 'Front & Right Elevations', Sheet A-4, prepared by Kim Brown Projects, dated 6/7/2021;

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 for conditional use 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 15- Parking Regulations

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The subject parcel contains approximately ±7.2 acres with direct access to the Mountain Road, a state-maintained highway. The parcel is primarily located in the Highway Tourist (HT) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). Rear portions of the parcel are also within the Rural Residential II (RR2) district and Flood Hazard Overlay District (FHOD); no development is located within the FHOD.
2. **Lot Area, Lot Width.** The ±7.2-acre parcel is located in the HT district, requiring a minimum lot area of one (1) acre. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks for the HT are front (50'), side (50') and rear (50'). The existing building is located partially within the front setback line. The Applicant proposes to construct a deck on the eastern side of the existing building.

Section 3.9 addresses expansions to nonconforming structures. Section 3.9(B) states: *A nonconforming structure that does not comply with established setback requirements may be altered, enlarged, relocated and/or replaced with a new structure or structures in a manner which does not achieve full compliance with the setback requirements of these regulations providing the degree of non-compliance is not increased except as provided below and no other setback requirements are infringed upon. In no case shall the length of cumulative total of all proposed and future expansions or*

alterations exceed 50% of the length of the existing nonconforming portion of the structure at the time the structure became nonconforming.

The existing structure was constructed prior to the adoption of zoning regulations and as such is considered a pre-existing nonconforming structure. The length of the existing structure is 86'; the proposed deck is constructed entirely within the front setback but will meet the side yard setbacks. The proposed deck extends the nonconformity by 13' but does not increase the degree of nonconformity.

4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. Under the most recent zoning application, the parcel's building coverage was estimated to equal ±15,852 or 5.05% coverage. Section 16.22 defines Building Coverage to mean "*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.*" If the proposed deck is not "*roofed or otherwise covered*" it does not contribute to additional building coverage.
5. **Use.** The subject parcel contains an existing lodging facility and ancillary uses (i.e. restaurant). No changes of use are proposed under this application.
6. **Density.** No changes or increases in density are proposed.
7. **Height.** The maximum building height in HT 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 proposed deck is lower than the existing roofline.

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:** 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. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services. The building is connected to municipal water and sewer. The project narrative contains the following information: "*According to current records, total water allocations for this property are 8760 gallons per day. This total includes an allocation of 400 gallons for the small front building which is no longer in use. Current seating calculations are based on 92 seats. This new configuration will be for 101 seats. Factoring in the additional flow required for these nine new seats (270 GPD) and subtracting the flows no longer required for the small building (400 GPD), water demand from these projects will be reduced by 130 GPD. A flow allocation table can be found on page A-1, FP.1 of the accompanying plan set.*"

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 requests approval to construct a 350-sf deck to the easterly side of the building, construct a wall to create an “airlock” at existing entry on south wall, and renovate the existing lounge and restaurant space in the basement. The proposal is not expected to generate a significant increase in the number vehicle trips or cause undue adverse impact on traffic on roads and highways in the vicinity.

Conclusion: Based upon the above findings, the Board concludes the proposal will not significantly impact traffic or 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:** The subject parcel is in the HT zoning district. The purpose of the HT district is *“To control development along the portion of the “lower” Mountain Road between designated growths centers in a manner that encourages continued moderate-density commercial and residential land uses while maintaining high quality development and site design.”* Primary uses in the vicinity contain a mix of commercial, lodging, and residential.

Conclusion: Based upon the above findings, the Board concludes proposal will not adversely affect the character of the area as defined under the town’s zoning regulations.

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. Connections to the municipal sewer system and additional allocations are reviewed under the town’s sewer ordinance. No other known or identified municipal bylaws or ordinances apply to this project.

Conclusion: Based upon the above findings, the Board concludes Board concludes the proposal is in conformance with the Stowe Zoning Regulations, as adopted October 9, 2018.

12. **Section 3.7(2)(A)(5) – Utilization of renewable energy sources:** The Applicant requests approval to construct a 350-sf deck on the easterly side of the building, construct a wall to create an “airlock” at existing entry on south wall, and renovate the existing lounge in the basement to serve as additional restaurant space. No renewable energy generation or development is proposed with this project. The proposal is not expected to restrict the use of, or access to, the utilization of renewable energy resources.

