

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: Frank Sprague

Owner/Applicant(s) Mailing Address: 22 Stowe Hill Road, Wilmington, VT 05363

Address of the subject property: 22 Stowe Hill Road

Tax Map: # 021-20-016

A copy of the request is filed in the office of the Board and is referred to as: **#2017-066**

Description of Case per Public Notice: Application is being made for a Conditional Use review to allow a Safety Related Facility (Ambulance Service). Commercial/Residential zoning district: Sections 450 (E) 4, 710, 721 & 722; Location: 22 Stowe Hill Road

Notice for a public hearing was published in the Valley News on: **September 14, 2017**

Notice was posted in three public places on: **September 14, 2017**

A copy of the notice was mailed to the applicant on: **September 13, 2017**

A copy of the notice was mailed to the abutters on: **September 13, 2017**

Public hearing was held on October 2,, 2017

There was no Site Visit.

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 Environmental Court.

Appeal period for this Case expires on: November 30, 2017

Approval expires on: October 31, 2019

In *addition* to the Applicant and the Applicant's Agent the following persons, heard by the Board in connection with this request, were determined by the Board to be "interested persons":

None

Copies of this decision have been mailed to those persons listed below:

Frank Sprague
Heidi Taylor

The following presented testimony on behalf of the Applicant or an Interested Person:

Heidi Taylor of Deerfield Valley Rescue, Inc as agent of the Applicant.

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or Interested Person:

1. Application consisting of 4 pages including Abutters List
2. Plan entitled "The State of Vermont Municipal Sewer Connection and Potable Water Supply Design. Project: Prepared for Frank Sprague Adams Road/Vermont Route 100 Town of Wilmington" dated 10/6/2011
3. A portion of the Town of Wilmington Tax Map showing parcel 21-20-016.00, 22 Stowe Hill Rd. printed on September 21, 2017.
4. An aerial view of a portion of 22 Stowe Hill Road.
5. Zoning Permit #2011-065, dated November 14, 2011.

SYNOPSIS

The applicant proposes to replace two manufacturing uses, metal and stone fabricating with an ambulance service.

APPLICABLE DISTRICT

Findings of Fact: Subject property is identified as Tax Map: # 021-20-016 and has an address of 22 Stowe Hill Rd. (Exhibit 1)

Conclusions of Law: The proposed development lies in the Commercial/Residential District and will be reviewed under Article IV Section 450 E.

USES

Finding of Facts: Current use is manufacturing – metal fabrication and stone shaping. The proposed use will be for office space and a garage for an ambulance service. A facility for ambulance service is a Safety Related Facility.

Conclusions of Law: The proposed use is a Conditional Use in the Commercial/Residential

District. Section 450 E 4.

DIMENSIONAL REQUIREMENTS

Findings of Fact: The structure was built in 2011-12 and received Zoning Permit #2011-065 dated November 14, 2011 for its construction. Exhibit 5

Conclusions of Law:

Density & Dimensional requirements were met at the time of construction and are not changing

Article VI Flood Hazard District

Section 602 (A-C): Lands to Which These Regulations Apply

Regulations apply for development in all areas of the town identified as special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security, FEMA, National Flood Insurance Program (NFIP), as provided by the ANR pursuant to 10 V.S.A. section 753. The base flood elevations and floodway limits (zones A1 – A30, AE and AH) provided by the NFIP shall be used to administer provisions of the regulation. If none is provided by the NFIP then information available from the state or federal agencies or other sources shall be obtained and reasonably utilized.

Findings of Fact: Testimony from the Zoning Administrator stated that the property is not in the flood plain.

Conclusions of Law: Article VI, Flood Hazard District regulations do not apply.

Article VII Standards

Section 710: Use Performance Standards

A. Vibration: No continuous, permanent, ongoing, or frequent vibration which is discernible at the property line.

Findings of Fact: The premises are to be used for office space and a garage for an ambulance service. There will be no vibrations felt at the property line. Exhibit 1 and testimony of the applicant's agent.

Conclusions of Law: This standard is satisfied

B. Noise: Continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation must not exist at the property line. Recurring periodic noise in excess of that of a normal lawn mower at the property line is allowed provided it does not occur between the hours of 9PM and 7AM and does not significantly detract from or diminish other property's allowed use or land development.

