

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: **Robert and Bonnie Mongno**

Owner/Applicant(s) Mailing Address: 1496 Old Logging Rd, Yorktown, NY 10598

Address of the subject property: **74 West Lake Rd.**

Tax Map: parcel # **22-21-003.000**

A copy of the request is filed in the office of the Board and is referred to as: # **2021-084**

**Description of Case per Public Notice**

Application # **2021-084**

Owner: Robert and Bonnie Mongno

Address: 74 West Lake Rd, Wilmington

Waiver request for a proposed encroachment within the prescribed front yard setback for a new enclosed porch area and a deck on the side of the primary dwelling.

**Applicable Code Sections:**

Article II- Sections: 222, 223, 224, 226, 227, 229, 231, 234

Article IV- Sections: 430, 431, 440, 450 C

Article VII- Sections: 705, 706, 710 A B, 720, 721 F, 730 F H

Notice for a public hearing was published in the Valley News on: **11/18/2021**

Notice was posted in three public places on: **11/17/2021**

A copy of the notice was mailed to the applicant on: **11/17/21**

A copy of the notice was mailed to the abutters on: **11/17/21**

**Hearing Date: December 6, 2021**

**Appeal period for this Case expires on: January 19, 2022**

**Approval expires on: December 19, 2023**

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

Robert Mongno

**EXHIBITS**

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

1. Notice of Hearing- Town of Wilmington Public Notice
2. Application (3 pages)
3. Copy of page 3 of the application with payment
4. Architect Drawings of property (2 pages)
5. Architect Drawings of home layout (2 pages)

6. Architect Drawing of planned extension (3 pages)
7. Photo images of current property (10 pages)
8. Copy of letter to Property Abutters with abutters list attached (3 pages)

**SYNOPSIS**

Waiver request for a proposed encroachment within the prescribed front yard setback for a new enclosed porch area and a deck on the side of the primary dwelling.

**ARTICLE II: ADMINISTRATIVE PROCEDURES**

Section 222 Land Development and Uses Requiring Development Review Board Written Decision and Approval

Section 223 Development Review Board Site Plan and Design Review

Section 224 Development Review Board Site Plan and Design Review Submission Requirements

Section 226 Development Review Board Decisions

Section 227 Plan Changes after Receiving a Development Review Board Decision

Section 229 Dimensional and Sign Waivers Granted by the Development Review Board

Section 231 Criteria for Obtaining a Dimensional Waiver from the Development Review Board

Section 234 Dimensional Variances Granted by the Development Review Board for Other than Renewable Energy Resource Structures

**Section 229: Dimensional and Sign Waivers Granted by the Development Review Board**

In the case of proposed development that does not meet the standards of this ordinance, Waivers may be requested only for dimensional requirements when seeking a written decision and approval from the Development Review Board. In applying for a Waiver, the burden of proof is on the Applicant to demonstrate that the Waiver request meets Waiver criteria. In the event that a Waiver is granted, the Permittee must comply with all other requirements of this Bylaw.

**Finding of Fact:** Property is a legal non-conforming lot which is not eligible for a waiver.

**Conclusion of Law:** Section 229 of Article II is not applicable.

**ARTICLE II**

**Finding of Facts:** This standard has been met, all exhibits have been received & verified, and testimony received.

**Conclusions of Law:** Article II is met

**ARTICLE IV: DISTRICTS & USES**

Section 430 Legal Nonconformities

Section 431 Changes to Legal Nonconforming Structures, Lots, and Uses

Section 440 Districts and District Requirements

Section 450 C District Purposes and Descriptions- RES/ Residential

Section 450: Districts

C) Residential District (RES)

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

**DISTRICT**

**Finding of Fact:** Subject property is within the Residential District (Section 450 C). The property is identified as Tax Map: parcel #0222-1003

**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 currently Residential.

**Conclusions of Law:** The applicant is not proposing any changes to the current Use. Article IV is met.

## **ARTICLE VII: STANDARDS**

Section 705 Changes to Nonconforming Structures, Lots and/or Uses

Section 706 Nonconforming Structures on Developed Land/Lot

Section 710 A, B Use Performance Standards

Section 720 Applicability of Conditional Use Standards and Site Plan and Design Guidelines

Section 721 F Conditional Uses – General Standards

Section 730 F, H, Specific Standards

### **Section 710: Use Performance Standards**

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

**Findings of Fact:** Applicant testifies 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:** Applicant testifies there will be no excessive noise.

**Conclusions of Law:** This Use Performance Standard is met.

### **Section 721: Conditional Use – General Standards**

A. 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 Fact:** Applicant testifies that proposed project meets these standards.

**Conclusions of Law:** Standard 721 F is met.

### **Section 730: Conditional Use – Specific Standards**

**F. Landscaping, Screening and Buffer Areas:** 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.

**Findings of Fact:** Applicant testifies that no additional landscaping or screening is proposed.

**Conclusions of Law:** Standard 730 F is met.

**H. Wastewater and Potable Water:** Pursuant to 24 V.S.A. 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:** Applicant testifies that current wastewater system (septic system) is sufficient for proposed project.

**Conclusions of Law:** Standard 730 F is met.

**CONDITIONS:**

The application for development is **APPROVED**, with conditions, restrictions, requirements, limitations or specifications.

1. Per section 706 D, applicant to ensure the home project does not exceed thirty (30) feet to the highest point of the ridge line.

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:

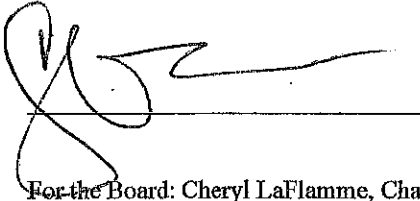
Diane Abate  
Cheryl LaFlamme  
Chrystal Holt  
Justin Linder

OPPOSED:

None

ABSTAINING:

None



Date: 12/20/2021

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.*