

If a zoning violation exists on a property and an applicant requests a zoning permit unrelated to that violation, can this permit be denied because of the existing violation?

No, unless the bylaws provide otherwise. The existence of a violation is not a valid reason for a denial of a permit by the zoning administrator (ZA). It is the duty of the ZA to “interpret the bylaws literally.” 24 V.S.A. § 4442(a).

The underlying policy is to limit the role of ZA to performing ministerial tasks. The authorizing statute states that in addition to interpreting the bylaws literally, the administrator “shall not have the power to permit any land development which is not in conformance with such bylaws.” 24 V.S.A. § 4442(a).

When the ZA interprets the bylaws literally, his or her role is limited to determining when a permit meets the specified criteria stated in the bylaws. This does not give the ZA discretion to permit or deny an application on any basis other than those described in the bylaws. The existence of another violation is generally not a criterion for denying or approving the permit, unless the applicable bylaws provide otherwise.

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