



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 6996
Application Date 9/2/2022
Physical Location 45 CENTRAL DR
Map ID 07-312.010 **Tax ID** 03045-030
Project Description AMEND 6562; REMOVE CUPOLA AND ROOF DORMERS, SIMPLIFY ENTRY, RELOCATION OF SEPTIC AND PUMP
Owner KYLE MAXWELL PROPERTIES
Applicant TEKTONIKA STUDIO ARCHITECTS ERNIE RUSKEY
Applicant Address PO BOX 1191
STOWE VT 05672

APPROVALS ON RECORD

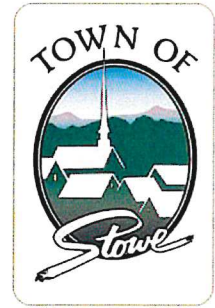
Action Taken	Date	End of Appeal Period	Expiration Date
SHPC RECOMMENDATION	9/14/2022		
DRB DECISION	11/17/2022	12/17/2022	12/17/2024

POSTIVE RECOMMENDATIONS;
REFERRED TO THE DRB

Sarah McShane

Zoning Office

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



PROJECT: 6996

SUBJECT PROPERTY: 45 Old Farm Road; #07-312.010 [Lot 5]

PROPERTY OWNER:

Kyle Maxwell, Maxwell Properties
63 Sylvan Ridge
Richmond, VT 05477

APPLICANT:

Ernie Ruskey – Tektonika
Studio Architects
PO Box 1191
699 South Main Street
Stowe, VT 05672

APPLICATION

The Applicant, Ernie Ruskey of Tektonika Studio Architects on behalf of property owner Kyle Maxwell, (herein referred to as the “Applicant”), requests amended design review approval for modifications to a previously approved project. On November 3, 2021, the Applicant received approval from the DRB for a project generally described as the construction of a ~4000 square foot building with twenty-seven (27) parking spaces and related improvements to be used as an intermediate care facility with accessory pharmacy retail sales. The Applicant now seeks to modify the approved project with the following design amendments:

- Remove the cupola and roof dormers;
- Simplify the entry foyer with less glass;

In addition, the Applicant proposes to relocate the septic tank and pump station to avoid ledge blasting. This relocation is a change to the approved plans, however, will not impact or alter the approved site plan. The subject parcel, consisting of ±0.83 acres and located at 45 Old Farm Road (#07-312.010), is in the Rural Residential I (RR1) Zoning District and the Stowe Historic Overlay District (SHOD). The parcel is subject to a development agreement involving the Town of Stowe, Robin E. Ward, and R.Wakefield Ward as recorded in Book 256 Pages 240-243 in the Town of Stowe Land Records. The property is served by Old Farm Road, a privately owned and maintained road, and is bounded to the north by a ±0.8-acre parcel owned by Trowbridge Properties LLP, to the south by Old Farm Road [a private right-of-way], to the east by ± 1.06-acre parcel owned by Redwing Properties LLC, and to the west by ±2.29-acre parcel owned by Albert Hardy. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Zoning Regulations (effective June 13, 2022). 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.)

An application for conditional use and design review approval was filed by Architect Ernie Ruskey of Tektonika Studio Architects on September 1, 2022. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the Historic Preservation Commission (SHPC) for review. The SHPC reviewed the application at their September 14th meeting and recommended approval of the modifications to the DRB. A public hearing of the DRB was scheduled for November 1st 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 October 13, 2022 and publicly posted at the Town Office, Library, and Police Station. The Applicant provided a completed certificate of service in accordance with Section 2.14(1)(B).

The public hearing to consider the application convened on November 1st at the Akeley Memorial Building, 67 Main Street, with a quorum of the DRB present. No *ex parte* communications or conflicts of interests were reported. Remote participation was available via Zoom. 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.

PARTICIPANTS & INTERESTED PARTIES

The following persons attended and participated in the hearing process:

- Eric Gershman, PO Box 283, Stowe, VT 05672
- Ernie Ruskey, PO Box 1191, Stowe, VT 05672
- John Grenier, PO Box 445, Waterbury, VT 05676

Kyle Maxwell, Ron Goldfield, and Sarah Reed attended the hearing but did not provide testimony.