Conclusion: Based upon the above findings, the Board concludes the project is not expected to 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 Applicant requests approval to construct a 350-sf deck on the easterly side of the building, construct a wall to create an “airlock” at existing entry on south wall, and renovate existing lounge and restaurant space in the basement of the Grey Fox Inn. The parcel is previously developed. The requested changes are not expected to create an adverse effect on the noted items.

Conclusion: Based upon 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.

14. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant requests approval to construct a 350-sf deck on the easterly side of the building, construct a wall to create an "airlock" at existing entry on south wall, and renovate existing lounge and restaurant space in the basement of the Grey Fox Inn. During the hearing the Board discussed whether the Applicant intends to have music played on the proposed deck. The Applicant testified that the deck is intended to create a small social area and was unsure whether music would be played. He testified that use of the deck would generally follow the hours of operation for the restaurant, but hotel guests may use the deck after hours for sitting, smoking, etc. He also testified that the building contains a small family run hotel and management would ensure that use of the deck did not disturb other guests.

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

15. **Section 3.7(2)(B)(3) - Access Management:** The parcel is served by Mountain Road (VT-108). No expansions or improvements to the existing curb cuts are proposed under this application.

Conclusion: Based upon the above findings, the Board concludes no changes to the existing access are proposed under this application.

16. **Section 3.7(2)(B)(4) - Shared Access:** The parcel is served by Mountain Road (VT-108) and is not shared by other users. No changes are proposed to the existing accesses.

Conclusion: Based upon the above findings, the Board concludes no changes to the existing access are proposed under this application.

17. **Section 3.7(2)(B)(5) - Circulation and Parking:** The regulations require 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. The Applicant requests approval to construct a 350-sf deck on the easterly side of the building, construct a wall to create an "airlock" at existing entry on south wall, and renovate existing lounge and restaurant space in the basement of the Grey Fox Inn. The Applicant provided a site plan showing the existing parking improvements and parking tally for the proposed revisions.

The Applicant provided the following parking description in the project narrative: *"There are four current parking areas in service at the Grey Fox Inn. 24 spaces are in service at the west side of the front building; 19 spaces exist in the parking lot closest to the main entrance of the front building; 13 spaces exist on the south side of the rear building. An additional 36 spaces exist on the north side of the rear building. Currently there are 92 spaces in service. Of these a minimum of six are designated as ADA spaces (12' x 18") The remaining 86 spaces are 9' x 18'. All spaces have a minimum of 24' behind each space. (Locations are shown on page A-3, SP1.1 of the accompanying plan set.)"*

Approximately ninety-one (91) existing parking spaces appear on the site plan. It is unclear on the site plan where the edge of pavement and travel aisle is located at the main entrance of the property and if the proposed deck will interfere with vehicular circulation. During the hearing the Applicant testified that it would not interfere with entering/existing vehicles.

Conclusion: Based upon the above findings, the Board concludes the existing parking areas provide adequate number of parking spaces and circulation as required under the regulations.

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 existing pedestrian circulation or access improvements are proposed under this application. This portion of Mountain Road contains sidewalks and is accessible to the Stowe Rec Path. According to the site plan, the entrance facing Mountain Road is accessed via walkway.

Conclusion: Based upon the above findings, the Board concludes the existing site layout, including the existing pedestrian circulation and access improvements, represents safe and adequate pedestrian access and circulation.

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. The site is previously developed and contains mature landscaping throughout.

Conclusion: Based upon the above findings, the Board concludes that no changes to the existing landscaping and screening are proposed under this application.

20. **Section 3.7(2)(B)(8) – Stormwater Management:** The Applicant requests approval to construct a 350-sf deck on the easterly side of the building, construct a wall to create an “airlock” at existing entry on south wall, and renovate existing lounge and restaurant space in the basement of the Grey Fox Inn. The proposed deck is not expected to significantly change existing storm drainage patterns or result in a significant increase of impervious surfaces. The Applicant testified that the deck will be designed with spacing in between boards to allow the passage of stormwaters.