Findings of Fact: Ambulance sirens are activated only in traffic and when necessary. Call in signals are by tone to individual medical personnel. Testimony of the applicant's agent.

Conclusions of Law: This standard is satisfied.

C. Air Emissions for Commercial Operations: There shall be no emission of dust, ash, smoke or

other particulate matter which can:

1. Cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity.
2. Contaminate the property or beyond the property boundaries.
3. Have solid or liquid particulates in concentrations exceeding state standards.
4. Cause odorous matter in quantities as to be offensive.

Finding of Facts: The use is for a non-profit organization providing emergency medical services at the site of a medical event, not on this premises. The current application is for garaging of medical ambulances and temporary quarters for medical personnel. There will be no emission of any particulate matter sufficient to violate this standard. Any practice sessions involving fire or noxious materials are held at the dump with the Fire Department. Testimony of the applicant's agent.

Conclusions of Law: This standard is satisfied

D. Injurious or Noxious Practices: No operations or use shall create electromagnetic, liquid or solid refuse or waste, heat, cold, dampness, explosive, fire, glare, or other hazard which may cause injury or damage to human or animal health, vegetation, or property.

Findings of Fact: No injurious or noxious practices as set out above will take place on the premises. Testimony of the applicant's agent.

Conclusions of Law: This standard is satisfied

Article VII Standards

Section 721: Conditional Use – General Standards

In all districts, all Conditional Use development shall protect from undue adverse effects. No Land Development or use shall result in an undue adverse effect on any of the following:

A: The capacity of existing or planned community, municipal or educational facilities;

Findings of Fact: The proposed use is the relocation of an existing Use presently located on Route 100 South. No additional burdens are anticipated to be placed on schools, police, fire, health care facilities or other community services or facilities. Testimony of the applicant's agent

Conclusions of Law: This standard is satisfied.

B: Impact on traffic, roads, highways, transportation systems, pedestrian walkways in the vicinity;

Findings of Facts: The proposed development is accessed from Adams Drive and Stowe Hill Road. The ambulance service has four vehicles two of which will be garaged on the premises. An additional vehicle, a brush fire truck for the Wilmington Fire Department, will be garaged during April and May when water in the truck may freeze. Two employees will be on the premises daily from 6 AM to 6 PM, arriving and departing prior to business traffic. Other volunteers may be present on a "will call" basis. Training sessions are held periodically involving the 2 paid staff and up to 18 volunteers. General training session attendance is between 10 – 12 individuals. Testimony

of the applicant's agent.

Conclusions of Law: The proposed development will have minimal impact on traffic satisfying the standard requiring safe traffic, highways, and roadways. This standard is met.

C: Bylaws and Ordinances in Effect at the Time

Finding of Facts: Proposed development has been shown to be conforming to all bylaws and ordinances in effect at the time of this decision including the Zoning Ordinance and the Town Plan.

Conclusions of Law: This application is in conformity with all bylaws and ordinances.

D. Utilization of Renewable Energy Resources

Findings of Fact: No new exterior construction is requested. Exhibit 1 Testimony of the applicant's agent.

Conclusions of Law: The application is in conformity with having no undue adverse impact on utilization of renewable energy and natural resources.

E. Air Quality

Findings of Fact: See Findings and Conclusions in Section 710 C above.

Conclusion of Law: The proposed Use has been found to have no undue impact on air quality.

F. The character, aesthetics, and scenic value of the neighborhood and area affected, as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies and standards of this ordinance and the Town Plan.

Findings of Facts: The purpose of the Commercial/Residential District is to encourage clustered economic development while preserving designated open spaces and historic village settlement patterns. The proposed use repurposes an existing commercial property from fabrication to service. Exhibit 1. No exterior construction is proposed, maintaining open space. Two employees will be present on the premises from 6 AM to 6 PM. However, staffing is on a 24 hour 7 day a week schedule on a "call out" basis. The present use employs one or two individuals. Testimony of applicant's agent and Frank Sprague.

Conclusions of Law: The proposed development is consistent with the defined purpose of the Commercial/Residential District and is consistent with the character of the area.

Article VII Standards

Section 722: Conditional Use - Preserving the Character of the Town

Land development and Uses in all Districts shall preserve the character of the town consistent with its rural and agricultural heritage, confirming to the following:

A. Preserving the Town's Character: Business development shall, to the extent reasonable and possible, occur in a manner that preserves the rural and agricultural character and ambiance of the community and the historic downtown.

