



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 6761
Application Date 12/17/2021
Physical Location 383 MOSCOW RD
Map ID 03-056.000 Tax ID 05003
Project Description MODIFY EXISTING PARKING AREA; RELOCATE DUMPSTERS; AND RELATED IMPROVEMENTS
Owner SARAH & JUSTIN STERNER
Applicant SARAH & JUSTIN STERNER
Applicant Address 282 SLAYTON FARM ROAD
STOWE VT 05672

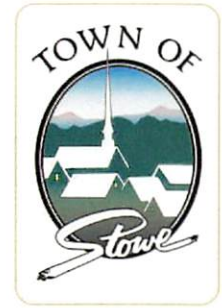
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date	
OTHER	12/29/2021			NOTICE TO ABUTTERS MAILED
DRB DECISION	3/1/2022	3/31/2022	3/31/2025	

Sarah McShane

Zoning Office

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



PROJECT: 6761

PROPERTY: 31 Adams Mill Road/383 Moscow Road; #03-056.000

PROPERTY OWNER/APPLICANT:

Justin & Sarah Sterner
282 Slayton Farm Road
Stowe, VT 05672

APPLICATION:

The Applicant/property owner, Justin & Sarah Sterner (herein referred to as the “Applicant”), requests conditional use and flood hazard area review for modifications to a previously approved site plan. The Applicant proposes to relocate the dumpsters, reconfigure the existing shared parking areas, and improve access and circulation. No alterations to the exterior of the buildings or changes in use are proposed. The subject parcel, consisting of ±1 acre, is located on Tax Map #03-056.000 and contains two (2) buildings located at 31 Adams Mill Road and 383 Moscow Road and an accessory storage building. The building at 31 Adams Mill Road is a multi-family dwelling consisting of four (4) dwelling units. The building at 383 Moscow Road contains a nonconforming store/deli use. Both buildings are considered historic buildings, as defined under the regulations.

The parcel is within the Rural Residential II District (RR2) and Flood Hazard Overlay District (FHOD) and subject to review under Section 10 Stowe Historic Overlay/Historic Buildings. The property is served by the Moscow Road, a Class 2 town-maintained highway. 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 flood hazard area review. The DRB’s procedural history and relevant findings are attached.

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

A development application was filed by Applicant Justin Sterner on December 17, 2021. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for January 18, 2022 and warned by the Zoning Administrator 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 30, 2021 and posted at the Library, Town Office, and Police Station. A completed certificate of service in accordance with Section 2.14(1)(B) is filed in the Planning & Zoning Office.

The public hearing to consider the application convened on January 18, 2022 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, C.Walton, M.Diender, and L.Wasserman.

The following persons attended and participated in the hearing process:

- Applicant, Justin Sterner, 282 Slayton Farm Road, Stowe, VT 05672
- Tyler Mumley, 11 Moss Glen Falls Rd., Stowe, VT 05672
- Donna Adams, PO Box 241, Moscow, VT 05662

- Barbara Gameroff, PO Box 293, Stowe, VT 05672
- Steven McNulty, 62 Mt. Pleasant St., Cambridge, MA 02140
- Monique Lajeunesse, PO Box 1504, Stowe, VT 05672

Justin Sterner is the Applicant and an involved property owner. The parcel contains a common interest condominium association with other property owners. Tyler Mumley of Mumley Engineer is an Engineer and represented the property owner. Donna Adams, Barbara Gameroff, Monique Lajeunesse, and Steven McNulty participated in the hearing but did not provide documentation or verbal testimony on how they meet the definition of an interested person. The Board therefore accepts their submissions as public comments but does not enter their submissions into the hearing record or afford them interested party status¹. The following materials were submitted in support of the application and entered into the hearing record:

1. Town of Stowe Development Application (2 pages); dated 12/17/2021;
2. Previously approved site plan, dated 4/15/2008;
3. Proposed site plan 'Sterner & Huang/Lin' prepared by Mumley Engineering, Sheet C-1, dated 1/4/2022;
4. Proposed site plan 'Sterner & Huang/Lin' prepared by Mumley Engineering, Sheet C-1, dated 1/4/2022 [last revised 2/9/2022].

The following public comments were provided:

1. Letter from Donna Adams with photographs, dated 2/3/2022;
2. Email from Barbara Gameroff, dated 2/14/2022;
3. Email and photos from Donna Adams and Barbara Gameroff, dated 1/14/2022.

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 DRB made the following Findings of Fact and Conclusions of Law:*

The Applicant's request for conditional use/flood hazard area review was reviewed by the 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

¹ 24 V.S.A. § 4465 defines an interested person to mean:

(1) A person owning title to property, or a municipality or solid waste management district empowered to condemn it or an interest in it, affected by a bylaw, who alleges that the bylaw imposes on the property unreasonable or inappropriate restrictions of present or potential use under the particular circumstances of the case.

(2) The municipality that has a plan or a bylaw at issue in an appeal brought under this chapter or any municipality that adjoins that municipality.