Conclusion: Based upon the above findings, the Board concludes the existing drainage patterns will not be significantly altered as a result of the proposed project.

21. **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 these 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 HT Standards:** In addition to the conditional use criteria of these regulations, the DRB shall find that proposed development is designed in a manner that promotes an overall high quality of design and construction and, where appropriate, incorporates traditional building materials.

Conclusion: Based upon the above findings, the parcel is previously developed with an existing lodging facility and related improvements. Does not apply.

Section 4: Specific Use Standards

22. 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 will consider the guidelines outlined in Section 4.8(2)(A-F).

The Applicant's project narrative provides the following description of proposed outdoor lighting: *"In addition to the (15) exterior lights referenced in Section 2, paragraph A, there will be seven new exterior lights added alongside the lower parking area and the existing driveway accessing the 36 spaces referenced in the parking plan. These will be pole-mounted fully shielded LED lights mounted at 9' above grade. Cutsheets and illumination data have been included with this application and all exterior lighting is referenced in a table found on page A-3, SP1.1 of the accompanying plan set."* The proposed deck includes the installation of 15 small, shielded post lights to illuminate the deck. These fixtures are designated as LT2 lights with information on the Lighting Table found on page A-3, SP1.1. Seven (7) pole mounted light fixtures are proposed along the rear parking areas. These fixtures are labeled as LT1. The project narrative states the post mounted fixtures are mounted at a height of 9 feet above grade. The Applicant confirmed that each post will contain one fixture and the lighting will be on timers or photocells.

Conclusion: Based upon the above findings, the Board concludes the proposed outdoor light fixtures will provide safe and adequate lighting for the existing uses and are designed in conformance with Section 4.8.

23. Section 15- Parking Regulations- See discussion above.

DECISION

On a motion by Chris Walton, seconded by Francis Aumand III, the Development Review Board hereby approves the Applicant's request as outlined in the application dated 6/8/21 and supplemental materials, 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.

Approved plans amended herein include:

- a. Grey Fox Inn Mountain Road 'Footprint Front Buildings', Sheet A-1, prepared by Kim Brown Projects, dated 6/7/2021;
 - b. Grey Fox Inn Mountain Road 'Revised Floor Plans', Sheet A-2, prepared by Kim Brown Projects, dated 6/7/2021;
 - c. Grey Fox Inn Mountain Road 'Partial Site Plan Showing Parking', Sheet A-3, prepared by Kim Brown Projects, dated 6/7/2021;
 - d. Grey Fox Inn Mountain Road 'Front & Right Elevations', Sheet A-4, prepared by Kim Brown Projects, dated 6/7/2021.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. The Applicant must complete a municipal water and sewer re-allocation application for any modifications to municipal water or sewer flow.
 4. Construction hours shall be limited to Monday-Friday from 7:00 am-5:00 pm and Saturday morning from 9:00 am- 1:00 pm. with no construction on Sunday or State or Federal holidays.
 5. The installation of exterior light fixtures is limited to those described and depicted within the application. The parking area lighting shall be mounted no higher than nine (9) feet above grade level. All outdoor light fixtures shall be installed, 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. Outdoor light fixtures shall be on photocells or timers.
 6. Amplified music on the deck is prohibited, unless the Applicant seeks additional review by the Board.
 7. Site construction shall adhere to the standards outlined in Section 3.12(2)(A-E) including:
 - o The amount of soil exposed at any one time must be kept to a minimum.
 - o Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
 - o Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
 - o Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided as outlined in Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
 - o An adequate stormwater drainage system must be continuously maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
 8. 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.

9. 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.

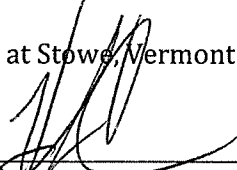
Voting favor: D. Clymer, F. Aumand III, T. Hand, P.Roberts, L. Wasserman, and C.Walton.

Voting to deny: None

Abstaining: M.Diender

The motion PASSED, 6-0-1.

Dated at Stowe, Vermont this the 17 day of August 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.

