

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

42
BEAR
LAIN

Zoning Permit Application Number:

2024-048

Date of First Hearing:

6.17.24

Public Hearing Notice published in the Deerfield Valley News on:

5.30.24

Notice was posted in three public places on:

5.24.24

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

5.28.24

Appeal period for this DRB Decision expires on:

~~6~~.7.25.24

Approved Permit (after two years) expires on:

6.24.26

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: **Piro Lera and Kate Luarasi**

Owner/Applicant(s) Mailing Address: 1 Taft Circle, Winchester, MA 01890

Address of the subject property: **42 Bear Lair Lane, Wilmington, VT**

Tax Map: parcel # **CH-M-374**

A copy of the request is filed in the office of the Board and is referred to as: **#2024-048**

Description of Case per Public Notice

Application # **2024-048**: Owner: Piro Lera and Kate Luarasi

Applicant proposes a 5-bedroom Short Term Rental (STR) in the Residential District

Applicable Code Sections:

Article II- Sections: 221, 222, 223, 224, 226, 227, 271, 272

Article IV- Sections: 420, 424, 440, 450 C

Article VII- Sections: 710, 720, 721, 722, 730 D, H

Notice for a public hearing was published in the Valley News on: **5/30/2024**

Notice was posted in three public places on: **5/24/2024**

A copy of the notice was mailed to the applicant on: **5/28/2024**

A copy of the notice was mailed to the abutters on: **5/28/2024**

Appeal period for this Case expires on: 7/24/2024

Approval expires on: 6/24/2026

Date of Hearing: 17 June 2024

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

Piro Lera and Kate Luarasi, Applicants
Dennis Heberlein, Interested Party

EXHIBITS

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

1. Town of Wilmington Cover Sheet
2. Notice of Hearing
3. Application for DRB Review (4 pages)
4. Short Term Rental Safety Checklist
5. Copy of Uncle Bob's Septic Invoice, dated 9/21/2022

6. Floorplan layouts (3 pages)
7. Parcel map with setback distances added
8. Photos of interior and exterior of the property (15 pages)
9. Copy of Listers Report dated 27 July 2023 (2 pages)
10. Abutter List and postage date for notice mailing
11. Copy of email from James Walker, Chimney Hill Owners Association, dated 3 June 2024 (2 pages)
12. Copy of Statement from Interested Party Dennis Heberlein, along with list of STR's in Chimney Hill Community.

SYNOPSIS

Applicant proposes a 5-Bedroom Short Term Rental (STR) in the Residential District.

ARTICLE II: ADMINISTRATIVE PROCEDURES

Section 221 The Role of the Development Review Board

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 271 Public Hearings

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

Finding of Facts: Sections noted above outline administrative procedures, definitions, role of the DRB, and responsibility of the applicant. They also explain the nature of the DRB's quasi-judicial hearings, who can attend and be heard. The application for this case was received containing all necessary documents at the time of the hearing. Applicant testified they understand this article and did not have any questions.

Conclusion of Law: Article II is met.

ARTICLE IV: DISTRICTS & USES

Section 420 Uses

Section 424 Secondary Uses

Section 440 Districts and District Requirements

Section 450 C District Purposes and Descriptions- Residential District (RES)

Finding of Facts: Subject property is within the Residential district (Section 450 C). The property is identified as Tax Map parcel #CH-M-374 per the Zoning Administrator. The primary use is currently as a Dwelling. The application seeks to use the property as a 5-bedroom Short Term Rental, which is a Conditional Use in the Residential District, requiring DRB written approval and a Zoning Permit.

Conclusion of Law: The use of Short-Term Rental (5 or more guest rooms) is a Conditional Use in the Residential District. Article IV is met.

ARTICLE VII: STANDARDS

Section 710 Use Performance Standards

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

Section 721 Conditional Use- General Standards

Section 722 Conditional Use- Preserving the Character of the Town

Section 730 Specific Standards D, H

SECTION 710: USE PERFORMANCE STANDARDS

Vibration, Noise, Injurious or Noxious Practices: Continuous, permanent, ongoing or frequent noise or vibration in excess of that of a normal conversation must not exist at the property line. Recurring periodic noise or vibration 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. 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 testifies there will be no vibration, noise, injurious or noxious practices as a result of the approved use as STR. Additionally, applicants testified they would update any guest documentation with the "quiet hours" indicated above.

Conclusions of Law: This Use Performance Standard is met.

SECTIONS 721: GENERAL STANDARDS

The proposed use shall protect against adverse effect on:

- A. The capacity of existing or planned community, municipal or educational facilities
- B. Impact on traffic, roads, highways, transportation systems, pedestrian walkways in the vicinity
- C. By-laws and ordinances in effect at the time
- D. Utilization of renewable energy resources
- E. Air quality
- F. 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: Considering the proposed use of STR, there does not appear to be any adverse effects on the general standards listed above.

Conclusions of Law: Section 721 is met.

SECTION 730: CONDITIONAL USE – SPECIFIC STANDARDS

D. Commercial Parking, Residential Parking, and Loading Areas:

Findings of Fact: Based on the zoning ordinance regarding parking for STR's, 0.75 parking spaces per guest room are required. This equates to 3.75 parking spaces needed for this property to operate as a 5-bedroom Short-term rental. Applicants testified that their parking area and driveway was sufficient for at least 5 parking spaces, which meets the requirement of this specific standard.

Conclusions of Law: This Use Performance Standard met.

H. Wastewater and Potable Water:

Findings of Fact: This property is served by the Chimney Hill water system for potable water and has a septic tank for wastewater. Testimony from the Wilmington Zoning Administrator indicated that conversations with the Vermont Agency of Natural Resources and Department of Environmental Conservation indicated the existence and application of the "Clean Slate Permit Exemption" which states that under the 2023 Wastewater System and Potable Water Supply Rules, no new wastewater permit is triggered if the property has not increased design flow (# of bedrooms) since 1/1/2007. The applicant testified to purchasing the property in 2021 with the understanding it was a 5-bedroom home. The Wilmington Lister's Card included in the application indicates that the home is currently listed as a 5-bedroom home as well. In contrast, documentation on record at the Chimney Hill Owner's Association showed a septic design for a 4-bedroom home at the property address, dated 1988. Based on all the information provided and available for review, it is the opinion of this DRB that the applicant is not increasing design flow for the proposed 5-bedroom STR use, and therefore does not trigger any additional permitting.

Conclusions of Law: This Use Performance Standard is met.

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 and the testimony provided. Any changes to the plans will require administrative approval from the Zoning Administrator and/or a review by the Development Review Board, in conformance with the ordinance.

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:

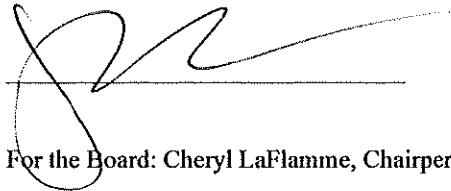
Cheryl LaFlamme
Chrystal Holt
Diane Abate
John Gannon

OPPOSED:

None

ABSTAINING:

None



Date: 6/24/2024

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.