



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 6838
Application Date 4/4/2022
Physical Location 109 MAIN ST
Map ID 7A-046.000 **Tax ID** 01046
Project Description REQUEST FOR OUTDOOR SEATING; EXTEND SEATING TO LAWN IN FRONT OF BAR; 4 TABLES, 16 CHAIRS, 8 LAWN CHAIRS
Owner 109 MAIN LLC
Applicant SOME SAUCY LLC BETH OLEKS
Applicant Address PO BOX 879
STOWE VT 05672

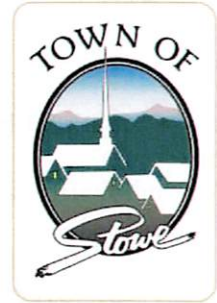
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	5/17/2022	6/16/2022	6/16/2024

Sarah McShane

Zoning Office

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



PROJECT: 6838

SUBJECT PROPERTY: 109 Main Street; #7A-046.000

PROPERTY OWNER:
Green Mountain Management
94 Upper Main Street
Morrisville, VT 05661

APPLICANT:
Beth Oleks/Some Saucy LLC
d/b/a Stowe Public House
PO Box 879
Stowe, VT 05672

APPLICATION:

The Applicant, Beth Oleks of Some Saucy LLC, on behalf of property owner Green Mountain Management (herein referred to as the "Applicant"), requests conditional use review to create an outdoor seating area on the lawn in front of the Stowe Public House. Additional proposed seating consists of four (4) tables with sixteen (16) chairs, as well as (8) lawn chairs. Eight (8) existing seats and a table(s) are also placed on the front porch. The Stowe Public House was classified and approved as a retail use/beer tasting/sampling area under Project 5377 in a written decision dated June 14, 2016. During the COVID-19 State of Emergency interim Zoning Regulations were in effect and provided temporary relief to businesses to provide services outdoors. The Stowe Public House provided outdoor seating during the pandemic under the interim Zoning Regulations. Now that the interim Zoning Regulations have expired, the Applicant seeks conditional use approval to create a permanent outdoor seating area.

The subject parcel, consisting of ±15,252 sf and located at 109 Main Street (#07-046.000), is in the Village Commercial 10 (VC-10) Zoning District and Stowe Historic Overlay District (SHOD). The parcel contains the historic Lackey Building, a mixed-use building containing both commercial and residential uses. The subject parcel is generally bounded to the north by property owned by the Town of Stowe, to the west by Ferro Properties, to the south by Main Street, and to the east by a vacant parcel under common ownership often referred to as the Spaulding Block. 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 amended conditional use 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 Beth Oleks on April 1, 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 May 3, 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 April 14, 2022. The Applicant provided a certificate of service in accordance with the regulations.

The public hearing to consider the application convened May 3, 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, T. Hand, P.Roberts, C.Walton, L. Wasserman, D.Kelly, and M. Black.

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

- Beth & Chris Oleks, PO Box 879, Stowe, VT 05672

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

- a) Town of Stowe Development Application, received 4/1/2022;
- b) Overview Plan of Proposed Outdoor Seating Area, no date;
- c) Various photographs of the lawn area, no date;
- d) Prior DRB Decision for Project 5377;
- e) Email comments from Harry Shepard (DPW), dated 4/27/2022 & 4/29/2022.

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 approval 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 REQUIREMENTS:

1. **Zoning District.** The subject parcel is located in the Village Commercial 10 (VC-10) Zoning District and Stowe Historic Overlay District (SHOD) as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018).
2. **Lot Area, Lot Width.** The parcel is ±15,252 square feet with approximately ±117 feet of frontage along Main Street. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in the VC-10 district are front (10'), side (10') and rear (10'). No changes to the building footprint are proposed under this application. Current Zoning Regulations do not require outdoor seating areas to meet setbacks.
4. **Maximum Building Coverage.** The maximum building coverage in VC-10 is 50%. No changes in building coverage are proposed under this application.
5. **Use.** The subject building contains a mix of uses. The Stowe Public House was classified and approved as a retail use/beer tasting/sampling area under Project 5377 in a written decision dated June 14, 2016. Other uses include Country Store on Main Street (retail), Stowe Ice Cream (retail), and four (4) lodging units (Project 5704). No changes of use are proposed under this application. During the hearing the Applicant confirmed the use of the Stowe Public House has not altered or changed since its original approval as a retail use/beer tasting/sampling area. During the hearing

the Applicant provided a detailed overview of the activities within the building and the services provided to patrons.

