

TOWN OF WILMINGTON
COVER SHEET
DRB FINDINGS OF FACT ATTACHED

Zoning Permit Application Number:

2023-088

Date of First Hearing:

8.21.23

Public Hearing Notice published in the Deerfield Valley News on:

8.3.23

Notice was posted in three public places on:

7.28.23

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

7.28.23

Appeal period for this DRB Decision expires on:

9.29.23

Approved Permit (after two years) expires on:

8.28.25

**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: **Zachary and Leslie Hitt**

Owner/Applicant(s) Mailing Address: PO Box 72, Whitingham, VT 05361

Address of the subject property: **87 W Main St, Wilmington, VT**

Tax Map: parcel # **20-20-45**

A copy of the request is filed in the office of the Board and is referred to as: **Permit #2023-088**

Description of Case per Public Notice

Application # **2023-088**

Applicant proposes a change of use to lodging at 87 W Main St, (Parcel ID 20-20-45)

Applicable Code Sections:

Article II- Sections: 222, 223, 224, 226, 227, 272

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

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

Notice for a public hearing was published in the Valley News on: **8/3/2023**

Notice was posted in three public places on: **7/28/2023**

A copy of the notice was mailed to the applicant on: **7/28/2023**

A copy of the notice was mailed to the abutters on: **7/28/2023**

Appeal period for this Case expires on: 9/28/2023

Approval expires on: 8/28/2025

Date of Public Hearing: **8/21/2023**

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

Person:

Leslie Hitt

Zachary Hitt

Cliff Leinonen (abutter)

EXHIBITS

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

1. Warning of DRB Hearing
2. Cover Sheet
3. Application for DRB Review (3 pages)
4. Drawing of the parcel
5. Abutters list and date stamp for notice mailings
6. Layout of interior (2 pages)

7. Copy of short term rental rules
8. Documents from Abutter Cliff Leinonen including pictures of 87 W Main St and a parcel drawing showing driveway location in relation to abutting property (5 pages)

SYNOPSIS

Applicant proposes a change of use to lodging for a short-term rental and parking for two cars.

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 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: Article II is met.

ARTICLE IV: DISTRICTS & USES

Section 420 Uses

Section 423 Conditional Uses

Section 440 Districts and District Requirements

Section 450 B District Purposes and Descriptions- Village District (VIL)

Finding of Facts: Subject property is within the Village District (Section 450 B). The property is identified as Tax Map parcel # **20-20-45**. The primary use is currently residential. This application seeks approval to change the use to lodging for a short-term rental, which would include 2 parking spaces. The use of lodging is categorized as "conditional" in the Village District, and therefore requires DRB approval to be permitted. Applicants testified to using the property as a short-term rental previously but was recently notified that a permit was not on file for this use. They are seeking this change of use to be in compliance with current zoning ordinances.

Conclusion of Law: Section IV is met.

ARTICLE VII: STANDARDS

Section 710 Use Performance Standards

Section 721 Conditional Use- General Standards

Section 730 Specific Standards

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. In that ski-areas reasonably expected to have snowmaking ski-areas and in that those owning property near a ski area would reasonably expect to hear snow-making equipment at any time, snowmaking equipment in a Resort Commercial/Residential District of a Resort Residential District is exempt from this provision. 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: 1. Which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity 2. Which can cause contamination of the subject property or beyond the property boundaries 3. Which is composed of solid or liquid particles in concentrations exceeding current state authority standards 4. Which causes emission of non-farming, odorous matter in such quantities, as determined to be offensive.

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.

Section 730: Specific Standards

All land development and Uses in all Districts and Overlay Districts shall conform to the following:

A. Lighting and Glare: All exterior lighting in the Historic Design Review District and Village District shall be in keeping with historic character of the commercial area of the village. All exterior lighting in all districts shall be shielded and downcast.

Interior and exterior lighting, glare or reflection are prohibited if they: 1) Constitute an unreasonable nuisance to other property owners or tenants 2) Are found to not contribute to the aesthetics, scenic value, or character of the area and the community 3) Could impair the vision of pedestrians or the driver of a motor vehicle or an aircraft.

C. Traffic and Pedestrian Safety: Development shall provide for pedestrian walkways to ensure a safe and efficient means for pedestrians to navigate the town on foot or by bicycle. Special consideration shall be made for children's safety. Traffic patterns shall be review for the safety, ease of traffic flow, and efficiency. Access to public roadways require the approval of the Town of Wilmington (for access to town roads) or the State of Vermont (for access to state highways) pursuant to 19 V.S.A 1111.

D. Commercial Parking and Loading Area: All commercial parking and loading areas in all districts in the town shall adhere to the following standards:

1. Parking Spaces Required
2. Size of Parking Spaces: parking space size shall be a minimum of ten (10) feet by eighteen (18) feet. Smaller parking spaces are allowed only where circumstances calling for added spaces outweigh the risks and public inconvenience of smaller spaces.
3. Minimum Number of Spaces: Dwelling, Multi-Family- two (2) parking spaces for every dwelling unit.
4. Drive up Window
5. Minimize the Visual Impact of Parking and Loading Area: Screen unaesthetic features where possible sufficient to minimize their physical and aesthetic impact on other land uses, properties in the area, the town and public or private roads.
6. Buffer Area to Parking
7. Public Road Access
8. Rainwater, Snow, and Ice Removal/Storage
9. Safety
10. Neighboring Properties

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.

Finding of Facts: Applicants were questioned on all Use Performance Standards of Section 710. They testified that the change of use in this application meets these standards. With regard to Section 730 Specific Standards, applicants testified that no additional lighting was proposed with this change of use, and they confirmed they understood the requirements for lighting and glare per this ordinance. Applicants testified that there are no changes to the existing driveway or entry points in this application. Per S.100, parking spaces required for this short-term rental are max of 1.5 spots, and the current 2 parking spots meet that requirement. Applicants testified that this property is on town water and town sewer, which meets the wastewater and potable requirements of this ordinance.

Conclusion of Law: This article is met.

CONDITIONS:

The application for development is **APPROVED, with the condition(s) listed below.**

CONDITIONS:

- 1) Except as otherwise required to accommodate the conditions of this decision, development will be executed in accordance with all Exhibits received 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) Property owner will post signage for all guests explaining that parking for only 2 vehicles is provided and parking anywhere on the abutting property is prohibited.

It is the opinion of this Development Review Board that this change of use application meets the requirements and standards of the zoning ordinance, and therefore approves this application.

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:

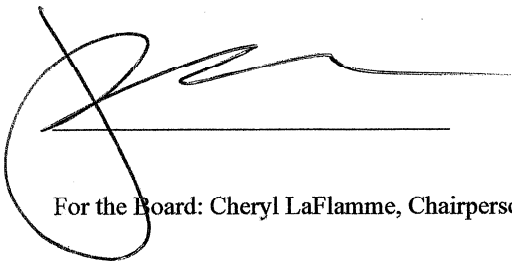
Cheryl LaFlamme
John Gannon
Chrystal Holt

OPPOSED:

None

ABSTAINING:

None

A large, stylized handwritten signature in black ink, likely belonging to Cheryl LaFlamme, is written over a horizontal line.

For the Board: Cheryl LaFlamme, Chairperson

Date: 8/28/2023

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.