

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

A request for permit was made to Board by: **RGS, LLC (Roberta Green and Ralph Genella)**

Owner/Applicant(s) Mailing Address: **PO Box 66, East Dover, VT 05341**

Address of the subject property: **312 VT Route 9 East**

Tax Map: **Parcel # 07-01-056.000**

A copy of the request is filed in the office of the Board and is referred to as: **#2022-026**

Description of Case per Public Notice:

Application is being made for a: **Use existing gravel lot for outside storage rental for commercial products and recreational vehicles within the Commercial/Residential and Residential Zoning Districts.**

Applicable Wilmington Code Sections:

Article II- 222, 223, 224, 226, 227, 228

Article IV- 420, 423, 440, 450 C, E

Article VII- 721, 722, 730

Notice for a public hearing was published in the Valley News on: **April 28, 2022**

Notice was posted in three public places on: **April 28, 2022**

A copy of the notice was mailed to the applicant on: **April 28, 2022**

A copy of the notice was mailed to the abutters on: **April 28, 2022**

HEARING DATE: May 16, 2022

Appeal period for this Case expires on: July 6, 2022

Approval expires on: June 5, 2024

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

EXHIBITS

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

1. Notice of Hearing
2. Application for DRB Review (3 pages) #2022-026
3. Parcel Map
4. Plot Plan
5. Abutters Notice and List (2 pages)
6. Image of current structure on property.
7. Email containing images of property (3 pages)
8. Photograph of driveway/gate to property
9. Aerial images of parcel showing current building location and proximity to Route 9 (3 pages)

ARTICLE II: ADMINISTRATIVE PROCEDURES

Section 222 Conditional Uses

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 DRB decision

Section 228 State & Federal Permits & Development Review Board Decisions

Finding of Facts: Sections noted outline administrative procedures, definitions, role of the DRB, and responsibility of the applicant. Application was received containing all necessary documents.

Conclusion of Law: Article II is met.

ARTICLE IV: DISTRICTS & USES

Section 420 Uses

Section 423 Conditional Uses

Section 440 Districts & District Requirements

Section 450 District Purposes & Descriptions

Finding of Facts: Subject property is located on a parcel with both Commercial/Residential District and the Residential District zoning areas. The section of the proposed storage area falls within the Commercial/Residential District.

Conclusions of Law: Applicant testified to understanding the requirements of this district and permitted uses. Article IV is met.

ARTICLE VII: STANDARDS

SECTIONS 721: CONDITIONAL USE - 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

C: Bylaws and Ordinances in Effect

D. Utilization of Renewable Energy

E. Air Quality

F. Character of the Area

Findings of Fact: Applicant testimony confirms that these general standards are understood and will be maintained. Proposed storage area will not create adverse effects on the area.

Conclusion of Law: General Standard is met with conditions.

SECTIONS 722: CONDITIONAL USE – Preserving the Character of the Town

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

A. Preservation of 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.

B. Economic Development Contributing to the Character of the Town: Merchandise or 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.

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 of the town and the rural and agricultural appearance of the neighborhood and region.

D. Formula Businesses

E. Maximum Square Footage for Retail

F. Building Scale Conformity

G. Utility Placement

Findings of Fact: Applicant testimony indicates that this project will not create any negative impact on the character of the town. The proposed project is not a formula business, will not provide retail space, and no utilities will be added/amended.

Conclusion of Law: Conditional use is met.

SECTIONS 730: CONDITIONAL USE – Preserving the Character of the Town

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

A. Lighting and Glare: All exterior lighting shall be shielded and downcast.

Findings of Fact: Applicant testifies that no additional lighting is planned to be added, however if lighting is used, it will be shielded and downcast.

Conclusions of Law: Standard 730 A is met.

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

Findings of Fact: Applicant testifies to considering any safety hazards for storage proposal and will address those concerns using specific language in their storage contracts or by mitigating them on their own.

Conclusions of Law: Standard 730 B is conditionally met

C. Traffic and Pedestrian Safety: 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 flow and efficiency.

Findings of Fact: Applicant testifies that traffic patterns will likely not be altered by their proposed storage plans and pedestrian safety is not applicable in this area.

Conclusion of Law: Standard 730 C is met

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

1. **Provide off-street parking** (except in the Historic Design Review District)
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**

10. **Neighboring properties**

Findings of Fact: Applicant testifies that the existing parking area will remain unchanged.

Conclusion of Law: Standard 730 D is met

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

Findings of Fact: Applicant testifies that no additional road development will occur.

Conclusions of Law: Standard 730 E is met.

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: Applicant testifies all existing plants/trees that provide screening from Rt 9 will remain in place, and no additional screening is proposed.

Conclusions of Law: Standard 730 F is met.

G. Land and Water Management- No changes to land are proposed, not applicable.

H. Wastewater and Potable Water- No wastewater or potable water are proposed, not applicable

I. Natural Resources and Features- No changes to the landscape proposed, not applicable

J. Wildlife Protection: Development shall not have undue adverse impact on wildlife habitats and wildlife corridors. There are no known wildlife habitats on the proposed site, not applicable.

K. Shoreland Protection- Not applicable.

L. Flood Hazard Protection: Development must comply with the provisions of Article VI Flood Hazard District.

Findings of Fact: Applicant address is not located in the Flood Hazard District based on floodway map from ANR.

Conclusions of Law: Standard 730 L is not applicable.

M. Energy Resources- Not applicable.

N. Technical Review Costs- Not applicable.

CONDITIONS:

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

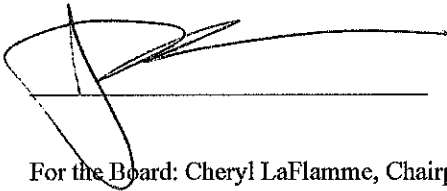
1. Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with testimony and plans provided. Any changes to the plans will require an administrative approval from the Zoning Administrator and/or a review by the Development Review Board, in conformance with the ordinance.
2. The storage of toxic or hazardous materials is not permitted, with the exception of fuel contained within a vehicle's holding tank or propane limited to 100lbs on a vehicle. For the purposes of this application, hazardous materials include the following:
 - Corrosive solids, liquids, or gases
 - Flammable solids
 - Flammable gases
 - Flammable cryogenic fluids
 - Inert cryogenic fluids
 - Inert gases
 - Organic peroxide formulations
 - Oxidizer solids or liquids
 - Oxidizing gases/fuel
 - Oxidizing cryogenic fluids
 - Pyrophoric solids, liquids, or gases
 - Toxic or highly toxic solids, liquids, or gases
 - Unstable (reactive) solids, liquids, or gases
 - Water-reactive solids or liquids

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

Cheryl LaFlamme
Chrystal Holt
Diane Abate
Paul Lockyear

OPPOSED:

ABSTAINING:



Date: 6/6/2022

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.
