



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

Your DRB project listed below was recently denied by the Development Review Board. Attached is a copy of the DRB decision for your records.

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

APPLICATION INFORMATION

Project Number 6710
Application Date 10/7/2021
Physical Location 151 MAIN ST
Map ID 7A-052.000 Tax ID 01052
Project Description APPEAL OF ZONING DETERMINATION REGARDING ZONING COMPLAINT
Owner GRANDVIEW FARMS
Applicant
Applicant Address 24 SUNSET STREET
STOWE VT 05672

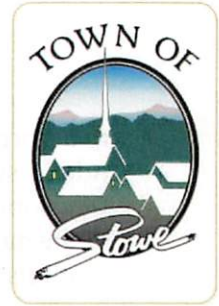
ACTIONS

Action Taken	Date	End of Appeal Period
DRB DECISION	12/28/2021	1/27/2022

Sarah McShane

Zoning Office

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



PROJECT: 6710

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

APPELLANT:

Robert Foregger & Rebecca Chase
24 Sunset Street
Stowe, VT 05672

PROPERTY OWNER:

Midas Enterprises Inc.
302 Kidder Lane
Stowe, VT 05672

APPLICATION:

This application concerns a Notice of Appeal filed by Robert Foregger & Rebecca Chase (herein referred to as the "Appellant"). The Appellant appeals the determinations made by Zoning Administrator, Sarah McShane, in her email dated September 21, 2021. The Appellant requests the Development Review Board (DRB) amend the condition language in zoning permit (#5294) to include: "*No music shall be played on the patio; The patio shall close at 10:00 pm; The front door shall be closed at 10:00 pm.*" The request requires review under Section 2.11[1] [Appeals of Zoning Administrator Decisions to the DRB] of the Town of Stowe Zoning Regulations (as adopted October 9, 2018). The Development Review Board's relevant findings are attached.

REVIEW PROCESS: *(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)*

The Notice of Appeal addressed to Development Review Board Clerk Mikayla Geraci and Zoning Administrator Sarah McShane was filed by Appellant Rebecca Chase on October 7, 2021. Upon receiving the Notice of Appeal, the Zoning Administrator forwarded the Notice of Appeal to DRB Chair Drew Clymer and Vice Chair Francis Aumand III and notified the property owner that a Notice of Appeal had been filed. A public hearing of the DRB was scheduled for November 16, 2021 and warned 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 28, 2021 and posted at the Library, Town Office, and Police Station. The public hearing to consider the application convened on November 16, 2021 at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. Remote participation was available via Zoom. No *ex parte* communications or conflicts of interests were reported. DRB members in attendance and participating in the review included: Drew Clymer, Francis "Paco" Aumand III, Tom Hand, Michael Diender, Chris Walton, Leigh Wasserman.

The following persons attended and participated in the hearing process:

- Robert Foregger & Rebecca Chase, 24 Sunset Street, Stowe, VT 05672
- Brian Leven, 212 Moulton Lane, Stowe, VT 05672

The following materials were submitted and entered into the hearing record:

- 1) Notice of Appeal (3 pages) from Rob Foregger & Rebecca Chase, received 10/7/2021;
- 2) Town of Stowe Zoning Compliant Form dated 9/17/2021; and
- 3) Response email from Zoning Administrator McShane dated 9/21/2021.

FINDINGS OF FACT & CONCLUSIONS OF LAW: The Appellant's notice of appeal was reviewed by the Development Review Board (DRB) under Section 2.11 [Appeals] of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) and 24 VSA §4465.

1. In accordance with 24 VSA § 4465 an interested person may appeal any decision or act taken by the Administrative Officer in any municipality by filing a notice of appeal with the secretary of the Development Review Board of that municipality. The notice of appeal must be filed within 15 days of the date of that decision or act, and a copy of the notice of appeal shall be filed with the Administrative Officer.
2. In accordance with 24 VSA § 4465(b)(3) an interested person means (as it relates to this proceeding):

"A person owning or occupying property in the immediate neighborhood of a property that is the subject of any decision or act taken under this chapter, who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality."

3. The Appellants own property across the street from 151 Main Street and are impacted by the noise of the project. The Board therefore considers Appellant to be an interested person status under Section 2.11(2)(C).
4. The Appellant appeals determinations made by Zoning Administrator, Sarah McShane, in an email dated September 21, 2021. In Ms. McShane's email she affords Ms. Chase the opportunity to appeal to the DRB within fifteen (15) days of the date of her email. The Appellant, Rebecca Chase, filed a Notice of Appeal to DRB Clerk Mikayla Geraci and Zoning Administrator Sarah McShane on October 7, 2021.
5. The Notice of Appeal was received sixteen (16) days following the appeal and therefore was not submitted timely.

Conclusion- Based upon on the above findings, the DRB concludes the Notice of Appeal was submitted on the 16th day and therefore was not submitted timely in accordance with Section 2.11 of the Town of Stowe Zoning Regulations. The DRB does not have jurisdiction to address the substantive issues raised by the Appellant.

DECISION

Based upon the foregoing findings of fact and conclusions of law, the Development Review Board hereby upholds the determinations of the Zoning Administrator and denies the Appellant's Notice of Appeal in accordance with Section 2.11 of the Town of Stowe Zoning Regulations as amended, effective October 30, 2018 and 24 V.S.A. §4470(a).

Voting to Deny the Appeal: Drew Clymer, Francis Aumand III, Tom Hand, Michael Diender, Chris Walton, and Leigh Wasserman.

Voting to Approve the Appeal: None

Dated at Stowe, Vermont this the 28 day of December 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.