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:

6. Upon review, the DRB concludes the following standards not applicable to the application:

- 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)(3) – Access Management
- Section 3.7(2)(B)(4) – Shared Access
- 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

7. **Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services:**

- a) 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.
- b) Harry Shepard of DPW provided the following comments: *“I had a follow-up conversation with Chris and Beth Oleks and they advise that their existing liquor license, and their existing indoor and proposed outdoor seating proposed is as a tasting room, not a bar. I suggest clarifying this as the use with the DRB/Zoning. If so approved, this requires a flow rating of 300 gpd per the 2019 WW Rules so crediting 6 bar seats @ 30GPD/seat, they would need allocations for an additional flow rating of 120 gpd = Sewer Allocation of 96gpd and Water Allocation of 108 gpd.”*
- c) 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.

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

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

- a) The Applicant requests conditional use review to create an outdoor seating area on the lawn in front of the Stowe Public House. Additional seating would include four (4) tables, sixteen (16) chairs, as well as (8) lawn chairs. Eight (8) additional existing chairs/stools are located on the front porch.

- b) Nothing within the application indicates the proposal will result in undue water or air pollution. Staff is unaware of any related noise complaints when Stowe Public House created a temporary outdoor seating under the interim zoning regulations.
- c) According to the Stowe Public House website current hours of operation include Monday-Wednesday 11 AM - 7 PM; Thursday -Saturday 10 AM - 8 PM; and Sunday 10 AM - 7 PM. The Applicant testified that during the summer hours of operation are expanded to 10 AM-8:00 PM daily.
- d) No outdoor music or other forms of outdoor entertainment are proposed under this application.

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

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

- a) The regulations require parking be provided per the requirements of Section 15 and be designed to minimize the visibility of parking areas from off-site through the location, landscaping and screening of such areas.
- b) The Applicant proposes to create an outdoor seating area on the lawn in front of the Stowe Public House. Additional seating would include four (4) tables, sixteen (16) chairs, as well as (8) lawn chairs. An additional table and eight seats/stools are located on the front porch.
- c) No changes are proposed to the existing parking area. Off-site parking is located to rear of the building. Public parking is located along Main Street and throughout the village.
- d) Under the original DRB approval for the Stowe Public House (Project 5377), two (2) parking spaces were designated for the 1180 sf retail space. The use of the area is not changing.
- e) Other uses include retail (4361 sf) which includes Country Store on Main Street (retail) Stowe Sweets Ice Cream (retail), and four (4) lodging units (Project 5704).
- f) The existing parking area is large enough to support the existing uses.
- g) Section 15.3(2)(E) allows the DRB the authority to modify the parking requirements for the addition of outdoor seating.
- h) The parcel is located in the village core area within close proximity of the Stowe Rec Path, sidewalks, residential and lodging units, etc. On-street parking exist adjacent to the parcel and within close walking distance.

Conclusion: Based upon the above findings, the Board concludes no changes to the previously approved parking plan are proposed under this application; given the buildings location and proximity to the Rec Path, pedestrian improvements, existing on-site and off-site parking, nearby lodging facilities, the Board concludes the proposed outdoor seating area does not require additional parking per Section 15.3(2)(E).

DECISION

On a motion by C.Walton, seconded by P.Roberts, the Development Review Board hereby approves the Applicant's request for conditional use, as outlined in the development application dated 4/1/2022 and supporting plans and drawings, 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.

The approved plans are:

- a) Town of Stowe Development Application, received 4/1/2022;
 - b) Overview Plan of Proposed Outdoor Seating Area, no date;
 - c) Various photographs of the lawn area, no date;
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. Use of the outdoor seating area is limited to business hours of 10 AM - 8 PM, seven days a week.
 4. The outdoor seating area shall be for patron use only. No outdoor music or entertainment events are allowed without further review by the Development Review Board.
 5. The installation of any permanent fencing shall require a zoning permit and review under the regulations in effect at the time of application.
 6. The property owner must secure additional municipal water and sewer to support the additional outdoor seating.
 7. 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.
 8. 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, T. Hand, P.Roberts, C.Walton, L. Wasserman, D.Kelly, and M. Black.

Voting to deny: None

Motion PASSED 7-0.

Dated at Stowe, Vermont this the 17 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.