

Town of Londonderry
Vermont Development Review Board
Regular Meeting Minutes Wednesday, August 16,2023
DRAFT

Board Members Present: Esther Fishman (Chair), Denis Pinkernell, Paul Abraham, Chris Laselle, Bob Maisey, Scott Denkman, Rich Phelan
Zoning Administrator: Will Goodwin

Public in Attendance:

Permit #2023-31: applicant Ben Sargent, applicant counsel Stephen Ankuda, and applicant engineer Philip Savoy

Permit #2023-35: applicant William A. Sinsigalli and Jane Ogden, appealing Permit #2023-31, (and hereafter “appellants”), appellant counsel Merrill Bent Robert Fischer, Town Counsel

Permit #2023-34: Applicants Curt & Martha Cowles

Permit #2023-35: interested parties and neighbors: Daniel and Bonnie Cobb, Mark Ludl (via Zoom), Jeff Wheeler, Jane Hewson, John Klein, Helga Klein, Walter Scott, Sarah G Torrance, Joseph Pickard, Anne Peretz, Sandy Wilbur, Jim Wilbur

The meeting was called to order by Chair Esther Fishman at 5:30pm

Additions or deletions to the agenda (REQUIRES A VOTE): None

Minutes Approval, 7/19/23: moved Rich Phelan, seconded Paul Abraham, passed unanimously

Public Hearings:

Application #2023-35 Sinsigalli & Ogden’s appeal of Savoy & Cross Road Property New LLC’s permit #2023-31 for a single-family home and accessory dwelling at 640 and 644 Cross Rd.

The appellant’s counsel presented the case for the appeal:

- That accessory dwelling unit (ADU) rules in the Londonderry bylaws require that the principal residence be owner occupied and be attached to a principal dwelling.
- That houses in Londonderry’s R3 district must be one or two-family homes, and that an exclusive short-term rental did not fit that definition.
- That an ADU had to be attached to the principal dwelling.
- That an ADU requires a conditional use permit, which Mr. Sargent did not receive.
- That commercial entities in general are not allowed in the Londonderry R3 district, and that short-term rentals are commercial entities.

The appellant spoke about the impact of short-term rentals on the neighborhood, about the applicant not being a Londonderry resident, about the applicant's web site which offers multiple short term rentals and outlines the applicant's plans for the future (e.g., yoga studio, additional future units).

A board member asked the Zoning Administrator why he had approved the permit which seemed to violate the Londonderry bylaws. The ZA responded that it was based on his understanding of state statute and the case law since Londonderry's zoning Bylaws were written.

The applicant's counsel said that the hearing was about one permit for one house and one ADU on Cross Rd, and that Mr. Sargent's other properties and any future plans Mr. Sargent might have for that property were irrelevant. He also said that case law (Toor) and State statutes (S 100, HR 47) superseded the Londonderry Zoning Bylaws and mandated that short-term rentals should be treated the same as other residential uses, and as a result the following requirements were no longer applicable:

- That ADUs be attached to the principal dwelling
- That ADUs get a conditional use permit
- That principal dwelling be owner occupied on lots with ADUs

and furthermore that:

- Groups using short term rentals qualify as families for the purpose of zoning
- And he noted that a number of types of businesses were allowed in Londonderry's R3 District

Mr. Sargent (applicant) spoke of his commitment to occupy each of the houses and dwellings that he has developed in Londonderry (5 parcels, ten current and future dwellings); applicant stated that he has not lived in Vermont for the past year for personal reasons; applicant objected to appellants' drawing conclusions about his intentions based on his social media or website postings. Applicant stated that his current residence is "a houseboat in Jamaica Bay" New York.

Town counsel spoke about Vermont statutes and case law that had changed the rules for accessory dwellings, specifically Toor vs Grand Isle, which found that short term rentals were not a change of use in residential districts, and Vt ordinance 24 VSA 4412, and S 100/Act 47 enacted this year and the legislature's intent to increase housing availability which includes provisions such as requiring towns to subject accessory dwelling unit (ADUs) to same standards of review as single-family homes, to prohibit towns from making the criteria for detached ADUs stricter than for single family homes, and which clarifies the existing laws that say that the character of the area cannot be appealed in decisions on ADUs.

He also mentioned that the Londonderry Selectboard was working on a short-term rental ordinance.

Chair Esther Fishman encouraged members of the public to become involved in the selectboard's process developing a short-term rental ordinance.

At 6:58 PM Rich Phelan made a motion to close the Sinsigalli and Ogden hearing, seconded by Paul Abraham, passed unanimously.

Application #2023-34 Curt and Martha Cowles application for a two-lot subdivision at 3742 Vt Route 11.

Curt and Martha Cowles (the applicants) explained that they were tired of being landlords, and that they had a person interested in buying their rental house, so they wanted to subdivide their rental property from the rest of their 29 acres.

The applicants went through the subdivision criteria in the Londonderry Zoning Bylaw:

- Shape of lot: applicants stated that the shape was determined by the land that was excluded from current use.
- The applicants testified that no important natural or historic features of the land would be changed by this subdivision.
- That no productive farmland would be affected.
- That natural contours and topsoil would not be affected
- That there was already existing access, wastewater and potable water for the properties.

Rich Phelan moved that the hearing be closed, Paul Abraham seconded, passed unanimously. The hearing was closed at 7:10pm, and the Applicant left the meeting.

Denis moved, Rich Phelan seconded that the board go into deliberative session, passed unanimously.

Rich Phelan moved that Town Counsel remain for the deliberative session, seconded by Paul Abraham, passed unanimously.

Next meeting: September 20, 2023

Adjourn at 7:11pm

Respectfully submitted, Will Goodwin

Approved by the Development Review Board

Esther Fishman, Chair _____
_____/_____/_____