

TOWN OF WILMINGTON
DEVELOPMENT REVIEW BOARD
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Steven Butler of L & L LLC**

Owner/Applicant(s) Mailing Address: **179 VT Rte 100 North, Wilmington VT, 05363**

Address of the subject property: **179 VT Rte 100 North, Wilmington VT, 05363**

Tax Map #**021-20-007.000**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-049

Description of Case per Public Notice:

Application # 2012-049; owner: L & S LLC; Agent: Steve Butler. Application being made for Flood Hazard review to allow replacement of a Non-Conforming Structure of 720 sq. ft.; Flood Hazard Area Regulation Sections 804, 811 & 820.B.2 and the Zoning Ordinance Section 3.A(e); location: 179 VT Rte 100 North.

Notice for a public hearing was published in the Valley News on: **5/18/2012**

Notice was posted in three public places on: **5/18/2012**

A copy of the notice was mailed to the applicant on: **5/18/2012**

A copy of the notice was mailed to the abutters on: **5/18/2012**

The public hearing was held on: **6/4/2012**

Action taken on this application may be appealed by anyone identified as an interested party, pursuant to Vermont Statutes Annotated. Said appeal shall be made to the Vermont Environment Court.

Appeal period for this Case expires on: July 12, 2012

In *addition* to the Applicant / Agent the following persons were heard by the Board in connection with this request: (Copies were mailed to those persons listed below as having been heard.)

Alice Herrick, Zoning Administrator

I. The Board FINDS:

The following are the circumstances which give rise to the request, and the following are facts and opinions presented to the Board at the hearing and developed by the Board in independent evaluation.

EXHIBITS:

- Application (two pages)
 - A Elevation Certificate (2 pages)
 - B Site Plan
 - C Abutters List
 - D Case Summary
1. The subject property is in the Commercial District of the Town of Wilmington. The property is identified as Tax Map 021-20-007.000.
 2. The manufactured home was placed on the lot in 1967, prior to the passage of the Wilmington Zoning Ordinance.
 3. The rear setback of the structure is 3 feet from the property line.
 4. The present structure was totally destroyed by the flood waters cause by Tropical Storm Irene in 2011.
 5. The replacement structure is to be the same dimensions as the previous manufactured home on this lot.
 6. The new structure will be placed in the same footprint as the previous home.
 7. All electrical and heating elements will be above Base Flood Elevation.
 8. The structure is connected the Wilmington town sewer line and has a check valve in place to prevent back up of sewage in the event of future flooding.
 9. The water supply is from a spring located on a higher elevation in an adjacent property behind the subject property.

II. The Board CONCLUDES:

The subject property is also in the Flood Hazard zone and review of the Flood Hazard Area construction standards. The Applicant has also requested approval to restore a non-conforming structure damaged by a casualty under Section 3.A(e).

Section 3.A(e):

However, nothing herein contained shall prevent the substantial restoration within twelve (12) months and the continued use of a restored non-conforming building or structure and non-conforming use, damaged by fire or other casualty.

1. The Board concludes that the structure is a non-conforming structure and was a casualty of Tropical Storm Irene. It therefore may be restored under Section 3.A (e)

IV. Regarding the Flood Hazard review, the Board CONCLUDES:

With regards to the criteria for Flood Hazard Review, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

1. The subject property is also in the SFHA (AE zone) and requires Flood Hazard review to allow replacement of a dwelling.

FLOOD HAZARD

Article VIII

820.B. Floodway Fringe Areas (i.e., special flood hazard areas outside of the floodway)

1. **All Development** - All development shall be reasonably safe from flooding and:
 - (a) designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood,
 - (b) constructed with materials resistant to flood damage,
 - (c) constructed by methods and practices that minimize flood damage, and
 - (d) constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Residential Development:

(a) New construction and existing buildings to be substantially improved shall have the lowest floor, including basement, elevated to or above the base flood elevation.

(b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are:

(i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.

III. CONDITIONS for Flood Hazard approval:

This is granted subject to the following restrictions, requirements, limitations or specifications.

1. *The foundation shall be built to a height level to, or above, the Base Flood Elevation (BFE).*
2. *The manufactured home shall be securely anchored to the foundation to prevent floatation.*
3. *The building shall have all heating and electrical elements above BFE.*
4. *The building shall be no larger than the one it is replacing and shall be no less than three feet from the rear property line.*

Thus, the Development Review Board *does* **approve** the application for a **Flood Hazard and Conditional Use review in the Commercial District to allow placement of a mobile home.**

If unused, this Approval expires 1 year from the date of issue. A request for extension may be made in writing to the Development Review Board before the expiration date. Such request shall be in the form of an APPLICATION FOR EXTENSION.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final. In addition, all fees must be paid and a Zoning Permit *must* be issued prior to the commencement of any work requested in this application. When a Zoning Permit is issued, there is an additional fifteen (15) day appeal period before the Permit becomes final. Work may commence when the Permit has been issued and all Appeal periods have ended.

This approval ***does not relieve you***, as applicant, from obtaining any and ALL applicable State and other local permits.

IN FAVOR of granting the APPROVAL FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

Gil Oxley
Nicki (Polly) Steel
Dave Kuhnert
Andrew Schindel

OPPOSED:
None

ABSENT
Paul Tonon

For the Board: Polly Steel, Chairperson

Date: 6/12/2012

Appeal Rights: An interested person may appeal this decision to the Vermont Superior Court, Environmental Division, pursuant to 24 VSA 4471 and VRECP Rule 5, in writing, within 30 days from the date this decision is issued. If you fail to appeal this decision, your right to challenge this decision at some future time may be lost because you waited too long. You will be bound by the decision, pursuant to 24 VSA 4472(d) (exclusivity of remedy; finality).

This approval does not relieve the Applicant of the responsibility to obtain all other applicable approvals that may be required by Federal, State, and local laws and ordinances.
