

TOWN OF WILMINGTON
COVER SHEET
DRB FINDINGS OF FACT ATTACHED

Zoning Permit Application Number:

2024-3257

Date of First Hearing:

2.3.25

Public Hearing Notice published in the Deerfield Valley News on:

1.17.25

Notice was posted in three public places on:

1.14.25

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

1.14.25

Appeal period for this DRB Decision expires on:

3.5.25

Approved Permit (after two years) expires on:

2.5.27

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: **Lane Property Management, LLC**

Owner/Applicant(s) Mailing Address: 10 Oceanside Ave West, York, ME 03909

Address of the subject property: **129 VT RTE 9E, Wilmington, VT**

Tax Map: parcel # **21-22-19**

A copy of the request is filed in the office of the Board and is referred to as: **#2024-327**

Description of Case per Public Notice

Application # **2024-327**: Owner: Lane Property Management

Applicant proposes a change of use to restaurant and coffee manufacturing in the Commercial/Residential District.

Applicable Code Sections:

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

Article IV- Sections: 420, 440, 450 E

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

Notice for a public hearing was published in the Valley News on: **1/17/2025**

Notice was posted in three public places on:

A copy of the notice was mailed to the applicant on: 1/14/2025

A copy of the notice was mailed to the abutters on: 1/14/2025

Appeal period for this Case expires on: 3/5/2025

Approval expires on: 2/5/2027

Date of Hearing: February 3, 2025

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

Chrystal Holt, Agent

EXHIBITS

The following Exhibits were placed in evidence by the Applicant:

1. Town of Wilmington Cover Sheet
2. Warning
3. Application for DRB Review (3 pages)
4. Parking Site Plan for 129 VT RTE 9E

5. Aerial Photo of 129 VT RTE 9E
6. Email from Brian Holt to Jessica Roberts, ZA dated 12/16/2024
7. Town View Photo of 129 VT RTE 9E and surrounding properties]
8. Current layout plan for 129 VT RTE 9E
9. Proposed layout plan for 129 VT RTE 9E
10. Interior Photos of 129 VT RTE 9E (3 photos)
11. Abutter List and postage date for notice mailing (2 pages)
12. Lighting Information (2 pages)
13. Photos of proposed location of new lighting (2 photos)
14. Conditional Use Permit for 129 VT RTE 9E, dated 5/8/2003

SYNOPSIS

Applicant proposes a change of use from a restaurant to a restaurant and coffee manufacturing.

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 outline administrative procedures, definitions, role of the DRB, and responsibility of the applicant. Application was received containing all necessary documents to proceed with the hearing. Applicant testified they understood this article and did not have any questions.

Conclusion of Law: Article II is met.

ARTICLE IV: DISTRICTS & USES

Section 420 Uses

Section 440 Districts and District Requirements

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

Finding of Facts: Subject property is within the Commercial/Residential District (Section 450 E). The property is identified as Tax Map parcel # 21-22-43 per the Zoning Administrator. The primary use is currently a restaurant. Applicant proposes a change of use to a restaurant and coffee manufacturing.

Both a restaurant and manufacturing are Conditional Uses in the Commercial/Residential District, which is permitted with DRB written decision and approval. No additional information is needed regarding the district and the uses for this property.

Conclusion of Law: 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

A. Vibration: No continuous, permanent, ongoing or frequent vibration that is discernible at the property line.

Findings of Fact: Applicant's agent testified that there will be no continuous, permanent, ongoing or frequent vibrations.

Conclusions of Law: This section is met.

B. Noise: Continuous, permanent, ongoing or frequent noise in excess of that of a normal conservation must not exist at the property line. Recurring periodic noise in excess of that of a normal lawn mower at the property line is allowed provided it does not occur between the hours of 9 PM and 7 AM and does not significantly detract from or diminish other property's allowed use or land development.

Findings of fact: Applicant's agent testified that there would be no noise in violation of this section.

Conclusions of Law: This section is met.

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

1. Cause damage to human or animal health, vegetation or property by reason of concentration or toxicity,
2. Contaminate the property or beyond the property boundaries.
3. Have solid or liquid particulates in concentrations exceeding state standards.
4. Cause odorous matter in quantities as to be offensive.

Findings of Fact: Applicant's agent testified that there would be no emission of dust, ash, smoke or other particulate matter.

Conclusions of Law: This section is met.

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

Findings of Fact: Applicant's agent testified that there would be no injurious or noxious practices.

Conclusions of Law: This section 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: Applicant's agent testified that the general standards of section 721 would not be adversely affected by the proposed use. Applicant's agent testified that the hours of operation of the restaurant would be 7 am until 9 pm seven days per week.

Conclusions of Law: Section 721 is met.

SECTION 730: CONDITIONAL USE – SPECIFIC STANDARDS

A. Lighting and Glare:

Findings of Fact: 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.

The applicant's agent testified that applicant intends to remove the red and blue awning structure from the building and the current fluorescent light fixtures that are installed underneath this awning and replace that lighting with recessed lighting under the soffit of the building along the front and left side of the building.

Conclusion of Law: This Section is met.

B. Parking:

Findings of Fact: A restaurant requires one parking space for every three persons Permitted for occupancy by the Vermont Department of Labor and Industry. Applicant's agent testified that the restaurant is currently Permitted for 40 seats and that there will be 4 employees per shift. Manufacturing requires one parking space per employee per shift. Applicant's agent testified that there would be one employee per shift at the manufacturing facility located at 129 VT RTE 9E and that typically coffee roasting occurs one day per week. Applicant's agent testified and provided documentation (Exhibits 4 & 5) that there are 16 parking spaces located at 129 VT RTE 9E. Applicant's agent further testified that the refuse containers that are blocking the manufacturing parking spot will be moved between the garage and restaurant.

Conclusions of Law: This Section 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.
2. The hours of operation will be from 7 am until 9 pm seven days per week. There will be no more than four employees at the restaurant and no more than one employee at the coffee roasting manufacturing facility.

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:

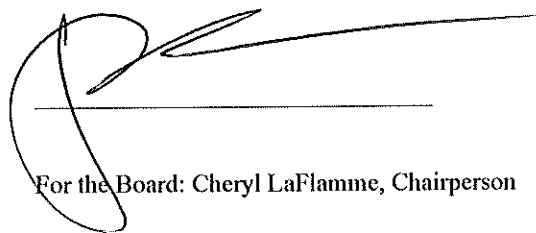
Cheryl LaFlamme
Diane Abate
John Gannon

OPPOSED:

None

ABSTAINING:

None



Date: 2/5/2025

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.
