



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 6850
Application Date 4/13/2022
Physical Location 4527 MOUNTAIN RD
Map ID 11-103.000 Tax ID 26018
Project Description INSTALL PERGOLA OVER EXISTING POOL DECK
Owner VTRE INVESTMENTS LLC
Applicant VERMONT REALTY SERVICES NICHOLAS LIZOTTE
Applicant Address 26 UNION ST
WATERBURY VT 05676

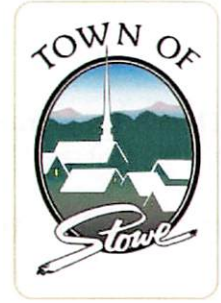
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	6/21/2022	7/21/2022	7/21/2024
ZONING	7/6/2022	7/21/2022	7/21/2026

Sarah McShane

Zoning Office

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



PROJECT: 6850

SUBJECT PROPERTY: 4527 Mountain Road; #11-103.000

PROPERTY OWNER:

Castine Mountain Road LLC
26 Union Steet
Waterbury, VT 05676

APPLICANT:

Nicholas Lizotte
Vermont Realty Services
26 Union Street
Waterbury, VT 05676

APPLICATION:

The Applicant, Nicholas Lizotte, on behalf of property owner, Castine Mountain Road LLC (herein referred to as the "Applicant"), requests conditional use review for a project generally described as the construction of a 30' x 16' pergola (accessory structure) on the northern side of the existing pool. The subject parcel, consisting of ±4.2 acres and located at 4527 Mountain Road (#11-103.000), is in the Upper Mountain Road (UMR) Zoning District. The property is served by Mountain Road (VT-108), a state highway maintained by the Vermont Agency of Transportation. 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 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 Nicholas Lizotte on April 13, 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 17, 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 28, 2022, and publicly posted at the Town Office, Library, and Police Station. The Applicant provided a copy of the certificate of service as required under the regulations.

The public hearing to consider the application convened on May 17, 2022, with a quorum of the DRB present. The 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 participating in the May 17th review included: D. Clymer, L. Wasserman, T. Hand, P. Roberts, M. Black, and D. Kelly.

The following persons attended and participated in the hearing process:

1. Nicholas Lizotte, Vermont Realty Services, 26 Union Street, Waterbury, VT 05676

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

1. Town of Stowe Development Application, dated 4/8/2022;
2. Site Layout Plan, Sheet A101, prepared by Bourne Drafting & Design, dated 3/16/2022;
3. Castine Mountain Road LLC Landscape Plan, Sheet A102, prepared by Bourne Drafting & Design, dated 3/16/2022.

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 (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

Dimensional Requirements:

1. **Zoning District.** The subject parcel is located in the Upper Mountain Road (UMR) Zoning District as shown on the Official Town of Stowe Zoning Map (adopted October 9, 2018). Portions of the parcel are also within the Flood Hazard Overlay District (FHOD). No development is proposed within the FHOD.
2. **Lot Area, Lot Width.** The parcel contains ±4.2-acres. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in UMR are front (50'), side (50') and rear (50'). The Applicant seeks approval to construct a pergola on the northern side of the existing pool. The provided site plan labels the required 50' setbacks. The proposed building is located outside of the required setbacks.
4. **Maximum Building Coverage.** The maximum building coverage in UMR is 8%. The site plan shows the location of existing buildings and previously approved buildings that have not yet been constructed. Building #1 is an existing building and is approximately ±2227.0 sf. Building #2 is an existing building and is approximately ±5785.3 sf. Buildings #3 & 4 are previously approved but currently under appeal and being heard by the VT Superior Court Environmental Division & VT Supreme Court. Building #3 is approximately ±3734.1 sf. Building #4 is approximately ±1922.6 sf. The total building coverage of existing and previously approved buildings is ±13,669 sf or 7.4%. The proposed pergola is 16' x 30' being 480 sf. The total lot coverage of existing, previously approved, and proposed buildings is ±14,149 sf or 7.73%, thus in conformance with the maximum building coverage requirements.
5. **Height.** The maximum building height in UMR District is 28' feet. The Applicant provided an elevation drawing of the proposed pergola. The proposed building height is 12'.

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 are not applicable to the proposed project:

- Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services.
- Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity.
- 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)(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)(C)- Additional Standards- Upper Mountain Road (UMR).

7. **Section 3.7(2)(A)(3) – The character of the area affected.**

- a) Pursuant to Section 3.7(2)(A)(3), the Board must determine that the use will not result in an undue adverse effect on the character of the area affected as defined by the purpose of the zoning district within which the project is located and specifically stated policies and standards of the Stowe Town Plan.
- b) The subject parcel is in the UMR zoning district. As defined in the Town of Stowe Zoning Regulations, the purpose of the UMR district is *“To control development along the “upper” Mountain Road in a manner that allows for residential, recreation and low-density commercial uses of property while preserving the rural character of the landscape, discouraging strip development and promoting the ongoing viability of existing land uses.”*
- c) Predominant land uses in the vicinity include lodging facilities, multi-family dwellings, and single-family dwellings.
- d) The Applicant proposes to construct a pergola on a ±4.2-acre previously developed parcel located on Mountain Road (VT-108), a state-maintained highway.
- e) The proposed pergola, an accessory structure, will be used by the occupants, and their guests, residing in the multi-family dwelling located on the property.
- f) The Town of Stowe Town Plan includes the following policy applicable to the UMR District:

The rural character of the Upper Mountain Road zoning district will be maintained by:

- a. Allowing residential development and limited commercial uses along the majority of the corridor;*
- b. Discouraging new development from being sited in remaining open fields and meadowlands within the corridor; and;*
- c. Preventing site design characteristic of strip development;*

- g) The subject parcel contains an existing multi-family dwelling, formerly a lodging facility (motel). The Board approved a change of use from lodging facility to multi-family dwelling under Project 5489 on November 22, 2016. Also located on the parcel is a rear attached dwelling unit and residential garage.
- h) The rear property line is formed by the West Branch of the Little River. Lands adjacent to the river are located within the Flood Hazard Overlay District. No development within the Flood Hazard Overlay District is proposed under this application.
- i) The adjacent parcel to the east contains the Northern Lights Lodge, an existing lodging facility for transient guests.
- j) This portion of Mountain Road is known to contain a mix of residential, commercial, and lodging uses.
- k) The Applicant provided an elevation drawing of the proposed pergola. The pergola is considered an accessory structure to the existing multi-family residential use located on the property.

Conclusion: Based on the above findings, the Board concludes the project will not result in an undue adverse effect of the character of the area affected.

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

- a) 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.
- b) Landscaping shall be designed to achieve the purposes of the landscaping regulations, strengthen the features and conditions unique to each site, and should include a combination of shade trees (deciduous and/or coniferous), deciduous and evergreen shrubs, well-kept grasses and ground covers. Landscaping may be required in front and side yards, adjacent to parking areas and where rear yards abut residential properties or public roads [Section 4.6(3)(A)].
- c) The Applicant provided a copy of the previously approved landscaping plan (Sheet A102).
- d) During the hearing the Applicant testified that he plans on installing two (2) flowering crab apple trees in front of the pergola to break-up and partially screen the solid wall.

Conclusion: Based upon the above findings, the Board concludes the proposed landscaping provides adequate screening and enhances the overall appearance of the property.

9. Section 3.7(2)(B)(8) – Stormwater Management.

- a) Per Section 3.7(2)(B)(8), the Applicant shall, at the request of the DRB, submit a plan for the management of stormwater generated by the proposed development. All stormwater

management plans shall meet the applicable State of Vermont Stormwater Discharge Regulations.

- b) Section 3.12 provides stormwater management and erosion prevention and sediment control requirements for all new construction.
- c) Per 3.12(2)(f), all development that creates more than 1/2 (one-half) acre of additional impervious surface must provide for an adequate stormwater drainage system to ensure that stormwater runoff is not increased beyond the boundaries of the project as determined by the standards used for the State of Vermont stormwater management permits. Such development shall submit a stormwater management plan prepared and sealed by a registered engineer before a zoning permit is issued.
- d) The property is previously developed containing a linear single-story building, a former motel converted to a multi-family dwelling, attached dwelling unit on the southern end of the single-story building, as well as an existing parking area, related site improvements, landscaping, swimming pool, etc.
- e) The Applicant proposes to construct a 480-sf pergola with open rafters. The proposed structure is not expected to alter existing storm drainage patterns.

Conclusion: Given the proposed project involves less than ½ acre of impervious surfaces, the Board concludes no additional stormwater management improvements are required under Section 3.7(B)(2)(8) and the proposed project conforms to the requirements of Section 3.12.

Section 4: Specific Use Standards:

10. Section 4.8 Outdoor Lighting.

- a) 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 considers the guidelines outlined in Section 4.8(2)(A-F).
- b) During the hearing the Applicant testified the only planned outdoor lighting are the existing downlight bollards surrounding the pool. No changes to existing outdoor lighting are proposed under this application.

Conclusion: Based on the above findings, the Board concludes no additional outdoor lighting is proposed under this application.

DECISION

On a motion by T.Hand, seconded by M.Black, the Development Review Board hereby approves the Applicant's request for conditional use, as outlined in the development application dated 4/8/2022 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.

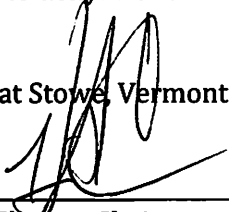
The approved plans, amended herein, are:

- a. Town of Stowe Development Application, dated 4/8/2022;
 - b. Site Layout Plan, Sheet A101, prepared by Bourne Drafting & Design, dated 3/16/2022;
 - c. Castine Mountain Road LLC Landscape Plan, Sheet A102, prepared by Bourne Drafting & Design, dated 3/16/2022.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. The Applicant must install two (2) crab apple trees on the north side of the pergola. Said trees must be a minimum of 2.5" - 3.0" caliper (trunk diameter), measured at a height of five (5') feet.
 4. Construction hours are limited to 7:00 AM - 5:00 PM Monday- Friday and Saturday from 9:00 AM- 1:00 PM. No construction is allowed on Sunday or State or Federal holidays.
 5. Site construction shall adhere to the standards outlined in Section 3.12(2)(A-E) including:
 - a) The amount of soil exposed at any one time must be kept to a minimum.
 - b) Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
 - c) Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
 - d) 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.
 - e) 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.
 6. A Certificate of Occupancy must be obtained from the Zoning Administrator prior to occupancy and use to ensure that the project has been completed 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 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, L.Wasserman, T.Hand, P.Roberts, M.Black, and D.Kelly

Voting to deny: None

Dated at Stowe, Vermont this the 21 day of June 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.