

TOWN OF WILMINGTON
FINDINGS OF FACT AND STATEMENT OF FINDINGS
WILMINGTON, VERMONT 05363

A request for a permit was made to the Board by: **Victor L. and Tammy J. Derosia**

Owner/Applicant(s) Mailing Address: PO Box 1848, Wilmington VT 05363

Address of the subject property: **41 Country Club Road, Wilmington**

Tax Map: # 21-22-050.000

A copy of the request is filed in the office of the Board and is referred to as: **#2021-064**

Description of Case per Public Notice: Proposal to temporarily utilize the property for a single motor home to be located on the parcel for full-time use over a 2 year period.

Application # 2021-064 Owner: Victor L. and Tammy J. Derosia Location of property: 41 Country Club Road, Wilmington. Proposal to temporarily utilize the property for a single motor home to be located on the parcel for full-time use over a two-year period.

Applicable Code Sections:

Article II -Sections: 222, 223, 224, 226, 227

Article IV -Sections 420; 423; 430, 431, 440; 450 C

Article VII -Sections 700, 706, 708, 710; 720, 721, 722, 730 F, G, H, 732 E

Article X - Definitions: Campground/Recreational Vehicle Park, Recreational Vehicle

Hearing Date: September 20, 2021

Notice for a public hearing was published in the Valley News on: **August 26, 2021**

Notice was posted in three public places on: **August 26, 2021**

A copy of the notice was mailed to the applicant on: **August 26, 2021**

A copy of the notice was mailed to the abutters on: **August 26, 2021**

Appeal period for this Case expires on: December 1, 2021

Approval expires on: November 30, 2023

The following presented testimony as the applicant or on behalf of the Applicant or as an Interested Party:

Victor and Tammy Derosia

Edith Molner

John Quigley

Cathy Quigley

Scott Cole

EXHIBITS

The following Exhibits were placed in evidence by the Applicant or their Agent:

1. Application - 4 pages, including:

- Pgs 1-3 Application
- Pg 4 Plot Plan

2. Letter from Mike Tuller dated 4/16/21 to Victor & Tammy Derosia - Zoning Compliance Concern _____

3. Letter from Mike Tuller dated 9/2/21 to Abutters

4. Hearing Notice

5. Abutter List
6. Letter from Victor & Tammy Derosia dated 8/3/21 – 3 pages
7. Photos of the site – 7 pages
8. Email from Carrin Russell, 56 Country Club Road
9. Two additional photos of the site

SYNOPSIS

The application proposes to temporarily utilize the property for a single motor home to be located on the parcel for full-time use over a two-year period.

ARTICLE II

Sections 222, 223, 224, 226, and 227

Findings of Fact: This standard has been met, all exhibits have been received & verified.

Conclusions of Law: Article II is met.

ARTICLE IV: DISTRICTS & USES

Section 420 – Uses

Section 423 – Conditional Uses

Findings of Fact: This standard has been met – all exhibits have been received & verified

Conclusions of Law: Sections 420 and 423 are met

Section 440 – Districts

Findings of Fact: The property is in the Residential District

Conclusions of Law – This section is met

Section 450: Districts

A) Conservation

B) Village (a) within the HDRD and (b) outside the HDRD have unique dimensional requirements

C) Residential

D) Resort Residential

E) Commercial/Residential

F) Resort Commercial/Residential

DISTRICT

Finding of Fact: Subject property is in the Residential District . The property is identified as Tax Map: # 21-22-050.000

Conclusions of Law: The proposed land development is subject to zoning applicable to the Residential District.

USES

Finding of Facts: The Primary Use of the structure is single motor home.

Conclusions of Law: The proposed Use is not a Conditional Use in this district.

ARTICLE VII: STANDARDS

Section 700 – Purpose

Finding of Facts: The Development Review Board will ensure that the proposed development meets the required standards.

Conclusions of Law: The standard is met.

Section 706 - Nonconforming Structures on Developed Land/Lot

Finding of Facts: All sections are required.

