



Notice of DRB Decision
Town of Stowe Planning and Zoning Department
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 Department at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number	7094		
Application Date	3/6/2023		
Physical Location	1652 MOUNTAIN RD		
Map ID	06-088.000	Tax ID	25015
Project Description	HOST AN ON-SITE FOOD TRUCK/TEMPORARY STRUCTURE		
Owner	JDVT LLC		
Applicant	JDVT LLC JOSH WOLFGANG		
Applicant Address	PO BOX 1507 STOWE VT 05672		

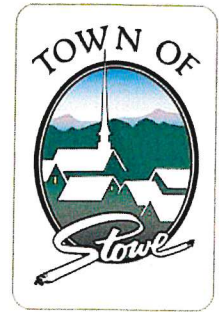
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	5/2/2023	6/1/2023	

Sarah McShane

Dept. of Planning Zoning

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



PROJECT 7094

SUBJECT PROPERTY 1652 Mountain Road; #06-088.000

PROPERTY OWNER

JDVT LLC
PO Box 1507
Stowe, VT 05672

APPLICANT

JDVT LLC/Josh Wolfgang
PO Box 1507
Stowe, VT 05672

APPLICATION

The Applicant, Josh Wolfgang, on behalf of property owner JDVT LLC (herein referred to as the "Applicant"), requests approval to host a temporary food truck on the open yard space at 1652 Mountain Road. The proposed food trailer will serve ice cream and related food items during the summer months. Regular business hours are from 8:00 AM to 8:00 PM during weekdays and 8:00 AM-10:00 PM on weekends. The proposed location of the food trailer is shown on the site drawing provided with the application. The subject parcel is located in the Mountain Road Village (MRV) district. 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) for the purpose of conditional use review including Section 4.15 (temporary structures). 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 review was filed by Applicant Josh Wolfgang on March 6, 2023. 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 18, 2023 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 30, 2023.

The public hearing to consider the application convened on April 18, 2023 both in person at Town Hall and remote meeting service Zoom, with a quorum of the DRB present. No *ex parte* communications or conflicts of interests were reported. DRB members in attendance and participating in the review included: D.Clymer, L. Wasserman, T. Hand, P.Roberts, C.Walton, M.Black, and D.Kelly. 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

The following persons attended and participated in the hearing process and may be afforded rights to appeal:

- JDVT LLC/Josh Wolfgang, PO Box 1507, Stowe, VT 05672

THE RECORD

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

1. Town of Stowe Development Application, received 3/6/2023;
2. Project narrative, no date;
3. Proposed location site drawing, no date;
4. Outdoor lighting specifications, no date;

5. Conditional use Criteria Response, no date.

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 review 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 4.15 – Temporary Structures

1. **Section 4.15(2)** requires "*All temporary structures including, but not limited to, trailers, tents, trucks and other registered vehicles and carts with an area greater than 32 sq. ft. selling or serving goods or food, and mobile homes used for temporary office or storage space may be permitted as a temporary accessory structure to an existing or proposed approved use. Such structures shall not be used for dwelling purposes.*" The Applicant proposes to host a temporary food truck; the proposed location is shown on the site plan provided with the application.
2. **Section 4.15(3)** states "*A permit for a temporary structure may be issued for a specified period of time not to exceed six (6) months.*" As noted above, the Applicant proposes to host a food truck during the summer months. Temporary structures may be issued a permit not to exceed six (6) months.
3. **Section 4.15(4)** states "*A temporary structure that is to be used as an extension or expansion of a conditional use will require conditional use approval from the DRB, unless the Zoning Administrator determines that the structure is a minor alteration to a conditional use and can be administratively approved.*" Staff referred the application to the DRB for conditional use review.
4. **Section 4.15(5)** states "*A temporary structure shall be dismantled or removed upon expiration of the permit, unless the applicant applies for a new permit.*"

Conclusion: The DRB concludes the proposal is in conformance with the applicable provisions for temporary structures. As conditions of approval, the DRB will require that the temporary structures not be used for dwelling purposes and that the zoning permit expire in six (6) months. At such time, the temporary structure(s) shall either be removed from the premises, or the Applicant shall obtain a new permit in accordance with Section 4.15(5).

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:

5. Upon review, the DRB concluded the following standards are not applicable to the application:

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

6. **Section 3.7(2)(A)(1) – Capacity of existing or planned community facilities and services:** 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. 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: The DRB concludes the proposal will not result in an undue adverse effect on the Town’s existing or planned facilities or services.

7. **Section 3.7(2)(A)(2) – Traffic on roads and highways in the vicinity:** The Applicant proposes to host a single food truck during the summer months. The temporary structure is not anticipated to create additional traffic.

Conclusion: The DRB concludes the proposal will not create an undue adverse impact on traffic on roads and highways in the vicinity.

Section 4: Specific Use Standards

8. **Section 4.8 Outdoor Lighting.** The Applicant proposes outdoor string lighting within the nearby trees. Per Section 4.8(2)(b), holiday lighting is exempt from the outdoor lighting provisions. *B. Holiday lights and decorations with no commercial message between November 15 and April 1. Decorative, non-blinking white lights may be installed during the balance of the year.*

Conclusion: Does not apply.

DECISION

On a motion by T.Hand, seconded by M.Black, the DRB hereby approves Project 7094 based upon the foregoing Findings of Fact and concludes the proposal as presented in application dated 2/26/2023 and supporting materials meets the Stowe Zoning Regulations, effective June 13, 2022, 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, received 3/6/2023;
 - b. Project narrative, no date;
 - c. Proposed location site drawing, no date;
 - d. Outdoor lighting specifications, no date;
2. All conditions of previous approvals, except as amended herein, remain in full force and effect.
 3. The zoning permit for this application shall expire six months from the date of this decision. At such time, the temporary structure (food trailer) shall either be removed from the premises, or the Applicant shall obtain a new permit in accordance with Section 4.15(5).
 4. The temporary structure shall not be used for dwelling purposes.
 5. The temporary structure shall use on-site electrical utilities.
 6. The approved days and hours of operation for the temporary structure is limited to 8:00 am-8:00 pm (weekdays) and 8:00 am-10:00 pm (weekends).
 7. All temporary signage must comply with Section 14 of the town's 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 and his successors 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, L. Wasserman, T. Hand, P.Roberts, C.Walton, M.Black, and D.Kelly
Voting to deny: None

Motion PASSED 7-0.

Dated at Stowe, Vermont this the 2 day of May 2023

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 request for reconsideration 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 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.