



**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** 6810  
**Application Date** 3/14/2022  
**Physical Location** 1190 MOUNTAIN RD  
**Map ID** 07-004.010 **Tax ID** 25014-010  
**Project Description** Enclose 271 square feet under existing roof, addition of 355 sqft, exterior modifications to add new hood system and 2 wood oven flues.  
**Owner** 1190 STOWE REALTY HOLDINGS LLC  
**Applicant** FLATBREAD VENTURES PAUL SLYAER  
**Applicant Address** 115 ST. PAUL ST  
BURLINGTON VT 05401

**APPROVALS ON RECORD**

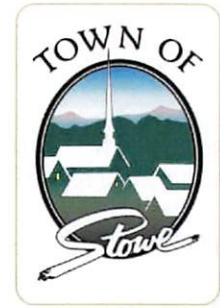
Action Taken	Date	End of Appeal Period	Expiration Date	
OTHER	4/19/2022			APPLICATION MODIFIED TO ONLY EXTERIOR OVEN FLUES AT DRB MEETING
DRB DECISION	5/4/2022	6/3/2022	6/3/2025	
ZONING	5/19/2022	6/3/2022	6/3/2027	

*Sarah McShane*

Zoning Office

**TOWN OF STOWE  
DEVELOPMENT REVIEW BOARD**

*Findings of Fact & Conclusions of Law*



**PROJECT:** 6810

**SUBJECT PROPERTY:** 1190 Mountain Road; #07-004.010

**PROPERTY OWNER:**

1190 Stowe Realty Holdings LLC  
1190 Mountain Road  
Stowe VT 05672

**APPLICANT:**

Paul Saylor, Flatbread Ventures  
115 St. Paul Street  
Burlington, VT 05401

**APPLICATION:**

The Applicant, Paul Saylor of Flatbread Ventures (herein referred to as the "Applicant"), requests conditional use review for a project generally described as the installation of two (2) oven flues to the roofline of the existing restaurant and nightclub building. The development application originally submitted also included modifications to the previously approved use of the building, relocating the kitchen hood exhaust system, and construction of two (2) building additions. The Applicant subsequently modified his application by removing the proposed building additions and requested change of use and is now only seeking approval for the installation of two (2) oven flues and is electing to maintain the previously approved use of the building.

The subject parcel, consisting of ±3.6 acres and located at 1190 Mountain Road (# 07-004.010), is in the Highway Tourist (HT) Zoning District, Source Protection Overlay District, Flood Hazard Overlay District (portions), and contains an existing restaurant and nightclub. The subject parcel is generally bounded to the north by property currently owned by Stowe Country Club LLC and the Village Green Condominiums, to the west by a parcel owned by Ampersand Properties, to the south by Town Farm Lane, and to the east by property currently owned by 17 Town Farm Lane LLC (Stowe Cider). The application has been reviewed by the DRB under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018) for the purposes of conditional use review, as prior DRB decisions and applicable conditions of approval including but not limited to the following:

- BA-6-088-3 [2/28/95] Zoning Board of Adjustment [Condition: Large garage doors (Pub) shall remain closed while band is playing or while any substantial noise is being produced within the building.]
- 2005- Conditional use approval for kitchen expansion [Condition: Doors between the patio on south side shall be closed and remain closed at the commencement of any entertainment within the night club.]
- 2014 -Project 4986 – Approval to increase outdoor seating to 80 seats; total indoor/outdoor seats not to exceed 154.

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 Paul Saylor on March 11, 2022. 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 April 19, 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 March 31, 2022. The Applicant submitted a certificate of service notifying the adjoining property owners.

The public hearing to consider the application convened on April 19, 2022 with a quorum of the DRB present. The public hearing was held at the Stowe Town Office with remote participation available via Zoom. No *ex parte* communications or conflicts of interests were reported. Members who participated in the review included: D. Clymer, M.Black, P.Roberts, L. Wasserman, 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:

- Paul Saylor, Flatbread Ventures, 115 St. Paul St, Burlington VT 05401

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

1. Town of Stowe- Development Application, dated 3/11/2022;
2. Ground Floor Plans, Sheet; A102, prepared by Smith Buckley Architects, dated 02/14/2022;
3. Roof Plan, Sheet A104, prepared by Smith Buckley Architects, dated 02/14/2022;
4. Exterior Elevations, Sheet 200, prepared by Smith Buckley Architects, dated 02/14/2022;
5. Site Plan, Sheet C1, prepared by Smith Buckley Architects, dated 03/11/2022;
6. Updated Exterior Elevations, Sheet A200, Provided by Smith Buckley Architects, dated 03/08/2022.

