

**TOWN OF WILMINGTON
COVER SHEET
DRB FINDINGS OF FACT ATTACHED**

Zoning Permit Application Number:

2023-076

Date of First Hearing:

8.7.23

Public Hearing Notice published in the Deerfield Valley News on:

7.13.23

Notice was posted in three public places on:

7.10.23

A copy of the Notice was mailed to the applicant and abutters on:

7.10.23

Appeal period for this DRB Decision expires on:

9.23.23

Approved Permit (after two years) expires on:

8.22.25

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: **James and Mary Ellen Pellerin**

Applicant(s) Mailing Address:

Address of the subject property: **668 Boyd Hill Road**
Tax Map: parcel # 00901057.000

A copy of the request is filed in the office of the Board and is referred to as: **Permit #2023-076**

Description of Case per Public Notice

Application # **2023-076**

Proposal: Appeal of Denial of Permit Application 2023-076 for a Recreational Vehicle used as an Accessory Dwelling Unit.

Applicable Code Sections:

Article II- Sections: 222 J, 223, 224, 226, 227, 240, 241, 242, 243, 244, 271, 272

Article IV- Sections: 420, 423, 440, 450C

Article VII- Sections: 706, 710, 721, 730 H,

Article X – Definitions

Notice for a public hearing was published in the Deerfield Valley News on: **7/13/23**

Notice was posted in three public places on: **7/10/23**

A copy of the notice was mailed to the applicant on: **7/10/23**

A copy of the notice was mailed to the abutters on: **7/19/23**

Appeal period for this Case expires on: **9/22/23**

Approval expires on: **8/22/2025**

Date of Public Hearing: **August 7, 2023**

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

James and Mary Ellen Pellerin

EXHIBITS

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

1. Warning of DRB Hearing
2. Application for DRB Review (3 pages)

3. Partial Site Plan
4. Building Section
5. Building Plan
6. Applicants statement of intent
7. Parcel Map Applicants Statement of Intent
8. Mailing List of Abutters
9. Neighbors letter in support of applicant

SUMMARY

The applicant intends to build a 696 square foot one story, accessory dwelling unit on their 3.43 acre lot that currently has a single family home. This is an appeal of an administrative denial of a permit application 2023-076 for a Recreational Vehicle used as an Accessory Dwelling Unit, by the zoning administrator. The property is in the Residential District. The applicant intends to use in part an 8' x 40' mobile home converted to permanent year-round use along with a stick frame building addition. The mobile home will be permanently sited on a new foundation, with new walls, windows and a roof, with bathroom and kitchen to remain. Building will be heated with propane, electrical power will be brought from the main house via a sub panel, sanitary waste and potable water will be provided. According to the testimony of the applicant the building will be habitable and structurally sound prior to occupancy.

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 Development Review Board Decision

Section 240 Appeals

Section 241 Appealing Decisions, Acts, or Failures to Act by the Zoning Administrator

Section 242 Timeframe for Appealing a Decision, Act, or Failures to Act by the Zoning Administrator

Section 243 Where to Send an Appeal of a Decision, Act, or Failures to Act by the Zoning Administrator

Section 244 Appealing a Zoning Decision, Zoning Administrator Act, or Failures to Act

Section 271 Public Hearings

Section 272 Who May Attend and Be Heard at A Public Hearing

Finding of Facts: Sections noted outline administrative procedures, definitions, role of the DRB, and responsibility of the applicant. This application was received containing all necessary documents and those in attendance were advised of who may provide testimony during the hearing.

Conclusion of Law: Submission Requirements have been met.

ARTICLE IV: DISTRICTS & USES

Section 420: USES

Section 420: Uses

Each district has defined "Uses" which may be:

Allowed: Not requiring a zoning Permit

Permitted: Requiring a zoning Permit, unless specifically exempted

Conditional: Requiring a Development Review Board written decision and approval and a zoning Permit

4. Secondary: An additional Use to the Primary Use, requiring a Development Review Board written approval and a zoning Permit

Not Allowed: A prohibited Use

Section 440 Districts and District Requirements

Section 450: District Purposes and Descriptions

C. Residential District (RES)

Permitted Uses, Residential District: (Requiring a zoning Permit)