(3) 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.

(4) Any ten persons who may be any combination of voters or real property owners within a municipality listed in subdivision (2) of this subsection who, by signed petition to the appropriate municipal panel of a municipality, the plan or a bylaw of which is at issue in any appeal brought under this title, allege that any relief requested by a person under this title, if granted, will not be in accord with the policies, purposes, or terms of the plan or bylaw of that municipality. This petition to the appropriate municipal panel must designate one person to serve as the representative of the petitioners regarding all matters related to the appeal.

(5) Any department and administrative subdivision of this State owning property or any interest in property within a municipality listed in subdivision (2) of this subsection, and the Agency of Commerce and Community Development of this State.

- Section 3- General Regulations
- Section 4- Specific Use Standards
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 7- Flood Hazard Overlay District
- Section 15- Parking Regulations

Dimensional Requirements:

1. **Zoning District.** The subject parcel is within the Rural Residential II District (RR2) and Flood Hazard Overlay District (FHOD) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018). The parcel contains two (2) historic buildings, as defined under the regulations, which are regulated under Section 10 [Stowe Historic Overlay District].
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 RR2 are front (60'), side (50') and rear (50'). Since the parcel is undersized for the district it is located within, the Regulations allow the application of the setbacks of the district nearest to in size which is the RR1 district. Required setbacks for the RR1 district are front (50'), side (30') and rear (40'). The Applicant seeks approval for modifications to the parking area. No changes to the building footprints are proposed. Per Section 15.6 [Driveways and Parking Facility Setbacks], required driveway and parking facility setbacks (except for common driveways) shall be as follows (unless abutting property owners agree to less): HT, UMR, MRV, MRC, MC, RR1 and RR2: Ten (10') feet from property lines. The site plan shows the proposed parking improvements in relation to the property lines. All existing and proposed parking areas are outside of any required setback. During the hearing the Applicant testified the expanded parking area is approximately 19' from the southern shared property boundary.
4. **Maximum Building Coverage.** Does not apply to the RR2 district.
5. **Use.** The parcel contains a multi-family dwelling with a total of four (4) dwelling units and a nonconforming store/deli use. No changes or expansions of use are proposed under this application.
6. **Height.** The maximum building height in RR2 is 28' feet. No change in building height is proposed under this application.
7. **Density.** No changes in density 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. Upon review of the application, the DRB determined that the following standards are not applicable:

- 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)(4) – Shared Access
Section 4.8 Outdoor Lighting

9. Capacity of existing or planned community facilities and services:

- a. The parcel is served by on-site septic and potable water regulated by the State of Vermont.
- b. The parcel is accessed via Moscow Road, a Class 2 town highway, and Adams Mill Road, a Class 3 town highway.
- c. 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. The Stowe Electrical Department (SED) provided input that the application will not impact SED.
- d. No Municipal Department review forms returned indicated that the application would have any undue adverse impact on existing or planned community facilities and services.

Conclusion: Based on the above findings, the Board concludes the proposed amendments will not result in an undue adverse effect on the Town’s existing or planned facilities or services.

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

- a. The parcel is currently served by two (2) existing curb-cuts off; one (1) off from Moscow Road the other off from Adams Mill Road.
- b. No change to the number or location of curb cuts are proposed however the Applicant does propose to reduce the overall width of the Moscow Road curb cut by grassing areas along the edge to better delineate a 24’ two-way access entrance.
- c. The Applicant proposes to reconfigure the parking area off from Adams Mill Road. As proposed, two (2) tandem residential parking spaces will be removed and grassed in. One (1) delivery space to access the rear building entrance of the store/deli is proposed to remain.
- d. Several areas located within the town highway right-of-way are proposed to be grassed in to better define entrances. Work within the town highway right-of-way will likely require a driveway entrance permit/encroachment from the Stowe Department of Public Works.

Conclusion: Based on the above findings, the Board concludes the proposed site improvements are in conformance with Section 3.7(2)(B)(3).

11. Section 3.7(2)(B)(5) – Circulation and Parking:

- a. The regulations require that parking be provided per the requirements of Section 15 and be designed to minimize the off-site visibility of parking areas through the location, landscaping and screening of such areas.
- b. No changes or expansions of use are proposed under this application. The parcel contains a four-unit multi-family dwelling and a retail store/deli.

- c. The store/deli was previously approved to be ~1800 sf which the Regulations require six (6) parking spaces. The multi-family dwelling requires eight (8) parking spaces/two (2) per unit. A total of fourteen (14) parking spaces are required under the Regulations.
- d. The primary parking area with access to Moscow Road is shown to accommodate sixteen (16) parking spaces.
- e. The secondary parking area off Adams Mill Road is shown to accommodate one (1) parking space for delivery service. The two (2) existing tandem parking spaces will be removed and grassed in.
- f. The Applicant proposes to reconfigure the parking area off from Moscow Road to provide two (2) parking aisles, each with eight (8) parking spaces in order to improve the circulation for the existing uses on the property.
- g. The southern parking area accessed via Moscow Road was expanded by approximately sixteen (16) feet to the south allowing for eight (8) parking spaces (9' x 18') on the northern and southern sides of the parking area and a two-way entrance.
- h. Three (3) dumpsters are shown along the western edge of the parking area to provide improved access for trash and recycling removal.