THE RECORD

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

1. Town of Stowe Development Application, dated 8/30/2022;
2. Main Level Floor Plan, Sheet A1, prepared by Tektonika, dated 8/11/2022;
3. Exterior Elevations, Sheet A2, prepared by Tektonika, dated 8/11/2022;
4. Exterior Elevations, Sheet A3, prepared by Tektonika, dated 8/11/2022;
5. Exterior Elevations, Sheet A4, prepared by Tektonika, dated 8/11/2022;
6. Architectural Detailing/Siding, Sheet A7, prepared by Tektonika, dated 8/11/2022;
7. Perspective Views, Sheet 3D, prepared by Tektonika, dated 8/11/2022;
8. Landscaping Plan, Sheet L2, prepared by Tektonika, dated 8/11/2022;
9. Previously approved DRB Decision;
10. HPC Meeting Minutes from 9/14/2022.

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 (effective June 13, 2022) 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 10- Stowe Historic Overlay District and Historic Buildings
1. The Applicant proposes modifications to a previously approved project. None of the dimensional requirements are affected by the proposed modifications.
 2. The previously approved use of the building was classified as Intermediate Care Facility with Accessory Pharmacy Retail Sales. No changes or expansions of use are proposed under this application. The floor plan provided with the application alters the prior approval and is not being considered by the DRB under this application.

3. Under the regulations Intermediate Care Facility is defined as: *"A facility that provides, on a regular basis, personal care, including health-related care and services, to individuals who require assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides."* Intermediate Care Facilities are a conditional use in the RR1 district.
4. An accessory use is defined as: *"a use customarily incidental and subordinate to a principal building or use on the same lot, or on an adjoining lot under the same ownership."* Accessory retail sales are a conditional use in the RR1 district. Section 16.133 defines 'Retail Sales, Accessory' as *"Retail sales that are clearly subordinate to a primary conditional use located within the same building."*
5. The Applicant proposes to modify the roof line by removing the previously approved cupola and dormers, however the overall roof height, as defined under the regulations, remains at 16'-1 ½".
6. The DRB original decision includes a condition denying the applicant's request for a drive through/pick-up window. This condition remains in effect however the revised plans (floor plan and elevation drawings) still depict a pick-up window. A window at this location can be included in the building design however if used as a pick-up or drive-up window it would be considered a zoning violation and could be enforced under the regulations.
7. The revised application also includes an updated floor plan however the floor plan does not appear to conform to the DRB's original condition limiting the floor space of retail sales to 945 sf, pharmacy to 945 sf, and intermediate care services to 945 sf. The floor plan provided with the application alters the prior approval and is not being considered by the DRB under this application. The originally submitted floor plan is the approved plan.

Section 10: Stowe Historic Overlay District and Historic Buildings

8. The parcel is located within the Stowe Historic Overlay District regulation under Section 10 of the zoning regulations. The applicant met with the Stowe Historic Preservation Commission on September 14, 2022 and received positive recommendations. The SHPC recommended approval as presented.

Conclusion: Based on the above findings, the DRB concludes the proposed amendments have been designed in accordance with the design standards outlined in Section 10 and meet all applicable dimensional and conditional use standards.

DECISION

On a motion by Chris Walton, seconded by Sarah Henshaw, the Development Review Board hereby approves the Applicant's request for amended conditional use and design review approval, as outlined in the development application dated 8/30/2022 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, include:

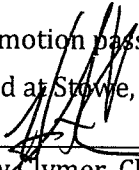
- a) Town of Stowe Development Application, dated 8/30/2022;
 - b) Exterior Elevations, Sheet A2, prepared by Tektonika, dated 8/11/2022;
 - c) Exterior Elevations, Sheet A3, prepared by Tektonika, dated 8/11/2022;
 - d) Exterior Elevations, Sheet A4, prepared by Tektonika, dated 8/11/2022;
 - e) Architectural Detailing/Siding, Sheet A7, prepared by Tektonika, dated 8/11/2022;
 - f) Perspective Views, Sheet 3D, prepared by Tektonika, dated 8/11/2022;
 - g) Landscaping Plan, Sheet L2, prepared by Tektonika, dated 8/11/2022;
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 satisfy the original conditions of approval to release the original zoning permit.
 4. Prior to the issuance of the zoning permit allowing for amended approval, the Applicant must submit to the Zoning Administrator revised drawings removing all references to a pick-up/drive-through window and an updated floor plan which conforms to the DRB's original condition limiting the floor space of retail sales to 945 sf, pharmacy to 945 sf, and intermediate care services to 945 sf.
 5. 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: Drew Clymer, Mary Black, Sarah Henshaw, Chris Walton, Leigh Wasserman.

Voting to deny: Tom Hand

The motion passes 5-1.

Dated at Stowe, Vermont this the 17 day of November 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.