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 application 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
- 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 & USE REQUIREMENTS:**

1. **Zoning District.** The parcel is located in the Highway Tourist (HT) Zoning District and Source Protection Overlay 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 Fluvial Erosion Hazard District (FEH) and Flood Hazard Overlay District (FHOD).
2. **Lot Area, Lot Width.** The ±3.6-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 in the HT district are front (50'), side (50') and rear (50'). No changes to the building footprint are proposed.
4. **Maximum Building Coverage.** The maximum building coverage in HT is 10%. No change to building coverage is proposed under this application.
5. **Use.** The subject building contains a previously approved restaurant and nightclub use. The applicant is not proposing a change in use under this application. The former 'playhouse' building was destroyed by fire in 1994. In 1995, the Planning Commission granted approval for a restaurant/nightclub (2/10/1995). Since 1995, the property has obtained various zoning permits for exterior modifications and expansions, but the overall use of the property remains the same.
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.*" No changes in overall building height are proposed under this application- the Applicant proposes two (2) additional oven flues which appear chimney-like. Section 3.5(1) states: "*No building or structure in any district shall exceed the height limit applicable to the district where it is located, but this limit shall not apply to spires, cupolas, chimneys, ventilators, tanks or similar parts of a building, occupying in the aggregate not more than ten (10%) percent of the area of such building and not used for any human occupancy, nor to farm buildings, church steeples, flagpoles, residential radio or television aerials, rooftop solar collectors less than ten (10') feet high, wind turbines with blades less than twenty (20') feet in diameter, ski lift towers, or similar structures.*" The oven flues are allowed under this provision.

**Section 3.7(2)(A) – Standards of Review (Conditional Use Applications):** The DRB 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, the DRB concluded the following standards not applicable to the application:
  - 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)(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)(7) – Landscaping and Screening
  - Section 3.7(2)(B)(8) – Stormwater Management
  - Section 3.7(2)(C) – Additional HT Standards
9. **Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services:** No increases or changes of use are proposed under this application. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services.

**Conclusion:** Based upon the above findings, the Board concludes the proposal, as conditioned, will not result in an undue adverse effect on the Town's existing or planned facilities or services.

10. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant does not propose any changes to the use of the building. Given there is no increase in the number of persons, no impacts on traffic should be expected. The property operates under a prior approval from the ZBA/PC granting approval for a nightclub/restaurant (154 seats total).

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

11. **Section 3.7(2)(A)(3) – The character of the area affected:** Section 3.7(2)(A)(3) requires that the Board conclude that a proposal will not result in an undue adverse effect on the character of the area affected. To evaluate whether a proposal will impact the character of the area affected, the DRB relies on the defined purpose of the zoning district within which the project is located and specifically stated policies and standards of the Stowe Town Plan.

The subject parcel is previously developed containing a building, parking, and associated site improvements- exterior modifications under this proposal include the installation of two (2) oven flues exiting from the existing roofline.

The subject parcel is in the HT zoning district. As stated in the Town's adopted zoning regulations, 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."*

The subject parcel abuts the RR2 zoning district along the north and eastern property lines. Land uses within the RR2 zoning district are primarily single-family dwellings or other residential uses. Section 5.6 outlines the defined purpose(s) of the agricultural and rural residential districts as follows:

*A. To maintain the natural and scenic qualities which create and preserve the best possible environment for residential development.*

*B. To promote the preservation of adequate open space through carefully planned cluster types of development.*

*C. To encourage agricultural productivity of good farmlands and of forest resources.*

*D. To permit the establishment of recreational and resort facilities when compatible with the primary purpose of a residential environment.*

*(2) Specific Purposes in RR 1 and RR 2:*

*A. To allow a higher density closer to available municipal services while maintaining the quality of the neighborhoods.*

**Conclusion:** Based upon the above findings, the DRB concludes the proposed project will not have an undue adverse impact on the character of the area.

**Section 3.7(2)(B) – Other Standards of Review:**

12. **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 parcel is previously developed and contains an existing commercial building and related improvements. The addition of two (2) oven flues will not adversely impact the criteria outlined in Section 3.7(2)(B)(1). The parcel is served by a state highway (VT-108/Mountain Road) that connects Stowe Village and Stowe Mountain Resort area. The parcel borders the West Branch of the Little River, a natural and scenic area. The rear portion of the parcel is also within the Fluvial Erosion Hazard District and the Flood Hazard Overlay District. No development is proposed in these areas.

**Conclusion:** Based upon the above findings, the Board concludes the proposal 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.

13. **Section 3.7(2)(B)(2) - Project will not result in undue water, noise or air pollution.** The Applicant proposes the installation of two (2) oven flues to the existing roofline. No changes to the approved site plan or use of the property are proposed under this application. The application does not present any development within the fluvial erosion hazard district or flood hazard district. Nothing within the application represents that the proposal will have any adverse impact on noise, air, or water pollution. The Applicant confirmed oven flues will emit wood smoke.

**Conclusion:** Based upon the above findings, the Board concludes Project will not result in undue water, noise or air pollution

### **DECISION**

On a motion by M.Diender, seconded by M.Black, the Development Review Board hereby approves (5-0) Project 6810 based upon the foregoing Findings of Fact and concludes the proposal as presented in application dated 03/11/2022 and supporting materials meets the Stowe Zoning Regulations, as adopted on October 9, 2018, subject to the following conditions of approval:

1. The 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. 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.

The approved plans are:

- a. Town of Stowe- Development Application, dated 3/11/2022;
  - b. Ground Floor Plans, Sheet A102, prepared by Smith Buckley Architects, dated 02/14/2022;
  - c. Site Plan, Sheet C1, prepared by Smith Buckley Architects, dated 03/11/2022;
  - d. Updated Exterior Elevations, Sheet A200, prepared by Smith Buckley Architects, dated 03/08/2022.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
  3. 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.
  4. 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, M.Black, P.Roberts, L. Wasserman, and M. Diender

Voting to deny: None

Dated at Stowe, Vermont this the 3 day of May 2022.

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.