Conclusion: Based on the above findings, the Board concludes the proposal meets the required number of parking spaces for the existing uses and provides improved vehicular circulation.

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

- a. The regulations require pedestrian circulation within the site, and access through the site to adjacent properties along public roads, be provided.
- b. No changes to pedestrian improvements are proposed under this application.
- c. Sidewalks do not exist along Moscow Road.
- d. The existing front entrance of 383 Moscow Road fronting Moscow Road provides the primary means of entering/exiting for patrons.
- e. Existing stairs connect the southern parking area and the multi-family dwelling. Residents of the multi-family dwelling can access the building using the existing stairs from the primary parking area.

Conclusion: Based on the above findings, the Board concludes the existing pedestrian circulation and access improvements are appropriate for the intended use and site location.

19. Section 3.7(2)(B)(7) – Landscaping and Screening:

- a. The parcel is previously developed and contains previously approved landscaping and mature trees.

- b. Three (3) dumpsters are shown along the western edge of the parcel and are enclosed by a wooden fenced enclosure.
- c. Areas shown on the site plan are proposed to be grassed in to better define vehicular access entrances. Existing landscaping is shown and labeled on the site plan.
- d. A row of existing shrubs line the northern elevation of the building at 383 Moscow Road.

Conclusion: Based on the above findings, the Board concludes the existing and proposed screening and landscaping is in conformance with Section 4.6 and has been designed to enhance the overall appearance of the property.

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

- a. Section 3.12(2) provides stormwater and erosion control standards for construction-related activities associated with any new construction.
- b. No changes to existing drainage patterns are proposed.
- c. Less than ½ acre of new impervious surfaces are proposed.

Conclusion: Based on the above findings, the Board concludes the proposal involves no change to existing drainage patterns.

21. Section 3.7(2)(C). In addition to other provisions of Section 3.7, the Board shall be guided by the standards set forth in Section 3.7(2)(C) pertaining to the RR districts.

- a. The parcel contains existing grassed areas landscaping proposed to remain. The existing conditions of the lot satisfy this standard.
- b. The Applicant proposes to improve the two (2) existing parking areas. The lot is triangular in shape. The primary elevation of the building at 383 Moscow Road is oriented parallel with Moscow Road. The primary elevation of the building at 31 Adams Mill Road is oriented towards Adams Mill Road.
- c. Existing parking areas are generally to the side and/or rear of the two (2) primary buildings.
- d. The Applicant proposes to reduce the width of the curb cut off from Moscow Road to the minimum necessary to provide safe access for two-way circulation.
- e. No exterior building alterations or site improvements are proposed. Grassed and landscaped areas surround the buildings.

Conclusion: Based on the above findings, the Board concludes the parcel contains a nonconforming use and the proposed improvements are designed in a manner compatible with the area’s rural character.

22. Section 7- Flood Hazard Overlay District.

- a. The regulations require that all development and subdivisions within the Flood Hazard District be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.
- b. In accordance with Section 7.5(1), a copy of the application and supporting information was submitted by the Zoning Administrator to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section in accordance with 24 V.S.A. §4424. A permit may be issued only following receipt of comments from the Agency or the expiration of thirty (30) days from the date the application was mailed to the Agency, whichever is sooner.
- c. Pursuant to Section 7.5(1), the application was referred to ANR Floodplain Coordinator Rebecca J. Pfeiffer on 12/17/2021 for review and comment in accordance with 24 V.S.A. §4424. Ms. Pfeiffer never responded with comments.

Conclusion: Based on the above findings, the Board concludes the proposed improvements have been designed in accordance with applicable provisions of Section 7.

DECISION

On a motion by F.Aumand III, seconded by C.Walton, the Development Review Board hereby approves Project 6761 pursuant to the provisions of the Town of Stowe Zoning Regulations, as adopted October 8, 2018, with 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. 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 must provide a revised site plan with the required parking calculations.
4. Work within the town-highway right-of-way must be coordinated with the Stowe Department of Public Works (DPW).
5. The parking areas shall be property maintained, including snow removal in winter, to provide emergency vehicle access at all times.
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.
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 permittee 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, C.Walton, M.Diender, and L.Wasserman.

Voting to deny: None

Motion PASSED 7-0

Dated at Stowe, Vermont this the 1 day of March 2022

By: 

Drew Clymer, Chair

NOTICES:

1. The foregoing represents the decision of the Development Review Board and is **NOT** a zoning permit. A zoning permit will not be issued by the Administrative Office until all relevant conditions imposed as part of the approval have been met.
2. 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.
3. 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.
4. 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.
5. 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.