

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: **Granville Gargiulo of Mountain Pond / Quail Hollow Homeowners, Inc. for the Town of Wilmington**

Agent(s) Mailing Address: **PO Box 39, Wilmington VT, 05363**

Owner/Applicant(s) Mailing Address: **Town of Wilmington, PO Box 217, Wilmington VT, 05363**

Address of the subject property: **off Haystack Road, Wilmington, VT 05363**

Tax Map #**HSMITNPOND.LND**

A copy of the request is filed in the office of the Board and is referred to as:
Case #: 2012-100

Description of Case per Public Notice:

Application # 2012-100; owner: Town of Wilmington; agent: Granville Gargiulo of Mountain Pond/Quail Hollow Homeowners, Inc. Application being made to reduce the density at Mountain Pond, a previously approved subdivision/development; Zoning Ordinance Sections 7.A & E, 512; location: off Haystack Road.

Notice for a public hearing was published in the Valley News on: **8/31/2012**

Notice was posted in three public places on: **8/30/2012**

A copy of the notice was mailed to the applicant on: **8/30/2012**

A copy of the notice was mailed to the abutters on: **8/30/2012**

The public hearing was held on: **9/17/2012**

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: October 29, 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

Harry Byron, President, Mountain Pond/Quail Hollow Homeowners, Inc.

Susan Haughwout, Cold Brook Fire District Prudential Committee member

Roberta Carey, Administrative Assistant, Cold Brook Fire District (did not testify)

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 (four pages)

A Land of Haystack Corporation Mountain Pond Village

B overview map of area

C Proposal Summary "Application for Conditional Use Permit"

D Authorization letter

E Abutters List

F Case Summary

1. The subject property is in the Residential District of the Town of Wilmington. The property is identified as Tax Map HSMTNPOND.LND.
2. The Agent represents a homeowners' group representing the townhouse owners of the villages of Mountain Pond and Quail Hollow. These villages were formed around 1969 as part of the original Haystack development and in Mountain Pond 58 building lots were planned, although only 32 were built upon, the last townhouse being completed in 1973. Since that time a number of adverse financial developments have occurred resulting, in 2008, in the Town of Wilmington acquiring the 26 undeveloped lots in Mountain Pond at a tax sale.
3. Applicant has continued the maintenance of Mountain Pond, including its interior roads, parking areas and common land. It now seeks to purchase the underlying property associated with the undeveloped 26 lots and "include such property as common land to be cared for and maintained consistent with its past maintenance policies and practices, unfettered by any further townhouse development" (Exhibit C). This would result in a reduction of density, as previously approved.
4. An Act 250 application to the State of Vermont has been filed by the Applicant and the Town of Wilmington Board of Listers is to be notified concerning the purchase.

II. The Board CONCLUDES:

A reduction in the approved density is a Conditional Use in the Residential District and requires Conditional Use review. With regards to the criteria for a conditional use permit, the Board concludes that this proposal *will* conform to the requirements of the Wilmington Zoning Ordinance and the following standards:

- A. **Will the proposed Conditional Use have an undue adverse effect on the capacity of existing or planned community facilities?** No. It will enhance Mountain Pond community access to its commonly owned property and will ensure that the property will continue to be maintained.
- B. **Will the proposed Conditional Use have an undue adverse effect on traffic on roads and highways in the vicinity?** No. It will have no effect on traffic and roads.
- C. **Will the proposed Conditional Use have an undue adverse effect on the character of the area, as defined by the purpose or purposes of the zoning district within which the project is located?** No. The character of the area will be unaffected.
- D. **Will the proposed Conditional Use comply with specifically stated policies and standards of the Town Plan?** Yes.
- E. **Will the proposed Conditional Use comply with other sections of the Zoning Bylaw?** Yes.

III. CONDITIONS:

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

1. The acquired 26 lots shall be included as common land and no further townhouse or residential development shall be permitted.
2. The Town of Wilmington Board of Listers shall be notified at the completion of the property sale.

Thus, the Development Review Board does/ **approve** the application for **Conditional Use review to allow a reduction in density to 32 units in the Residential District.**

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:

Andrew Schindel
Nicki (Polly) Steel
Gil Oxley

OPPOSED:
None

NOT IN ATTENDANCE:
Paul Tonon
Dave Kuhnert

For the Board: Polly Steel, Chairperson

Date: 9/26/2012

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.