



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. 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 Department at 253-6141 if you have any questions.

APPLICATION INFORMATION

Project Number 7211
Application Date 7/28/2023
Physical Location 44 PARK PLACE
Map ID 7A-034.D00 Tax ID 65206
Project Description REMOVE BALCONY FROM THE FRONT OF CONDOMINIUM BUILDING
Owner MILL POND CONDO ASSOCIATION
Applicant MILL POND CONDO ASSOCIATION
Applicant Address PO BOX 653
 STOWE VT 05672

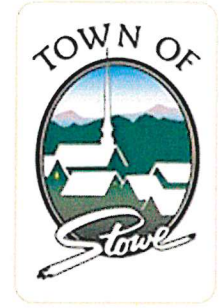
APPROVALS ON RECORD

Action Taken	Date	End of Appeal Period	Expiration Date	
DRB DECISION	11/7/2023	12/7/2023	12/7/2025	APPROVED WITH CONDITION

Sarah McShane

Zoning Office

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



PROJECT# 7211

SUBJECT PROPERTY: 44 Park Place, Stowe, VT; Tax Map 7A-034.D00

PROPERTY OWNER

Mill Pond Condominiums Association
PO Box 653
Stowe, VT 05672

APPLICANT

David Thomas
PO Box 908
Montpelier, VT 05601

OVERVIEW

The Applicant, David Thomas, requests design review approval to remove a balcony from the front façade of a multi-family/mixed-use building located at 44 Park Place. The existing building is located within the Stowe Historic Overlay District and was constructed in 2003. The building contains thirteen (13) condo units and Stowe Laundry. The faux balcony suffers from extensive rot and structural damage. The Applicant claims its removal (versus repair) would benefit the overall structure in the future. The subject parcel, consisting of ±1.05 acres and located at 44 Park Place (#7A-034.D00), is in the Village PUD (VIL PUD) Zoning District. The property was created as part of the Ampersand PUD. 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 "Regulations") for the purpose of design 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.)

An application for design review was filed by Applicant Mill Pond Condominiums Association on July 26, 2023. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane. Upon receiving recommendations from the Historic Preservation Commission (HPC), the application was referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for October 17, 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 September 28, 2023.

The public hearing to consider the application convened on October 17, 2023 at the Akeley Memorial Building, 67 Main Street, with remote participation available through Zoom. A quorum of the DRB was present. No *ex parte* communications or conflicts of interests were reported. Members who participated in the review included: Drew Clymer, Tom Hand, Mary Black, David Kelly, Peter Roberts, and Patricia Gabel. 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.

INTERESTED PARTIES/PARTICIPANTS

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

- David Thomas, PO Box 908, Montpelier, VT 05601

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 7/26/2023;
2. Project narrative from Mill Pond Condominiums Assoc. Board of Directors, no date;
3. Existing Photos, no date;

Project 7211- DRB Decision
44 Park Place – Balcony Removal

4. Elevations, prepared by DemTec, dated 03/2003;
5. Isometric View & Aerial View, prepared by Kim Brown Projects, Sheet A-1, dated 7/25/2023;
6. Front Elevations, prepared by Kim Brown Projects, Sheet A-2, dated 7/25/2023;
7. Right Elevations, prepared by Kim Brown Projects, Sheet A-3, dated 7/25/2023;
8. Stowe Historic Preservation Commission Meeting Minutes – August 2, 2023.

FINDINGS OF FACT & CONCLUSIONS OF LAW

During its review of the application, the DRB made the following Findings of Fact

The Applicant's request to remove a balcony from the north façade of the existing mixed-use building was reviewed by the DRB for conformance with applicable requirements including the following:

Town of Stowe Zoning Regulations (effective June 13, 2022)

- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density
- Section 10- Stowe Historic Overlay District

DIMENSIONAL REQUIREMENTS:

1. **Zoning District.** The parcel is located in the Stowe Village PUD (VIL PUD) Zoning District and the Stowe Historic Overlay District (SHOD), as shown on the Official Town of Stowe Zoning Map (effective June 13, 2022).
2. **Lot Area, Lot Width.** The existing lot area is ±1.05 acres. No changes to lot area or lot width are proposed under this application.
3. **Setbacks.** Required minimum district setbacks in the VIL PUD (Residential/Business Zone) Zoning District are front (10'), side (10') and rear (40'). The existing building exceeds the minimum setback requirements. By removing the front balcony, the front yard setback will increase.
4. **Maximum Building Coverage.** Section 16.22 defines Building Coverage to mean "*That portion of a site, expressed as a percentage, occupied by all buildings or structures, (not including public utility structures), that are roofed or otherwise covered and that extend more than three (3') feet above the surface ground level. The building roof overhang up to 6 feet in length is not included as part of the building coverage area.*" In the VIL PUD district, maximum building coverage is 15%. The project will result in reduced building coverage. As a condition of approval, the Applicant will be required to file with the Zoning Administrator an updated affidavit reflecting the reduction of building coverage percentage in accordance with Section 13.8(9).
5. **Use.** No change in use is proposed. The existing multi-family/laundry uses will remain as-is.
6. **Density.** No change in density is proposed. The thirteen (13) existing dwelling units will remain.
7. **Height.** No change to the existing building height is proposed.

Conclusion: Based upon the above findings, the DRB concludes that the proposed balcony removal conforms to the applicable dimensional requirements.

SECTION 10.11 STANDARDS FOR ALTERATIONS & ADDITIONS:

8. **Section 10.11- Alterations to Buildings.**

- a) The subject building, constructed in 2003, is not considered a historic building, however, is located within the Stowe Historic Overlay District which requires design review under Section 10.
- b) The Historic Preservation Commission reviewed the application and found that the façade alteration/balcony removal is not detrimental to the overall building itself since the front façade offers other features that break-up what would otherwise be a plain façade. The SHPC voted in favor of providing positive recommendations on August 2, 2023.
- c) The Applicant testified that the balcony and wall behind it has suffered damage from water and ice over the last several years. Since it exists strictly for aesthetic purposes and is not functional, it is preferable to remove the balcony rather than repair or replace it since it would suffer similar damage in the future.
- d) The Applicant testified that banding in place of the removed balcony, and existing tree growth in front of the building, will break up any perception of a blank front wall.

Conclusion: Based upon the above findings and the HPC's recommendation to approve the balcony removal, the DRB concludes that the proposed alteration conforms to the applicable requirements of Section 10.11.

DECISION

On a motion by T. Hand, seconded by M. Black, the DRB hereby approves the Applicant's request to remove the faux balcony on the north façade of the subject building at 44 Park Place, per the recommendation of the HPC and as outlined in the application for Project #7211 and associated supplemental materials, 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:

1. Town of Stowe Development Application, dated 7/26/2023;
 2. Project narrative from Mill Pond Condominiums Assoc. Board of Directors, no date;
 3. Existing Photos, no date;
 4. Elevations, prepared by DemTec, dated 03/2003;
 5. Isometric View & Aerial View, prepared by Kim Brown Projects, Sheet A-1, dated 7/25/2023;
 6. Front Elevations, prepared by Kim Brown Projects, Sheet A-2, dated 7/25/2023;
 7. Right Elevations, prepared by Kim Brown Projects, Sheet A-3, dated 7/25/2023;
 8. Stowe Historic Preservation Commission Meeting Minutes – August 2, 2023.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. Prior to the issuance of the zoning permit, the Applicant must file with the Zoning Administrator an updated affidavit reflecting the reduction of building coverage percentage in accordance with Section 13.8(9).

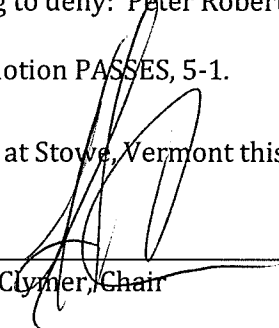
4. The Board accepts the recommendations of the Historic Preservation Commission. The proposed balcony removal must be completed in accordance with the approved plans.
5. Construction hours shall be limited to Monday-Saturday from 7:00 am-5:00 pm with no construction on Sunday or State or Federal holidays.
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, and his successors, agree 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, D. Kelly, M. Black, and Patricia Gabel

Voting to deny: Peter Roberts

The motion PASSES, 5-1.

Dated at Stowe, Vermont this the 5th day of November 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 Review 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.