Findings of Fact: There are no exterior changes to the building and the proposed use is a relocation of an existing use from Route 100 South. The applicant has spoken with other residents of Adams Road and none have concern over this Use of the property. Applicant testimony

Conclusions of Law: This standard is satisfied.

B. Economic Development Contributing to the Character of the Town: Merchandise and services shall not detract from the historic character and nature of the town as a family destination for tourists and a family focused residential community.

Findings of Fact: The use is an ambulance service which is being relocated from one area of the town to another. The availability of emergency medical services aids in maintaining a safe and economically viable community.

Conclusions of Law: This standard is satisfied.

C. Development Consistent with the Rural, Agricultural, and Historic Nature of the Town: Construction, reconstruction or land development, whether allowed, Permitted, or Conditional, shall, to the extent reasonable and possible, reflect and/or compliment the historic nature and the rural and agricultural appearance of the neighborhood and region.

Findings of Fact: There is no exterior construction of any kind. A pre-existing building is being repurposed to provide a facility for an ambulance service.

Conclusions of Law: This standard is satisfied

D. Formula Businesses: : The visual appearance of Formula Businesses (see Article X for a complete definition), including signage, shall project an appearance harmonious with the character of the rural, agricultural and historic nature of the town, reflection the distinctive and unique character of the town, consistent with the Site Plan and Design Guidelines of Appendix I.

Findings of Fact: The use is not a formula business, as defined.

Conclusions of Law: Not applicable

E. Maximum Square Footage of Retail: Retail business exceeding two thousand (2,000) square feet may be approved by the Development Review Board in the event that the business meets standards 1 – 5 of this section 722 E.

Findings of Fact: The use is not for retail business.

Conclusions of Law: Not applicable

F. Building Scale Conformity: Development shall conform to the scale of the established neighborhood.

Findings of Fact: Building pre-exists and there will be no exterior changes. The premises is subject to Zoning Permit #2011-065, Exhibit 5, which permitted its construction.

Conclusions of Law: This standard is satisfied.

G. Utility Placement: to preserve the aesthetics and natural beauty of the area, underground

utilities are encouraged where possible, particularly in areas of natural scenic beauty and in the Historic Design Review District.

Findings of Fact: The structure pre-exists and no exterior changes are sought. Exhibit 1.

Conclusions of Law: Not applicable

Article VII Standards

Section 723: Conditional Use - Preserving the Character of the Town: Historic Preservation

Compliance with the following guidelines is required in the Historic Design Review District, a Design Review District to the extent reasonable and possible to preserve, rehabilitate, or restore historic structures as defined below. The term “shall” in this section is used in reference to the Historic Design Review District. Compliance with these guidelines is recommended in all other districts.

Findings of Fact: The proposed Use is not in the Historic Design Review District and does not impact an historic property, as defined.

Conclusions of Law: Not applicable

Article VII Standards

Section 730: Conditional Use – Specific Standards (24 V.S.A. Section 4414 (3)(B))

A. Lighting and Glare: Lighting in the Historic Design Review District and Village District shall be in keeping with the historic character of the commercial area of the village. All exterior lighting in all districts shall be shielded and downcast. Interior and exterior lighting, glare or reflection are prohibited if they:

1. Constitute an unreasonable nuisance
2. Are found not to contribute to the aesthetics, scenic value or character of the area and community
3. Found impair the vision of pedestrians or the driver of a motor vehicle or an aircraft..

Findings of Fact: There is no change from the lighting approved by Exhibit 5 which provided lighting that is shielded downcast and installed with motion detection devices for security. There are lights on the north and south with motion detectors. Primary lighting run by a manual switch will continue to be shielded and downcast and spotlights will be on motion sensors. Testimony of Frank Sprague.

Conclusions of Law: This standard is satisfied

B. Safety: Shall minimize physical hazards where there are potential safety hazards.

Findings of Fact: The structure is to be used as a garage. There are no physical hazards.

