

TOWN OF LINCOLN
ZONING BOARD OF ADJUSTMENT

MINORITY OPINION

APPLICANT: BICKNELL TRUST

LANDOWNER: NORMAN BICKNELL, TRUSTEE

**APPEAL OF SARAH LAIRD, ET AL. RE: APPROVAL OF BICKNELL TRUST
APPLICATION (NO. 21-011) FOR CONSTRUCTION OF A SEASONAL CAMP**

Information from the evidentiary hearings is contained in the Majority Decision.

In the matter of whether the appeal should be upheld we find the following:

Zoning Permit (21-011) was issued to the Applicant on June 1, 2021 for a 1386 sq. ft. primitive cabin with porch.

Permit was issued for an Outlying District Single Family Dwelling which is a permitted use.

Requirements for Area, Dimensions, and Setbacks in the Outlying District are: 5 acres minimum, 30 feet from all four sides, and height 35 feet maximum.

Lot size is larger than the minimum lot size of 5 acres and the proposed location for the cabin is well within all setbacks.

The cabin is to be approximately 20 feet high and off the ground about 3 or 4 feet.

Elevation of the build site is approximately 2300 feet.

The zoning regulations contains Section 410: Viewshed Overlay Area which states (emphasis added by bolding text):

“411. GENERAL PROVISIONS

1. It is intended to encourage applicants to engage in the thoughtful sighting (sic) of their houses or other structures prior to seeking any permits from the Zoning Administrator or the appropriate municipal panel prior to conditional use, site plan or subdivision review. **None of the criteria below are meant to be applies as mandatory requirements on an individual basis.** However, when viewed cumulatively, they are intended to preserve communal views by promoting best practices to guide the applicant and the appropriate municipal panel. It will not prohibit building on a property; but may impose restriction on where and/or how structures are sited. Land Subject to Overlay Area. All land in the Town of Lincoln is subject to this requirement.”

The building site is currently positioned 122 feet back from the ledge that is on the west side and near the north edge of the clearing. This will not be a ridgeline building nor in the center of a clearing.

Walls are log and roof is Forest Green standing seam.

There will be no well or septic system – composting toilet will be used.

There is section “Landscapes Goal” in the Town Plan (updated 2018):
“11. Limit development above eighteen hundred feet elevation and require conditional use review by the Zoning Board of Adjustment of all development above that elevation to ensure that buildings located above 1,800 feet do not adversely affect sensitive natural resources or views of the town’s ridgelines.”

The Town Plan also contains the following under “Plan Implementation, Action 1”:
“**Topic 4:** Address development above 1,800 of elevation.”

This is not yet part of the Zoning Regulations and, since it has not been codified, attempting to follow would exceed the ZAs and the ZBAs authority.

Therefore, the Viewshed Overlay provisions are recommendations, not requirements.

Conclusion

Even considering the Viewshed Overlay provisions are requirements it is on the town to issue the permit as a Conditional Use permit. As this only exists in the Town Plan it should not be considered as mandatory and there is no reason to reject this Permit.

The minority opinion is that the appeal is without merit.

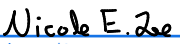
The minority finds for the Applicant.

Dated at Lincoln, Vermont this 6th day of October, 2022.

ZBA MEMBERS:

Tommie Thompson, Chair

Serena Fox

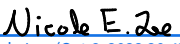

[Nicole Lee \(Oct 6, 2022 20:47 EDT\)](#)

Nicole E. Lee on behalf of Barry
Olson


James Warnock

Patricia Waugh

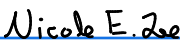
Josiah Jackson


[Nicole Lee \(Oct 6, 2022 20:47 EDT\)](#)

Nicole E. Lee


[Harrison Reynolds \(Oct 6, 2022 17:02 EDT\)](#)

Harry Reynolds


[Nicole Lee \(Oct 6, 2022 20:47 EDT\)](#)

Nicole E. Lee on behalf of
Stephen Halnon