

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: **Supergirl LLC**

Owner/Applicant(s) Mailing Address: **PO Box 1071, Wilmington, VT, 05363**

Address of the subject property: **157 VT Rte 100 N, Wilmington, VT, 05**

Tax Map: parcel # 21-20-009.000

A copy of the request is filed in the office of the Board and is referred to as: **#2022-092**

Description of Case per Public Notice: **The applicant is increasing the food offered at the C&S Store and in addition intends to prepare food on premise as opposed to having it prepared in the C&S Restaurant. Change of use is requested to include on-site food preparation.**

Application # **2022-092:**

Applicable Wilmington Code Sections:

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

Article IV- 420, 423, 440, 450 E

Article VII- 710, 721, 730 A, C, D, H

Notice for a public hearing was published in the Valley News on: *

Notice was posted in three public places on: *

A copy of the notice was mailed to the applicant on: *

A copy of the notice was mailed to the abutters on: *

Appeal period for this Case expires on: *

Approval expires on: _____ * _____

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

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) #2022-092
3. Parcel Map
4. Plot Plan

5. Plan view of first and second floor
6. Photo of kitchen equipment
7. Abutter List

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. The applicant was advised to familiarize herself with the obligations placed upon her under Article 11. The 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: Testimony was received that the subject property is located on a parcel in the Commercial/Residential District. As such preparation and selling of food is a permitted conditional use

Conclusions of Law: Article IV is met.

ARTICLE VII: STANDARDS

Section 710 A, B, C, D Use Performance Standards

Section 721 Conditional Use – General Standards

Section 730 A, C, D, H Conditional Use – Preserving the character of the town

SECTION 710: USE PERFORMANCE STANDARDS PURSUANT TO 24 V.S.A. § 4414(5)

Finding of Facts:

A. Vibration: Testimony was received that no vibrations either permanent, ongoing or frequent were anticipated on the subject property.

B. Noise: Testimony was received that no noise either continuous, permanent, ongoing or frequent in excess of that of a normal conversation will exist at the property boundary line of the

subject property.

C. Air Emissions for Commercial Operations: Testimony was received from the applicant that a commercial extractor fan had been installed complete with Ansul extinguisher and as such no emission of dust, ash, smoke or other particulate matter:

- Which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity
- Which can cause contamination of the subject property or beyond the property boundaries
- Which is composed of solid or liquid particles in concentrations exceeding current state authority standards
- Which causes emission of non-farming, odorous matter in such quantities, as determined to be offensive is anticipated on the subject property

is anticipated.

D. Injurious or Noxious Practices: Testimony was received that no operations or Use will 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 are anticipated on the subject property.

Conclusions of Law: Section 710 sub sections A, B, C, D is met.

SECTION 721: CONDITIONAL USE - GENERAL STANDARDS

Finding of Fact:

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

Testimony was received from the applicant that there would be no adverse impact upon the capacity of the existing or planned Community.

B. Traffic on Roads and Highways. Testimony was received from the applicant that there would be no adverse change in traffic on roads or highways.

C: Bylaws and Ordinances in Effect. Testimony was received from the applicant that there was no adverse impact on ByLaws or Ordinances.

D. Utilization of Renewable Energy. Testimony was received from the applicant that there was no adverse impact on the utilization of renewable energy

E. Air Quality. Testimony was received from the applicant that new air filter and hood together with a new grease trap had been installed.

F. Character of the Area. Testimony was received from the applicant that there was no adverse impact on the character of the area.

Conclusion of Law: Section 721 sub sections A,B,C,D,E,F is met.

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

Finding of fact:

A. Lighting and Glare: From documents submitted it is concluded that there are no changes to the existing lighting.

C. Traffic and Pedestrian Safety: Applicant testifies that there is no change to car parking

D. Commercial Parking and Loading: Testimony was received that:

1. Off street parking was provided
2. More than adequate compliant parking is available
3. More parking exists than is required to meet the 1 space/200 sq ft of retail requirement
4. There were no drive up windows
5. Adequate public road access exists
6. Adequate plans exist for snow/ice removal, runoff and safety.

H. Wastewater and Potable Water: Testimony was received that a wastewater and potable supply permit had been obtained from the town. The applicant was asked for evidence of this permit to be produced.

Conclusions of Law: Section 730 sub sections A, C, D, H is met subject to conditions.

CONDITIONS:

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

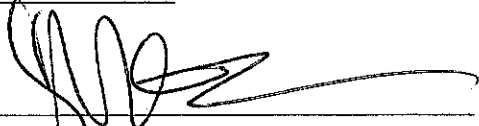
1. Except as otherwise required to accommodate the conditions of this decision, change of use will be executed in accordance with testimony and plans provided.
2. Applicant will produce a copy of the Wastewater and Potable Water permit to the Zoning Administrator within 30 days

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:



For the Board: Cheryl LaFlamme, Chairperson

Date: 10/10/2022

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.