Conclusions of Law: This standard is satisfied

C. Traffic and Pedestrian Safety: Development shall provide for pedestrian walkways to ensure safe and efficient navigation by foot or bicycle. Special consideration shall be made for children’s safety. Traffic patterns will be review for safety, ease of traffic flow and efficiency

Findings of Fact: There are no changes to the previously approved structure and access. There are 1-2 children who live in the vicinity, however the property is separated from the children’s residence by a stream and trees. The presence of motor vehicles in the area is not uncommon in this well-traveled road and the children are familiar with those areas that are safe for play. Testimony of Frank Sprague.

Conclusions of Law: This standard is met.

D. Road Development: Any new roads, whether public and private, shall conform to the Wilmington Town Highway Ordinance.

Findings of Fact: No roads are being developed.

Conclusions of Law: Not applicable

E. Landscaping, Screening and Development: As defined in Section 722(A) development shall “preserve the rural and agricultural character and ambiance of the community”. Natural features characteristic of the town’s rural and agricultural character shall be used in Landscaping and Screening to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

a. Landscaping beds, trees, shrubs and plantings: required as needed to meet the stated goals above and shall be maintained in perpetuity for general aesthetic appearance and plant health.

b. Screening and Buffer Areas: required as needed to screen all unaesthetic features to meet the stated goals above. Screening must be of natural vegetation and plantings. Fencing may be used secondary to plantings to achieve screening. (See special provisions for screening unaesthetic features, large and small.)

b1. Screening and Buffering Commercial Structures and Uses: Required when commercial development has an undue adverse aesthetic impact on surrounding properties and roads. Shall be minimum of 10 feet where reasonable and possible.

b2. Screening and Buffer of Parking: Required where reasonable and possible when parking has an undue adverse impact on the aesthetics of the properties and roads.

b3. Screening and Buffer of Ground Mounted Solar Arrays: Required when ground mounted solar arrays have an undue adverse aesthetic impact on surrounding properties and roads. For ground installation of solar arrays and related unaesthetic features larger than 200 square feet and within 50 feet of a road or abutting property, a minimum Buffer Area of 10 feet in depth shall be provided.

Findings of Fact: No additional physical development is taking place on the premises.

Conclusions of Law: Not applicable

F. Land and Water Management: Pursuant to 24 V.S.A. Section 4414(1)(G) and 24 V.S.A. Section 4414(9) the development plan shall protect properties, transportation systems and public safety by:

- a. Providing for safe and appropriate water management including but not limited to water supply quality/availability, storm water retention/absorption, and impervious surface runoff management.
- b. Preventing and controlling against water pollution
- c. Making appropriate provision for management of erosion, preservation of rivers & streams, river/stream banks wetlands, waterways, channels, and agricultural lands.
- d. Preserving and promoting scenic or aesthetic features and open spaces

Findings of Fact: There are no known water management problems on this property and no additional physical development is taking place on the premises.

Conclusions of Law: Not applicable

G. Wastewater and Potable Water: Pursuant to 24 V.S.A. Section 4414 (13), the Zoning Administrator may issue an initial Permit conditioned upon receipt of evidence of a wastewater and potable water supply Permit, if none is provided with the submitted application. A final Permit may be issued by the Zoning Administrator after receiving evidence that a Permit has been issued, as applicable, under chapter 64 Title 10. Development Review Board decisions shall instruct the applicant of their responsibility in obtaining state and federal Permits and may condition their decision on obtaining such a Permit if none has been obtained.

Findings of Fact: The premises are served by the Town sewer and have a drilled well previously approved.

Conclusions of Law: This standard is satisfied.

H. Natural Resources and Features: Existing vegetation, native species, native trees, scenic views, river access and other natural features shall be preserved to the extent possible and to the extent that they will enhance and promote the natural assets of the town. Clearing of land to create pastureland and scenic spaces/vistas is allowed provided it does not have an unreasonable impact on natural resources. Development shall blend with the topography, vegetation, and natural land features. It shall not have an undue adverse impact on natural features, natural resources or renewable energy. This includes no adverse impact on forested lands, streams and stream banks, steep slopes, wetlands, watersheds, floodplains, soil unsuitable for development, impervious surfaces essential to stormwater detention, agricultural lands, open scenic lands, scenic vistas, scenic features, unique natural or manmade features, and renewable energy sources.

