

TOWN OF NEW LEBANON PLANNING BOARD
RESOLUTION APPROVING SPECIAL USE PERMIT
SHORT TERM RENTAL, 28 BIRCH HILL DRIVE, NEW LEBANON, NEW YORK

DATE: April 17, 2024

WHEREAS, on October 16, 2023 Richard Adago and Nina Keller (the “Applicant”) applied to the Town of New Lebanon Planning Board (“Planning Board”) seeking special use permit for one proposed short term rental unit (the “Application”) on property located at 28 Birch Hill Drive, New Lebanon, New York (SBL: 28.-1-60.1) (the “Project Site”); and

WHEREAS, the Town of New Lebanon Zoning Code (“Zoning Code”) defines “short term rental” as a “The rental or lease of any dwelling space within a residential property to transient fee-paying guests for a period of 30 consecutive days or less, but not including spaces that are rented for an aggregate total of 30 days or less over a 365-day period or a single dwelling space (e.g., bedroom) within an owner-occupied residence. Such residential properties may or may not be owner- or operator-occupied. The short-term rental arrangement may or may not include provision of one or more meals. The short-term rental use only includes occupancy; other activities such as group gatherings (e.g., weddings) are a separate use.” Zoning Code § 205-20.

WHEREAS, the Project Site is located in the Town’s Residential Agricultural “RA-2” and “RA-5” zoning districts, which permits “short term rental” with a special use permit from the Planning Board; and

WHEREAS, in furtherance of the Project, the Applicant submitted to the Planning Board, including but not limited to, application forms, environmental assessment form, site plan package, project narratives, etc. (collectively the “Application Materials”); and

WHEREAS, the Planning Board held public meetings on the Application at the following meeting:

- 1) November 20, 2023 – Site Plan Review and Special Permit sketch plan conference
- 2) March 20, 2024 – Site Plan Review and Special Permit discussion
- 3) April 17, 2024 – Site Plan Review and Special Permit Public Hearing and Decision

WHEREAS, following one duly noticed public hearing and an earlier meeting with the Planning Board regarding the use, the Planning Board closed the public hearing on April 17, 2024; and

WHEREAS, the Project is compliant with the Town’s Zoning Code and related area and bulk requirements applicable to the RA-2 and RA-5 zoning districts and therefore does not require any area variances; and

WHEREAS, considering all comments from the Planning Board and, the Applicant provided a final set site plans with the following sheets:

- 1)Application with site plans

2) Additional site plan information
(collectively the “Final Site Plans”); and

WHEREAS, the Project is an “Type II” action under the State Environmental Quality Review Act (“SEQRA”) and does not therefore require review; and

WHEREAS, the Planning Board has carefully reviewed and evaluated the Application Materials and comments from members of the public; and

WHEREAS, the Planning Board has evaluated the Applications Materials, and all other comments as they relate to the special use permit criteria (Zoning Code § 205-13(B), (E(1))).

NOW, THEREFORE BE IT RESOLVED, THAT, after due consideration of the Application and related Application Materials, the Planning Board finds that the Project meets the Zoning Code’s special use permit criteria set forth in Zoning Code § 205-13(B), (E(1)). Therefore, by this resolution, the Planning Board approves the Project’s special use permit applications for the proposed “short term rental” use in the RA-2 and RA-5 zoning districts, subject to the following conditions:

- 1) Any and all current and new construction or renovation will require building permits from the Town of New Lebanon Building Department.
- 2) The short-term rental shall comply with all requirements of the New York State Building Code and New York State Fire Code.

BE IT FURTHER RESOLVED, THAT, in approving the Project’s special use permit application as a “short term rental” in the RA-2 and RA-5 zoning district, the Planning Board makes the following findings related to the Project’s compliance with Zoning Code § 205-13(B), (E(1)):

- a. The Project does not include the storage of flammable and explosive materials.
- b. The Project does not include any uses that would emit radioactivity or electrical disturbances.
- c. The Project will not generate excessive noise at the property line.
- d. The Project does not include any proposed uses that would result in vibration at the property lines (e.g. large trucking facility, industrial uses, etc.).
- e. The renderings and lighting plan demonstrate that the building and use would not result in any glare that would interfere with the useful enjoyment of adjoining properties, nor will it impact the local character and integrity of the surrounding area.
- f. The Project does not propose any uses that would result in smoke.
- g. The Project will not result in any odors that would be detectable at the property line.

h. The Project does not include any uses or structures that would result in significant amounts of air emissions that would be regulated by the NYSDEC.

i. The Project does not include any direct point source discharges into any stream or other water body. The Project does not include any disturbances to regulated streams or wetlands.

j. The septic system is compliant with all regulations

k. The proposed off-street parking is compliant with the requirements of the Zoning Code.

l. The Project Site is surrounded by existing forest and related vegetation and therefore no significant visual impacts will result from the Project.

m. The Project is a permitted use within the RA-2 and RA-5 zoning districts with a special use permit.

n. All structures are existing on the property and there are no plans to add new buildings or enlarge existing buildings. The parking for the Project is all off the street and will have minimal visual impact to the road because it is shielded by the forest and existing vegetation on the parcel.

o. The Project uses the existing private on-site water well and septic systems.

p. The Project will not impact the Level of Service of the road and therefore not result in noise to nearby receptors or impede vehicular or pedestrian traffic.

BE IT FURTHER RESOLVED, THAT, the applicant will submit to the Zoning Enforcement Officer information regarding the local agent, including name, address, contact information.

BE IT FURTHER RESOLVED, THAT, the Planning Board directs the Planning Board clerk to file a signed copy of this resolution with the Town Clerk within five (5) days from the adoption of this resolution.

BE IT FURTHER RESOLVED, THAT, the Applicant recognizes and agrees that the Approval is not valid until all conditions are complied with, and;

BE IT FURTHER RESOLVED, THAT, that no construction or alteration of any kind is allowed until the Applicant obtains a building and/or other appropriate permit(s) from the New Lebanon Building Department., and;

On the motion of Planning Board member Wasch, seconded by Planning Board member Carroll, the foregoing resolution was adopted with all Planning Board members voting as follows:

Elizabeth Brutsch	AYE
Jim Carroll	AYE
Greg Hanna	AYE

Steve Muse	ABSENT
Becky Segal	ABSENT
Monte Wasch	AYE
Josh Young	ABSENT

Elizabeth A. Brutsch

Elizabeth Brutsch, Chair
Town of New Lebanon Planning Board

Date: April 17, 2024