



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 6871
Application Date 4/28/2022
Physical Location 394 MOUNTAIN RD
Map ID 7A-110.000 Tax ID 02110
Project Description CREATE AN OUTDOOR SEATING AREA CONSISTING OF 18 SEATS
Owner CLOVER INVESTMENTS LIMITED
Applicant WOODLAND BAKING + COFFEE LYNN DAVIS
Applicant Address 394 MOUNTAIN ROAD
STOWE VT 05672

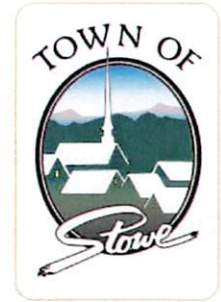
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	7/19/2022	8/18/2022	8/18/2024
ZONING	8/3/2022	8/18/2022	8/18/2027

Sarah McShane

Zoning Office

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



PROJECT: 6871

SUBJECT PROPERTY: 394 Mountain Road; #7A-110.000

PROPERTY OWNER:

Clover Investments Limited
c/o Mountain Associates
PO Box 9
Stowe, VT 05672

APPLICANT:

Woodland Baking & Coffee
c/o Lynn Davis
394 Mountain Road Unit #1
Stowe, VT 05672

APPLICATION:

The Applicant, Lynn Davis of Woodland Baking & Coffee, on behalf of property owner Clover Investments Limited (herein referred to as the "Applicant"), requests conditional use review to create an outdoor seating area on the lawn area immediately south of Unit #1 in the Baggy Knees Shopping Center. The outdoor seating area will consist of eighteen (18) additional picnic table seats and Adirondack chairs. The Woodland Bakery is classified as a restaurant use consisting of twenty-five (25) indoor seats. The change of use from service establishment to restaurant was approved under Project 6468. During the COVID-19 State of Emergency Interim Zoning Regulations were in effect and provided temporary relief to businesses to provide services outdoors. The Woodland Bakery provided outdoor seating during the pandemic under the Interim Zoning Regulations. The interim Zoning Regulations have since expired and the Applicant now seeks conditional use approval to create a permanent outdoor seating area.

The subject parcel, consisting of ±2.58-acres, and located at 394 Mountain Road (#7A-110.000), is in the Village Commercial 30 (VC-30) Zoning District. The parcel contains the Baggy Knees Shopping Center consisting of a mix of service establishments, retail, and restaurants. The subject parcel is generally bounded to the north by a 0.41-acre parcel owned by MASK Enterprises and the Le Chateaubriand condominiums (454 Mountain Road), to the east by the Town of Stowe Transfer Station, to the south by Dump Road, and to the west by VT-108/Mountain Road. The application has been jointly reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (as adopted October 9, 2018 & May 23, 2022 - 24 V.S.A. § 4449(d)) 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 Lynn Davis on April 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 June 21, 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 June 2, 2022.

The public hearing to consider the application convened June 21, 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:

- Lynn Davis, 394 Mountain Road Unit #1, 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 4/25/2022;
- b) Overview Plan of Proposed Outdoor Seating Area, no date;
- c) Various photographs of the lawn area/side of building, no date;

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 & May 23, 2022 - 24 V.S.A. § 4449(d)) 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 30 (VC-10) Zoning District as shown on the Official Town of Stowe Zoning Map (as adopted October 9, 2018 & May 23, 2022 - 24 V.S.A. § 4449(d)).
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 the VC-30 district are front (10'), side (20') and rear (20'). No changes to the building footprint are proposed under this application. Unless situated in a temporary structure/tent, the Zoning Regulations do not require outdoor seating areas to meet setbacks.
4. **Maximum Building Coverage.** The maximum building coverage in VC-30 is 30%. No changes in building coverage are proposed under this application.
5. **Use.** The subject building contains a mix of uses. The Woodland Bakery was classified and approved as a restaurant use under Project 6468.

SECTION 4- SPECIFIC USE STANDARDS

6. **Section 4.19 Outdoor Seating for Restaurants-** The Regulations set forth the following requirements for outdoor restaurant seating:

- (1) *Any new proposal for outdoor seating for a restaurant, or expansion of existing outdoor seating, will require conditional use approval from the DRB.*
- (2) *Outdoor seating is exempt from minimum parking requirements.*
- (3) *Restaurants may provide outdoor seating on another commercial property other than their own, including mixed-use properties.*
- (4) *Outdoor seating may be permitted within the town highway ROW or on public sidewalks with permission from the Selectboard.*
- (5) *Outdoor seating shall not interfere with pedestrian travel by maintaining a 5-foot-wide continuous pathway.*
- (6) *Outdoor seating shall not interfere with vehicular or emergency access.*
- (7) *Outdoor seating shall not reduce the number of on-site parking spaces.*
- (8) *Temporary tents used for outdoor seating may be erected without obtaining a zoning permit provided they comply with the following provisions:*
 - a. *Any tent erected shall not interfere with pedestrian or emergency access and shall not reduce the number of on-site parking spaces.*
 - b. *Tents shall adhere to the setback and building height requirements of the underlying zoning district.*

The Applicant proposes to utilize the existing lawn/green space south of the building (Unit #1) for an outdoor seating area for patrons of the bakery. The proposal meets all of the above applicable provisions.

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:

7. 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)(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

8. **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) 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:

9. 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 area south of Unit #1. Additional seating would include eighteen (18) additional seating with Adirondack chairs.
- 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 Woodland Bakery created a temporary outdoor seating under the Interim Zoning Regulations.
- c) No outdoor music or other forms of outdoor entertainment are proposed under this application. During the hearing the Applicant testified normal business hours close at 3:30 pm and during some parts of the year 5:30 pm.

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

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 4/11/2022 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:

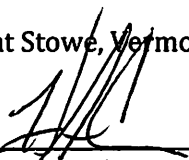
- a) Town of Stowe Development Application, received 4/25/2022;
 - b) Overview Plan of Proposed Outdoor Seating Area, no date;
 - c) Various photographs of the lawn area/side of building, no date;
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. Use of the outdoor seating area is limited to regular business hours of 7:00 AM- 5:30 PM.
 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 obtain any required 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 it 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 19 day of July 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.