- **Accessory Apartment**

Site Criteria - Residential District:

Density Limits	Maximum of 25% Lot Coverage: 1 dwelling unit plus an Accessory Apartment or 1 two-unit dwelling per acre. Fences are not counted toward density limits.
Structures/Uses Per Lot	Maximum of : 1 Principal Structure and 1 Principal Use. Home Business and Home Industry are not considered Principal Uses. A second dwelling in a separate Principal Structure may be constructed on any Lot with more than three acres. Fences are not counted toward Structures limits.
Dimensional Requirements – New Lots	
Minimum Lot Size:	1 Acre
Minimum Lot Frontage:	150 ft
Minimum Lot Depth:	150 ft
Structure Height (Max):	38 ft to the highest point of the ridge line All Structures over 24 feet from average grade to the eave line or 38 feet to the ridge line are subject to Development Review Board written decision and approval. *
Con	40 ft Measured from edge of the actual or proposed road right-of-way
Setback-Side/Rear (Min):	20 ft Measured from the property line

Finding of Facts: Subject property is within the Residential District (Section 450 C). Uses per lot in Residential district allows 1 Principal Structure and a second dwelling in a separate principal structure on any lot with more than three acres. The property is 3.43 acres. The new dwelling unit is set 42' from the side yard, and over 100' from the front set back requirements. The roof eave will be below 24'. Accessory apartments are permitted uses requiring a zoning permit.

Conclusion of Law: Uses per lot - Second principal dwelling structure is permitted use on this lot in this district with a zoning permit. The addition of this accessory dwelling structure conforms with all Site Criteria.

ARTICLE VII: STANDARDS

Section 706: Nonconforming Structures on Developed Land/lot

Findings of Fact: Not Applicable

Conclusion of Law: Not Applicable

Section 710: Use Performance Standards

Pursuant to 24 V.S.A. § 4414(5) Performance Standards, the following standards shall apply to all Uses and land development in the town.

- A. Vibration: No continuous, permanent, ongoing, or frequent vibration shall be produced which, when transmitted, is discernible at the property line without the aid of instruments.

Temporary vibration created during land development should be limited to daylight hours to preserve quality of life in neighboring properties.

- B. Noise: continuous, permanent, ongoing or frequent noise in excess of that of a normal conversation (in the judgment of the Development Review Board) must not exist at the property boundary line. Recurring periodic or intermittent noises in excess of that of a normal lawn mower (in the judgment of the Development Review Board) at the property line is allowed provided it does not occur between the hours of nine (9) PM and seven (7) AM, and does not significantly detract from or diminish other property's allowed Use or land development.

Temporary noise created during land development should be limited to daylight hours to preserve quality of life for neighboring properties.

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

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

Findings of Fact: Applicant intends to use the accessory dwelling as ordinary housing. No excessive noise, vibration, noxious practices or commercial operations will occur on the property.

Conclusions of Law: Performance Standards are met.

Section 730: Specific Standards (24 V.S.A. § 4414 (3)(B))

- 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: By testimony of the applicant the property septic tank is oversized and has capacity for the new dwelling unit. Potable water will be pumped from current well serving the primary property.

Conclusions of Law: The applicant will need to apply for a wastewater and potable water supply Permit.

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 1-9 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. The applicant will need to apply for a wastewater and potable water supply Permit. A copy of the approved Permit must be provided to the Zoning Administrator as a condition of this DRB decision.

There is a thirty (30) day appeal period from the date of signature before this Approval becomes final.

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 Approval, FOR the above referenced application, with whatever restrictions, requirements, limitations or specifications are contained herein:

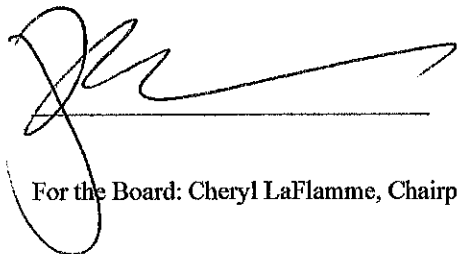
Cheryl LaFlamme
Diane Abate
John Gannon

OPPOSED:

None

ABSTAINING:

None



For the Board: Cheryl LaFlamme, Chairperson

Date: 8/22/2023

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.