Findings of Fact: The structure has been permitted by Zoning Permit #2011-065, Exhibit 1, no exterior construction is sought

Conclusions of Law: Not applicable

I. Wildlife Protection: Development shall not have an undue adverse impact on wildlife habitats and wildlife corridors.

Findings of Fact: No additional exterior construction is sought and the new use of an ambulance service will not have an undue adverse impact on wildlife habitats and corridors.

Conclusions of Law: Not applicable

J. Shoreland Protection: All development shall be in conformity with the Shoreland Protection Act if development is within 250 feet of a body of water greater than 10 acres.

Findings of Fact: The location of the premises removes it from the strictures of the Shoreland Protection Act.

Conclusions of Law: Not applicable

K. Flood Hazard Protection: Development must comply with the provisions of Article VI Flood Hazard District, if applicable. All floatables in any district and in an area which has historically flooded and all Flood Fringe Areas, shall be raised above the estimated Base Flood Elevation (BFE) or firmly secured so as to ensure they are not dislodged in the event of a flood. This includes but is not limited to propane, oil, and gas tanks, chemicals, explosives, flammable liquids, toxic or hazardous materials. (See Flood Hazard Regulations Section 620 (B) (12)). While hay bales and logs are protected Agricultural and Silviculture industries in Vermont, conformity with this provision is encouraged.

Findings of Fact: See Findings made under Article VI above.

Conclusions of Law: See Conclusions made under Article VI above.

L. Technical Review Costs: Applicant may be required to pay reasonable costs of an independent technical review.

Findings of Fact: No independent technical review is required

Conclusions of Law: Not applicable.

Section 732: Conditional Use – Other Specific Standards

- A. Affordable Housing
- B. Automotive Service Station and Repair Garage
- C. Junked Vehicles
- D. Medical Marijuana Dispensaries
- E. Mobil Home Parks (Trailer Parks)
- F. Commercial Parking and Loading Areas
- G. Ponds/Water Impounds
- H. Quarry Operations
- I. Recreational Vehicle Storage
- J. Solar Projects
- K. Wind Turbines

Findings of Fact: The proposed development does not fall into any of the above categories with the exception of Commercial Parking and Loading Areas, provision F.

Conclusions of Law: Not applicable with the exception of F. Commercial Parking which is addressed below.

F. Commercial Parking and Loading: Commercial parking and loading areas in all districts shall:

1. **Provide off-street parking** (except in the HDRD)
2. **Parking spaces shall be 10 x 18** (smaller allowed only if need for added spaces outweighs the risk and public inconvenience of smaller spaces). Special consideration shall be given to safety, pedestrian and disabled persons concerns when smaller spaces are allowed.
3. **Minimum number of spaces:** One (1) parking space for each 200 sq ft retail.
4. **Drive-up Windows:** no waiting lines in public ROW
5. **Minimize visual impact of parking/loading areas**
6. **Buffer parking areas** if needed for safety or aesthetics
7. **Public Road Access:** minimize traffic interruption, provide for auto and pedestrian safety
8. **Rainwater, Snow, and Ice Removal/Storage:** Plan for snow/ice removal, runoff, safety.
9. **Safety:** Minimize physical hazards, provide safe pedestrian and vehicular movement with unobscured views, especially visibility at intersections, pedestrian safety, convenience, emergency access.
10. **Neighboring properties:** integrate circulation and parking with neighboring properties. Work to maximize for efficiency, safety, and attractive solutions.

Finding of Facts: There is ample parking for the intended use of the premises as a base for an ambulance service with two employees on a daily basis and for up to 20 people for monthly training. There is adequate space for snow removal. Access is to Adams Drive and Stowe Hill Road with clear sight lines. Exhibits 3 and 4.

Conclusions of Law: This standard is satisfied.

The application for development is **approved** with the following conditions, restrictions, requirements, limitations and specifications.

1. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with Exhibits. Any changes to the plans will require an administrative approval from the zoning administrator or a review by the Development Review Board, in conformance with the Zoning Ordinance.

The applicant is responsible for obtaining all state and federal permits.

If unused, this Approval expires two years 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.

Town of Wilmington, Zoning Administrator reserves the right to monitor compliance with this decision and all decisions issued by the Development Review Board

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

Wendy Manners-Seaman
Paul Lockyear
Fred Houston

OPPOSED:

ABSTAINING:

For the Board: Fred Houston, Chairperson Date: October 31, 2017

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.