Conclusions of Law: The standard is met.

Section 708 – Nonconforming Uses

Finding of Facts: Not applicable.

Conclusions of Law: Standard is met.

Section 710: Use Performance Standards

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

Findings of Fact: Testimony of the witnesses there will be no vibration.

Conclusions of Law: This Use Performance Standard is met.

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: Testimony of the witnesses there will be no noise.

Conclusions of Law: This Use Performance Standard is met.

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

Findings of Fact: Testimony of the witnesses there will be no air emissions.

Conclusions of Law: This Use Performance Standard is met.

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 will cause injury or damage to human or animal health, vegetation, or property.

Findings of Fact: Testimony of the witnesses there will be no Injurious or Noxious Practices.

Conclusions of Law: This Use Performance Standard is met.

SECTIONS 721: GENERAL STANDARDS

The proposed use shall protect against adverse effect on:

A: The Capacity of Existing or Planned Community, Municipal or Educational Facilities

B. Traffic on Roads and Highways

E. Air Quality

F. Character of the Area

Findings of Fact: The purpose of the Residential District is:

To provide areas for dwelling and low impact uses with consideration being given to historic settlement patterns, aesthetics, natural resources and economic vitality.

Finding of Fact: Proposed changes do not apply to provisions. The proposed change is not consistent with the defined purpose of the Residential District.

Conclusions of Law: Standards are not met.

SECTION 722: CONDITIONAL USE – PRESERVING THE CHARACTER OF THE TOWN

Findings of Fact: Not Applicable

Conclusions of Law: The use is met

SECTION 730: CONDITIONAL USE – SPECIFIC STANDARDS

F. Landscaping, Screening and Development: Shall “preserve the rural and agricultural character and ambiance of the community”. Natural features characteristic of the town’s rural and agricultural nature shall be preserved. Landscaping and Screening shall be used to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties.

Findings of Fact: Landscaping and Screening opportunities to preserve and protect the aesthetic and scenic value of the town, its neighborhoods, residents, and neighboring properties: condition is met.

Conclusions of Law: This condition is met.

G. Land and Water Management: Protect properties, transportation systems, and public safety by a. Safe and appropriate water management including water supply/availability, stormwater retention/absorption, and impervious surface/runoff management.

b. prevent and control against water pollution

c. make provision for management of erosion, preservation of rivers & streams, river/stream bank management, wetland protection, waterway and channels management, and agricultural land protection,

Findings of Fact: Testimony of the witnesses this condition is met with a drilled well for potable water.

Conclusions of Law: The decision is met.

H Wastewater and Potable Water: A permit may be issued upon receipt of evidence there is a wastewater and potable water permit. If none is received with a submitted application, the Permit will be conditioned on receipt of a wastewater and potable water permit at which time a final Permit will be issued. DRB shall instruct the applicant on their responsibility to obtain state and federal permits and may condition their decision on obtaining such permits.

Findings of Fact: Testimony of witnesses potable water is available from drilled well and waste water is taken away to be dumped in a suitable location.

Conclusions of Law: This condition is met.

SECTION 732 – Other Specific Standards

E Mobile Home Parks (Trailer Parks)

Findings of Fact: Not Application

Conclusions of Law: Is met

ARTICLE X – DEFINITIONS: Campground/Recreational Vehicle Park, Recreational Vehicle

CONDITIONS:

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 5, 6, 7 and the testimony provided. Any changes to the plans will require an administrative approval from the Zoning Administrator and/or a review by the Development Review Board, in conformance with the ordinance.
2. Testimony of witnesses they will only live there for five (5) months of the year.
3. Only one (1) recreational vehicle is permitted on the site per definition.

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

If unused, this Approval expires 2 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:

Diane Abate

Charles Foster

Chrystal Holt

Justin Linder

Cheryl LaFlamme

OPPOSED: None

ABSTAINING: None



Date: 11/1/2021

For the Board: Cheryl LaFlamme, Chairperson

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.
